

CONCEPCION VIDAL DE ROCES AND HER HUSBAND, MARCOS ROCES, AND ELVIRA VIDAL DE RICHARDS, PLAINTIFFS AND APPELLANTS, VS. JUAN POSADAS, JR., COLLECTOR OF INTERNAL REVENUE, DEFENDANT...

G.R. No. 34937. March 13, 1933

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

The plaintiffs herein brought this action to recover from the defendant, Collector of Internal Revenue, certain sums of money paid by them under protest as inheritance tax. They appealed from the judgment rendered by the Court of First Instance of Manila dismissing the action, without costs.

On March 10 and 12, 1925, Esperanza Tuazon, by means of public documents, donated certain parcels of land situated in Manila to the plaintiffs herein, who, with their respective husbands, accepted them in the same public documents, which were duly recorded in the registry of deeds. By virtue of said donations, the plaintiffs took possession of the said lands, received the fruits thereof and obtained the corresponding transfer certificates of title.

On January 5, 1926, the donor died in the City of Manila without leaving any forced heir and in her will which was admitted to probate, she bequeathed to each of the donees the sum of P5,000. After the estate had been distributed among the instituted legatees and before delivery of their respective shares, the appellee herein, as Collector of Internal Revenue, ruled that the appellants, as donees and legatees, should pay as inheritance tax the sums of P16,673 and P13,951.45, respectively. Of these sums P15,191.48 was levied as tax on the donation to Concepcion Vidal de Rocés and P1,481.52 on her legacy, and, likewise, P12,388.95 was imposed upon the donation made to Elvira Vidal de Richards and P1,462.50 on her legacy. At first the appellants refused to pay the aforementioned taxes but, at the insistence of the appellee and in order not to delay the adjudication of the legacies, they agreed at last, to pay them under protest.

The appellee filed a demurrer to the complaint on the ground that the facts alleged therein were not sufficient to constitute a cause of action. After the legal questions raised therein had been discussed, the court sustained the demurrer and ordered the amendment of the complaint which the appellants failed to do, whereupon the trial court dismissed the action on the ground that the aforementioned appellants did not really have a right of action.

In their brief, the appellants assign only one alleged error, to wit: that the demurrer interposed by the appellee was sustained without sufficient ground.

The judgment appealed from was based on the provisions of section 1540 of the Administrative Code which reads as follows:

"Sec. 1540. Additions of gifts and advances.—After the aforementioned deductions have been made, there shall be added to the resulting amount the value of all gifts or advances made by the predecessor to any of those who, after his death, shall prove to be his heirs, devisees, legatees, or donees mortis causa."

The appellants contend that the above-mentioned legal provision does not include donations inter vivos and if it does, it is unconstitutional, null and void for the following reasons: first, because it violates section 3 of the Jones Law which provides that no law should embrace more than one subject, and that subject should be expressed in the title thereof; second, that the Legislature has no authority to impose inheritance tax on donations inter vivos; and third, because a legal provision of this character contravenes the fundamental rule of uniformity of taxation. The appellee, in turn, contends that the words "all gifts" refer clearly to donations inter vivos and, in support of his theory, cites the doctrine laid down in the case of Tuason and Tuason vs. Posadas (54 Phil., 289). After a careful study of the law and the authorities applicable thereto, we are of the opinion that neither theory reflects the true spirit of the aforementioned provision. The gifts referred to in section 1540 of the Revised Administrative Code are, obviously, those donations inter vivos that take effect immediately or during the lifetime of the donor but are made in consideration or in contemplation of death. Gifts inter vivos, the transmission of which is not made in contemplation of the donor's death should not be understood as included within the said legal provision for the reason that it would amount to imposing a direct tax on property and not on the transmission thereof, which act does not come within the scope of the provisions contained in Article XI of Chapter 40 of the Administrative Code which deals expressly with the tax on inheritances, legacies and other acquisitions mortis causa.

Our interpretation of the law is not in conflict with the rule laid down in the case of Tuason and Tuason vs. Posadas, supra. We said therein, as we say now, that the expression "all gifts" refers to gifts inter vivos inasmuch as the law considers them as advances on inheritance, in the sense that they are gifts inter vivos made in contemplation or in consideration of death. In that case, it was not held that that kind of gifts consisted in those made completely independent of death or without regard to it.

Said legal provision is not null and void on the alleged ground that the subject matter thereof is not embraced in the title of the section under which it is enumerated. On the contrary, its provisions are perfectly summarized in the heading, "Tax on Inheritance, etc." which is the title of Article XI. Furthermore, the constitutional provision cited should not be so strictly construed as to make it necessary that the title contain a full index to all the contents of the law. It is sufficient if the language used therein is expressed in such a way that in case of doubt it would afford a means of determining the legislator's intention. (Lewis' Sutherland Statutory Construction, Vol. II, p. 651.) Lastly, the circumstance that the Administrative Code was prepared and compiled strictly in accordance with the provisions of the Jones Law on that matter should not be overlooked and that, in a compilation of laws such as the Administrative Code, it is but natural and proper that provisions referring to diverse matters should be found. (Ayson and Ignacio vs. Provincial Board of Rizal and Municipal Council of Navotas, 39 Phil., 931.)

