

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLANT, VS. JOSE MA. PAMINTUAN ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 33139, October 11, 1930

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

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This is an appeal taken by the Government of the Philippine Islands from the judgment of the Court of First Instance of Manila dismissing its complaint and absolving the defendants, without costs.

"XL That subsequent to the distribution of the decedent's estate to the defendants herein, that is, on February 16, 1927, the plaintiff discovered the fact that the deceased Florentino Pamintuan has not paid the amount of four hundred and sixty-two pesos (P462) as additional income tax and surcharge for the calendar year 1919, on account of the sale made by him on November 14, 1919, of his house and lot located at 922 M. H. del Pilar, Manila, from which sale he realized a net profit or income of P1 1,000, which was not included in his income-tax return filed for said year 1919.

"XII. That the defendants cannot disprove that the deceased Florentino Pamintuan made a profit of P11,000 in the sale of the house referred to in paragraph XI hereof because they have destroyed the voluminous records and evidences regarding the sale in question and other similar transactions which might show repairs on the house, commissions, and other expenses tending to reduce the profit obtained as mentioned above.

"XIII. That demand for the payment of the income tax referred to herein was made on February 24, 1927, on the defendants but they refused and still refuse to pay the same either in full or in part."

With regard to the first assignment of error, this court held in *Pineda vs. Court of First Instance of Tayabas and Collector of Internal Revenue* (52 Phil, 803):

"To reply to these contentions in turn, we observe that, while there are a few courts that have expressed themselves to the effect that a claim for taxes due to the Government, should be presented like other claims to the committee appointed for the purpose of passing upon claims, the clear weight of judicial authority is to the effect that claims for taxes and assessments, whether assessed before or after the death of the decedent, are not required to be presented to the committee. (24 C. J., 325; *People vs. Olvera*, 43 Cal., 492; *Hancock vs. Whittemore*, 50 Cal., 522; *Findley vs. Taylor*, 97 Iowa, 420; *Bogue vs. Laughlin*, 149 Wis., 271; 40 L. R. A. [N. S.], 927; *Ann. Cas.* 1913 C., p. 1367.)" See also *In re Estate of Frank H. Goulette* (G. R. No. 32361,[1] decided on September 22, 1930.

The administration proceedings of the late Florentino Pamintuan having been closed, and his estate distributed

among his heirs, the defendants herein, the latter are responsible for the payment of the income tax here in question in proportion to the share of each in said estate, in accordance with section 731 of the Code of Civil Procedure, and the doctrine of this court laid down in *Lopez vs. Enriquez* (16 Phil, 336), as follows:

"Estate; Liability of Heirs and Distributees.—Heirs are not required to respond with their own property for the debts of their deceased ancestors. But even after the partition of an estate, heirs and distributees are liable individually for the payment of all lawful outstanding claims against the estate in proportion to the amount or value of the property they have respectively received from the estate. The hereditary property consists only of that part which remains after the settlement of all lawful claims against the estate, for the settlement of which the entire estate is first liable. The heirs cannot, by any act of their own or by agreement among themselves, reduce the creditors' security for the payment of their claims. (*Pavia vs. De la Rosa*, 8 Phil., 70; sees. 731, 749, Code of Civil Procedure; art. 1257, Civil Code.)"

For the reasons stated, we are of opinion and so hold that claims for income taxes need not be filed with the committee on claims and appraisals appointed in the course of testate proceedings and may be collected even after the distribution of the decedent's estate among his heirs, who shall be liable therefor in proportion to their share in the inheritance.

Wherefore, let the defendants pay the plaintiff the sum of P462, with 1 per centum monthly interest from August 19, 1927 until fully paid, as follows: Tomasa Centeno 0.0571 per cent, and each one of the other defendants 0.0784 per cent, with costs against the appellees. So ordered.

Avanceña, C. J., Street, Malcolm, Ostrand, Johns and Romualdez, JJ., concur.

[1] *Whitney vs. Collector of Internal Revenue*, not reported.

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