

IN THE MATTER OF THE INTESTATE ESTATE OF TOMAS SLY CONG BIENG (ALIAS SIY CHONG LIN), DECEASED. SIY CHONG KENG, ADMINISTRATOR AND APPELLEE, VS. THE COLLECTOR OF INTERNAL REVENUE ...

G. R. No. 40921. August 31, 1934

Ponente: BUTTE, J.

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BUTTE, J.:

This is an appeal by the Collector of Internal Revenue from an order of the Court of First Instance of Manila dated October 2, 1933, in special proceedings No. 41435, directing the administrator of the estate of Tomas Siy Cong Bieng (alias Siy Chong Lin), deceased, to pay an inheritance tax to be based on the value of the property of the estate as appraised by the commissioners on claims and appraisals.

The Collector of Internal Revenue, through the Solicitor-General, filed in said special proceedings a motion for the reconsideration of said order, which is as follows:

"Comes now the Collector of Internal Revenue by the undersigned Solicitor-General and respectfully prays that the order of this court dated October 2, 1933, be reconsidered on the following grounds:

"That on October 2, 1933, this court issued an order requiring the administrator to pay the corresponding inheritance tax in this case based on the value of the properties of the estate as appraised by the commissioners of claims and appraisals in their report;

"That the court issued said order upon the theory that the Collector of Internal Revenue can no longer question the value given by the commissioners to said properties for the purpose of assessing the inheritance tax, in view of the fact that the report of said commissioners and the project of partition in this case had been approved by this court;

"That the Bureau of Internal Revenue has never been notified of the report submitted by the commissioners in this case, and that said report, in so far as the value of the properties fixed by the commissioners is concerned, is not binding upon the Collector of Internal Revenue;

"That the law governing the determination of the value of the property of a deceased, for purposes of taxation, is section 1542 of the Administrative Code, which provides that the assessed value of the property as shown by the tax rolls shall be taken as the minimum, in relation with regulations No. 42, section 7, of the Department of Finance, promulgated in accordance with the Inheritance Tax Law, which reads:

" 'As a general rule the valuation of the estate given by the committee of appraisals and allowances may be taken as the fair market value of the estate unless otherwise shown by proper evidence that such is not the case. The administrator or the heirs shall show that the said valuation is true and correct, or adduce proof that it is not so and prove the true valuation, the Collector of Internal Revenue reserving the right to accept either or substitute his own valuation upon which the taxes shall be based. For this purpose, however, the assessed value of the estate as shown by the tax rolls shall be taken as the minimum.' (Italics ours.)

"That when the Collector of Internal Revenue was informed by the administrator in this case of the order of this court requiring the latter to pay the inheritance tax that may be due from the estate in these proceedings, said Collector immediately proceeded to assess the corresponding inheritance tax as required by law;

"That the inheritance tax assessed by the Collector of Internal Revenue in this case is P57,914.81 and the 25 per cent surcharge thereon is P14,478.70, as evidenced by the proof of debt subscribed and sworn to by the Collector of Internal Revenue hereto attached and made a part hereof as Exhibit A;

"That the administrator has already been notified by the Collector of Internal Revenue of the inheritance tax assessed against the estate as stated in the preceding paragraph but failed to pay the same;

"That said tax of P57,914.81 bears an interest of 1 per cent per month from February 24, 1933, the date the administrator was notified of its assessment, to the date of payment.

"Wherefore, the undersigned prays that the order of this court dated October 2, 1933, be reconsidered and the administrator be ordered to pay said sum of P57,914.81 as inheritance tax, plus 25 per cent surcharge thereon of P14,478.70, and 1 per cent monthly interest on said sum of P57,914.81 from February 24, 1933, to the date of payment.

"Manila, October 31, 1933."

To this motion is attached a sworn proof of debt in which the Collector of Internal Revenue certifies that the estate of the said deceased is indebted to the Government of the Philippine Islands for inheritance tax, surcharge and interest, upon the following valuations of the estate:

Real property

P65,221.00

Personal property

481,569.89

Total inventoried property.....

546,790.89

Total deduction

59,823.31

Net inventoried property

486,967.58

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The report of the commissioners on claims and appraisals shows the net value of the estate to be P170,397.06.

The court having denied the motion of the Solicitor-General for reconsideration of the order of October 2, 1933,

he appeals to this court making the following assignments of error:

"1. The lower court erred in holding that the inheritance tax should be determined by taking as a basis the value of the estate of the deceased as appraised by the commissioners on claims and appraisals.

"2. The lower court erred in holding that the Collector of Internal Revenue had been notified of the submission to the court of the report of the commissioners on claims and appraisals in these proceedings, or that said collector should have taken official notice of the submission of said report;

"3. The lower court erred in ordering the judicial administrator to pay the inheritance tax in accordance with the value of the estate as appraised by the commissioners on claims and appraisals/"

It appears from the record that the commissioners on claims and appraisals in the said special proceedings No. 41435, rendered their report on December 7, 1932, and on December 28, 1932, the administrator submitted a project of partition. On December 31, 1932, the court approved the final account of the administrator and his project of partition and likewise ordered him to make the corresponding distribution of the estate, subject, however, to prior payment of the inheritance tax.