The appellants question the power of the Legislature to impose taxes on the transmission of real estate that takes effect immediately and during the lifetime of the donor, and allege as their reason that such tax partakes of the nature of a land tax which the law has already created in another part of the Administrative Code. Without making express pronouncement on this question, for it is unnecessary, we wish to state that such is not the case in this instance. The tax collected by the appellee on the properties donated in 1925 really constitutes an inheritance tax imposed on the transmission of said properties in contemplation or in consideration of the donor's death and under the circumstance that the donees were later instituted as the former's legatees. For this reason, the law considers such transmissions in the form of gifts inter vivos, as advances on inheritance and nothing therein violates any constitutional provision, inasmuch as said legislation is within the power of the Legislature.

"Property Subject to Inheritance Tax.—The inheritance tax ordinarily applies to all property within the power of the state to reach passing by will or the laws regulating intestate succession or by gift inter vivos in the manner designated by statute, whether such property be real or personal, tangible or intangible, corporeal or incorporeal," (26 R. C. L., p. 208, par. 177.)

In the case of Tuason and Tuason vs. Posadas, supra, it was also held that section 1540 of the Administrative Code did not violate the constitutional provision regarding uniformity of taxation. It cannot be null and void on this ground because it equally subjects to the same tax all of those donees who later become heirs, legatees or donees mortis causa by the will of the donor. There would be a repugnant and arbitrary exception if the provisions of the law were not applicable to all donees of the same kind. In the case cited above, it was said: "At any rate the argument adduced against its constitutionality, which is the lack of uniformity, does not seem to be well founded. It was said that under such an interpretation, while a donee inter vivos who, after the predecessor's death proved to be an heir, a legatee, or a donee mortis causa, would have to pay the tax, another donee inter vivos who did not prove to be an heir, a legatee, or a donee mortis causa of the predecessor, would be exempt from such a tax. But as these are two different cases, the principle of uniformity is inapplicable to them."

The last question of a procedural nature arising from the case at bar, which should be passed upon, is whether the case, as it now stands, can be decided on the merits or should be remanded to the court a quo for further proceedings. According to our view of the case, it follows that, if the gifts received by the appellants were not given mortis causa, the same would not be subject to the payment of an inheritance tax and said appellants would have the right to recover the sums of money claimed by them. Hence the necessity of ascertaining whether the complaint contains an allegation to that effect. We have examined said complaint and found nothing of that nature. On the contrary, it may be inferred from the allegations contained in paragraphs 2 and 7 thereof that said donations inter vivos were made in consideration of the donor's death. We refer to the allegations that such transmissions were effected in the month of March, 1925, that the donor died in January, 1926, and that the donees were instituted legatees in the donor's will which was admitted to probate. It is from these allegations, especially the last, that we infer a presumption juris tantum that said donations were made mortis causa and, as such, are subject to the payment of inheritance tax.

Wherefore, the demurrer interposed by the appellee was well-founded because it appears that the complaint did not allege facts sufficient to constitute a cause of action. When the appellants refused to amend the same, in spite of the court's order to that effect, they voluntarily waived the opportunity offered them and they are not now entitled to have the case remanded for further proceedings, which would serve no purpose altogether in view of the insufficiency of the complaint.

Wherefore, the judgment appealed from is hereby affirmed, with costs of this instance against the appellants. So ordered.

Avanceña, C. J., Villamor, Ostrand, Abad Santos, Hull, Vickers, and Butte, JJ., concur.

DISSENTING

VILLA-REAL, J., with whom concurs Street, J.:

I sustain my concurrence in Justice Street's dissenting opinion in the case of Tuason and Tuason vs. Posadas (54 Phil., 289).

The majority opinion attempted to distinguish the present case from the above-mentioned case of Tuason and Tuason vs. Posadas, by interpreting section 1540 of the Administrative Code in the sense that it establishes the legal presumption juris tantum that all gifts inter vivos made to persons who are not forced heirs but who are instituted legatees in the donor's will, have been made in contemplation of the donor's death. Presumptions are of

two kinds: One determined by law which is also called presumption of law or of right; and another which is formed by the judge from circumstances antecedent to, coincident with or subsequent to the principal fact under investigation, which is also called presumption of man (*presuncion de hombre*). (Escriche, Vol. IV, p. 662.) The Civil Code as well as the Code of Civil Procedure establishes presumptions *juris et de jure* and *juris tantum* which the courts should take into account in deciding questions of law submitted to them for decision. The presumption which the majority opinion wishes to draw from said section 1540 of the Administrative Code can neither be found in this Code nor in any of the aforementioned Civil Code and Code of Civil Procedure. Therefore, said presumption cannot be called legal or of law. Neither can it be called a presumption of man (*presuncion de hombre*) inasmuch as the majority opinion did not infer it from circumstances antecedent to, coincident with or subsequent to the principal fact which is the donation itself. In view of the nature, mode of making and effects of donations *inter vivos*, the contrary presumption would be more reasonable and logical; in other words, donations *inter vivos* made to persons who are not forced, heirs, but who are instituted legatees in the donor's will, should be presumed as not made *mortis causa*, unless the contrary is proven. In the case under consideration, the burden of proof rests with the person who contends that the donation *inter vivos* has been made *mortis causa*.

It is, therefore, the undersigned's humble opinion that the order appealed from should be reversed and the demurrer overruled, and the defendant ordered to file his answer to the complaint.

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