

IN THE MATTER OF THE ESTATE OF THE DECEASED ROBERT HENRY WOOD. J. T. KNOWLES, ADMINISTRATOR AND APPELLANT, VS. THE GOVERNMENT OF THE PHILIPPINE ISLANDS, CLAIMANT AND APPELLEE.

G. R. No. 41456. August 30, 1934

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

In the testamentary proceedings of Robert Henry Wood, after the committee on claims had approved the only claim filed therein and the court had ordered its payment, the Collector of Internal Revenue, through the Solicitor-General, filed a motion claiming from the estate the sum of P27,106.93 as deficiency income taxes for the years from 1918 to 1923, inclusive, and 1929, which said deceased had failed to pay and had not included in his income tax returns filed by him.

The claim was opposed by the administrator of the estate alleging that the court lacked jurisdiction to take cognizance or pass upon the same; that the claim should have been presented to the committee which has already ceased to exist; that the claim has already prescribed, inasmuch as more than three (3) years have elapsed and that the estate does not owe the amount of the taxes claimed.

The court decided the question of jurisdiction against the administrator and the latter excepted. Subsequently, the Collector of Internal Revenue filed an amended motion reducing the same claim to P19,680.42. The motion was supported by an affidavit of the Collector of Internal Revenue known as amended proof of debt, containing the income omitted by the deceased and discovered, upon investigation, by an official of the Bureau of Internal Revenue. The administrator filed no amended opposition but his original written opposition subsisted.

At the hearing of the amended claim, the attorney for the administrator filed a motion for postponement of the hearing in order to give him an opportunity to file an itemized opposition. The court postponed the hearing. At the second hearing, the administrator failed to file the itemized opposition which he had promised but reiterated his objections stated in his written opposition. The Collector of Internal Revenue supported his claim by his affidavit, already attached to the record, and refrained from presenting further evidence. After the hearing, the court, in an order of August 26, 1933, sustained the amended claim and ordered the administrator to pay to the Collector of Internal Revenue the sum of P19,680.42, from available funds of the estate. The administrator filed a motion for reconsideration and a new trial after the denial of which he appealed, properly filing the necessary record on appeal.

In this instance, the administrator vigorously contends that the court lacked jurisdiction to entertain the claim and that the Collector of Internal Revenue had not presented satisfactory or conclusive evidence to establish the certainty of the same in the amount lastly specified, and in this respect argues that the affidavit of said official is insufficient and incompetent evidence and, with the admission thereof, he was deprived of the right to cross-examine.

We do not give much weight to the first contention because it has been uniformly held in this jurisdiction that such claims may properly be presented in the intestate or testate proceedings of the deceased who owes the deficiency tax, without the necessity of presenting it to the committee which had been created. (Pineda vs. Court of First Instance of Tayabas and Collector of Internal Revenue, 52 Phil., 803, and Whitney vs. Collector of Internal Revenue, G. R. No. 32361[1].)

The second point is decisive and resolves the appeal in favor of the administrator. We are of the opinion that it was incumbent upon the Collector of Internal Revenue to prove the certainty of the items constituting his claim, particularly the alleged net income said to have been omitted

in the returns filed by the deceased and subsequently discovered, according to the affidavit of the Collector of Internal Revenue, upon investigation by an official of his bureau. This allegedly omitted net income, for the same reason that it did not appear in any book or document forming part of the files of the Bureau of Internal Revenue, necessarily had to be proved by means of the testimony of said official. Inasmuch as the latter was not presented or did not testify at the trial, it is clear that the administrator was deprived of his substantial right to cross-examine him. The foregoing conclusion of course, is based upon the premise that the affidavit presented in support of the claim is competent evidence, a quality which we doubt in view of the opposition originally filed by the administrator. When the administrator filed his opposition to the claim and generally and specifically denied its allegations, the character of prima facie evidence of the affidavit attached to the claim was destroyed and it became incumbent upon the claimant to prove his claim by means of material and competent evidence. This duty has not been complied with in view of the fact that no other evidence had been presented and the claim was based solely on said affidavit.

In arriving at the foregoing conclusion, this court particularly took into consideration the circumstance that the claim is for a gross amount the exactness of which is not evident, inasmuch as the Collector of Internal Revenue, in his amended claim, notoriously reduced the amount previously claimed. If he has committed this substantial error in presenting his first claim, it is possible that the figures given in the amended claim may, likewise, be not exact and may be subject to further reduction after a careful analysis of the evidence which the claimant might have.

Wherefore, the appealed order is set aside and the case is remanded to the trial court with instructions that it hold a new trial of the claim and require the parties to present the evidence by means of which they intend to support their respective contentions, without special pronouncement as to the costs of this instance. So ordered.

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

[1] Promulgated September 22, 1930, not reported.

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