On January 20, 1933, the court issued an order requiring the administrator to appear immediately and show cause why he should not be disciplined for having failed to comply with the said order of December 31, 1932. On January 26, 1933, he reported that he requested his attorneys to prepare the inheritance tax return which he presented to the Collector of Internal Revenue tendering at the same time a check for the amount shown to be due by said return but that the Collector of Internal Revenue refused to accept the check until he had verified the correctness of the items and the valuations which were stated in said return. On February 2, 1933, the court extended the time for compliance with the order of December 31, 1932, to February 25, 1933. On February 24, 1933, the administrator prayed for another extension alleging that the Collector of Internal Revenue had not yet completed his investigation and the court granted an extension to March 10, 1933. On May 17, 1933, the court issued an order on the administrator to show cause why he should not be punished for contempt for failure to comply with the previous orders of the court within the time limited. On May 27, 1933, the administrator filed another statement to the effect that he could not comply with the orders requiring him to produce the inheritance tax receipts because he and the Collector of Internal Revenue could not agree as to the value of the properties belonging to the estate. Nothing further was done in the case after May 27, 1933, until the court, apparently on its own motion, entered the order of October 2, 1933, which is the subject matter of this appeal. This order is as follows:

"Se halla pendiente de resolution un incidente que se refiere al pago de impuesto de herencia. Despues de considerar el escrito del administrador judicial asi como la carta del Director de Rentas Internas, somos de opinion que, bajo las disposiciones de la ley, el impuesto de herencia debe tomar por base el avaluo hecho por la Comision de Avaluo y Reclamaciones. En virtud de la notificacidsn del aviso que se sirve a la Oficina de Rentas Internas en estos asuntos, dicha Oficina debe tener conocimiento del report de la Comision y es entonces cuando el Juzgado podrla considerar la cuestidn del valor de los bienes, pero no en el presente momento en que ha sido ya aprobado el proyecto de particion en estas actuaciones.

"Por tanto, se ordena el administrador judicial que pague el impuesto de herencia de acuerdo con los valores que resulten del informe de la Comision de Avaluo y Reclamaciones."

There is no provision of law which makes it the duty of the Collector of Internal Revenue .to take part in the deliberations of the commissioners on claims and appraisals nor is he required to take exceptions to the report of such a committee and appeal to the court for a revision of its appraisals. The statute provides that the committee, after being sworn to make a true appraisal, shall appraise the value of the estate in money and return their warrants with such appraisal to the court and shall deliver a copy of the appraisal to the executor or administrator.

(Section 670, Code of Civil Procedure.) Apparently the statute does not require approval of the committee's appraisals by the court; but doubtless exceptions thereto might be taken by the executor or administrator upon whom a copy was served. The purpose of the inventory and appraisal of the estate of the decedent is to aid the court in revising the accounts and determining the liabilities of the executor or administrator and in making a final and equitable distribution (partition) of the estate and otherwise to facilitate the administration of the estate. Although by Act No. 3606, which amends section 1544 of the Administrative Code, relating to taxes on inheritances, legacies and other acquisitions mortis causa, it is provided that a Certified copy of letters testamentary or of administration as well as certified copies of the schedule of partition and the order of the court approving the same shall be furnished to the Collector of Internal Revenue by the clerk of the court within thirty days after the issuance of such letters testamentary or of administration or after the promulgation of such orders, these provisions do not in any sense make the Collector of Internal Revenue a party in all of the cases of testate or intestate successions pending in these Islands. The object of these notices is to inform the collector of estates that might be subject to inheritance taxes and to enable him to perform his duty as such collector to make the assessments and perform the specific duties as prescribed in section 1544 of the Administrative Code, as amended by said Act No. 3606, particularly paragraph (b) thereof, and section 1545 of the Administrative Code.

Section 7 of regulations No. 42 of the Department of Finance provides:

"As a general rule the valuation of the estate given by the Committee of Appraisals and Allowances may be taken as the fair market value of the estate unless otherwise shown by proper evidence that such is not the case. The administrator or the heirs shall show that the said valuation is true and correct, or adduce proof that it is not so and prove the true valuation, the Collector of Internal Revenue reserving the right to accept either or substitute his own valuation upon which the taxes shall be based. For this purpose, however, the assessed value of the estate as shown by the tax rolls shall be taken as the minimum." This regulation is in harmony with section 1542 of the Administrative Code.

In accordance with this regulation, the value of the estate given by the commissioners on claims and appraisals may be taken by the collector as the basis for determination of the inheritance tax provided it is not less than the assessed value of the estate. If it is less, the assessed value as shown by the tax rolls must be taken as the minimum. The Collector of Internal Revenue is not bound by the appraisals made by the commissioners on claims and appraisals, in which he took no part, and the lower court erred in denying the motion for reconsideration of its order of October 2, 1933, filed by the Solicitor-General on behalf of the Collector of Internal Revenue.

The order of October 2, 1933, appealed from is therefore reversed and the cause is remanded with instructions to the trial court to determine the true and correct amount of inheritance tax due and owing in this case after hearing, upon due notice, at which the administrator and the Collector of Internal Revenue may present their respective claims. Without special pronouncement as to costs.

Malcolm, Villa-Real, Imperial, and Goddard, JJ., concur.

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