

LUIS W. DISON, PLAINTIFF AND APPELLANT, VS. JUAN POSADAS, JR., COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND APPELLANT.*G. R. No. 36770. November 04, 1932*

Ponente: BUTTE, J.

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This is an appeal from the decision of the Court of First Instance of Pampanga in favor of the defendant Juan Posadas, jr., Collector of Internal Revenue, in a suit filed by the plaintiff, Luis W. Dison, for the recovery of an inheritance tax in the sum of P2,808.73 paid under protest. The petitioner alleged in his complaint that the tax is illegal because he received the property, which is the basis of the tax, from his father before his death by a deed of gift inter vivos which was duly accepted and registered before the death of his father. The defendant answered with a general denial and with a counter-demand for the sum of P1,254.56 which it was alleged is a balance still due and unpaid on account of said tax. The plaintiff replied to the counterdemand with a general denial. The court a quo held that the cause of action set up in the counter-demand was not proven and dismissed the same. Both sides appealed to this court, but the cross-complaint and appeal of the Collector of Internal Revenue were dismissed by this court on March 17, 1932, on motion of the Attorney-General.

The only evidence introduced at the trial of this cause was the proof of payment of the tax under protest, as stated, and the deed of gift executed by Felix Dison on April 9, 1928, in favor of his son Luis W. Dison, the plaintiff-appellant. This deed of gift transferred twenty-two tracts of land to the donee, reserving to the donor for his life the usufruct of three tracts. This deed was acknowledged by the donor before a notary public on April 16, 1928, Luis W. Dison, on April 17, 1928, formally accepted said gift by an instrument in writing which he acknowledged before a notary public on April 20, 1928.

At the trial the parties agreed to and filed the following ingenious stipulation of fact:

- That Don Felix Dison died on April 21, 1928;
- That Don Felix Dison, before his death, made a gift inter vivos in favor of the plaintiff Luis W. Dison of all his property according to a deed of gift (Exhibit D) which includes all the property of Don Felix Dison;
- That the plaintiff did not receive property of any kind of Don Felix Dison upon the death of the latter;
- That Don Luis W. Dison was the legitimate and only child of Don Felix Dison."

It is inferred from Exhibit D that Felix Dison was a widower at the time of his death.

The theory of the plaintiff-appellant is that he received and holds the property mentioned by a consummated gift and that Act No. 2601 (chapter 40 of the Administrative Code) being the inheritance tax statute, does not tax gifts. The provision directly here involved is section 1540 of the Administrative Code which reads as follows:

"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 question to be resolved may be stated thus: Does section 1540 of the Administrative Code subject the plaintiff-appellant to the payment of an inheritance tax?

The appellant argues that there is no evidence in this case to support a finding that the gift was simulated and that it was an artifice for evading the payment of the inheritance tax, as is intimated in the decision of the court below and the brief of the Attorney-General. We see no reason why the court may not go behind the language in which the transaction is masked in order to ascertain its true character and purpose. In this case the scanty facts before us may not warrant the inference that the conveyance, acknowledged by the donor five days before his death and accepted by the donee one day before the donor's death, was fraudulently made for the purpose of evading the inheritance tax. But the facts, in our opinion, do warrant the inference that the transfer was an advancement upon the inheritance which the donee, as the sole and forced heir of the donor, would be entitled to receive upon the death of the donor.

The argument advanced by the appellant that he is not an heir of his deceased father within the meaning of section 1540 of the Administrative Code because his father in his lifetime had given the appellant all his property and left no property to be inherited, is so fallacious that the urging of it here casts a suspicion upon the appellant's reason for completing the legal formalities of the transfer on the eve of the latter's death. We do not know whether or not the father in this case left a will; in any event, this appellant could not be deprived of his share of the inheritance because the Civil Code confers upon him the status of a forced heir. We construe the expression in section 1540 "any of those who, after his death, shall prove to be his heirs", to include those who, by our law, are given the status and rights of heirs, regardless of the quantity of property they may receive as such heirs. That the appellant in this case occupies the status of heir to his deceased father cannot be questioned. Construing the conveyance here in question, under the facts presented, as an advance made by Felix Dison to his only child, we hold section 1540 to be applicable and the tax to have been properly assessed by the Collector of Internal Revenue.

This appeal was originally assigned to a Division of Five but referred to the court in banc by reason of the appellant's attack upon the constitutionality of section 1540. This attack is based on the sole ground that insofar as section 1540 levies a tax upon gifts inter vivos, it violates that provision of section 3 of the Organic Act of the Philippine Islands (39 Stat. L., 545) which reads as follows: "That no bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill." Neither the title of Act No. 2601 nor chapter 40 of the Administrative Code makes any reference to a tax on gifts. Perhaps it is enough to say of this contention that section 1540 plainly does not tax gifts per se but only when those gifts are made to those who shall prove to be the heirs, devisees, legatees or donees mortis causa of the donor. This court said in the case of Tuason and Tuason vs. Posadas (54 Phil., 289):

"When the law says all gifts, it doubtless refers to gifts inter vivos, and not mortis causa. Both the letter and the spirit of the law leave no room for any other interpretation. Such, clearly, is the tenor of the language which refers to donations that took effect before the donor's death, and not to mortis causa donations, which can only be made with the formalities of a will, and can only take effect after the donor's death. Any other construction would virtually change this provision into:

"* * * there shall be added to the resulting amount the value of all gifts mortis causa * * * made by the predecessor to those who, after his death, shall prove to be his * * * donees mortis causa.' We cannot give to the law an interpretation that would so vitiate its language. The truth of the matter is that in this section (1540) the law presumes that such gifts have been made in anticipation of inheritance, devise, bequest, or gift mortis

causa, when the donee, after the death of the donor proves to be his heir, devisee or donee mortis causa, for the purpose of evading the tax, and it is to prevent this that it provides that they shall be added to the resulting amount." However much appellant's argument on this point may fit his preconceived notion that the transaction between him and his father was a consummated gift with no relation to the inheritance, we hold that there is no merit in this attack upon the constitutionality of section 1540 under our view of the facts. No other constitutional questions were raised in this case.

The judgment below is affirmed with costs in this instance against the appellant. So ordered.

Avanceña, C. J.f Street, Malcolm, Ostrand, Abad Santos, Vickers, and Imperial, JJ., concur.

VILLA-REAL, J.: I concur in the result. Judgment affirmed.

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