

ESTATE OF THE DECEASED JUAN DE LA VIÑA, PLAINTIFF AND APPELLEE, VS. GOVERNMENT OF THE PHILIPPINE ISLANDS, CLAIMANT AND APPELLANT.

G.R. No. 42669. January 29, 1938

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

The question raised on this appeal is whether or not the action of the government to collect a tax through the courts is imprescriptible.

In *In re Estate of the deceased Juan de la Viña*, represented by his judicial administratrix, the Collector of Internal Revenue had filed a claim for the payment of unpaid income tax allegedly due from said estate for the years 1919, 1920, 1923, 1924, 1926, 1928, 1929, 1930 and 1931. The court ordered the administratrix to give preference to the payment to the Government of the Philippine Islands of the sum of P6,265.25, the total amount of back taxes owing for the years 1926, 1928, 1929, 1930 and 1931, and held that the payment of the back taxes for the years 1919, 1920, 1923 and 1924 was not demandable because the government's action has prescribed. It likewise held that neither the surcharge of 5 per cent on the amount owing for said taxes nor the interest of 1 per cent also claimed by the government was collectible, because this has to do with claims against a deceased person falling under the exemption established at the end of section 9 (a) of Act No. 2833.

From this decision an appeal was taken by the Solicitor-General on behalf of the government after his motion for a new trial was denied by the court. The judicial administratrix of the deceased Juan de la Viña alleged in her answer that the deceased while living had paid all the taxes for the years above-mentioned, with the exception of the years 1928 and 1929, and that the claim of the government was for taxes in addition to those already paid. With respect to the years 1928 and 1929, she alleged that due to the amount of the income in 1928, Viña did not have to pay any tax, and as to the year 1929, that no income tax return had been filed for said year because Viña was then seriously ill. Said judicial administratrix did not appeal from the decision notwithstanding the holding of the court that her evidence was not sufficient to impugn that of the government and notwithstanding the fact that she was ordered to pay the back taxes for the five years above-mentioned.

In view thereof, there is now no question upon the facts. The court found established all those which form the basis of the government's claim for back taxes owing from the estate of said deceased for the nine years claimed. The judicial administratrix does not question them, for, as already stated, she has neither appealed nor even presented a brief in reply to that of the government. The whole question, therefore, boils down to a determination of whether or not the general law regarding prescription of actions found in the Code of Civil Procedure, is applicable to cases involving, as the one at bar, government claims of the nature of those in the present case, filed in the matter of the estate of the deceased Viña. The court affirmatively resolved this question with respect to the claim for the years 1919, 1920, 1923, and 1924, applying thereto the prescription of six years established in number 2 of section 43 of the aforesaid Code of Civil Procedure. The Solicitor-General contends that this was

error in view of the settled doctrine, both in this jurisdiction as well as in that of the United States, that, unless expressly provided by law, the statutes of limitations do not run against the State, and that this principle is applicable to actions brought for the collection of taxes. We believe that the government's contention is sustainable. (26 R. C. L., 338; 37 C. J., 711.)

"Is the Philippine Government bound by the statute of limitations? The Supreme Court of the United States in *United States vs. Nashville, Chattanooga & St. Louis Railway Co.* (118 U. S., 120, 125), said:

" 'It is settled beyond doubt or controversy—upon the foundation of the great principle of public policy, applicable to all governments alike, which forbids that the public interests should be prejudiced by the negligence of the officers or agents to whose care they are confided—that the United States, asserting rights vested in it as a sovereign government, is not bound by any statute of limitations, unless Congress has clearly manifested its intention that it should be so bound.' (*Lindsey vs. Miller*, 6 Pet., 666; *U. S. vs. Knight*, 14 Pet., 301, 315; *Gibson vs. Chouteau*, 13 Wall, 92; *U. S. vs. Thompson*, 98 U. S., 486; *Fink vs. O'Neil*, 106 U. S., 272, 281.)

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"These principles being based 'upon the foundation of the great principle of public policy' are, in the very nature of things, applicable to the Philippine Government." (*Government of the Philippine Islands vs. Monte de Piedad y Caja de Ahorros de Manila*, 35 Phil., 728, 751-753; underlining ours.)

Having shown that the government's action to collect judicially, the back taxes in question, does not prescribe, the only remaining point for determination is whether the action of the government should be conditioned upon the fact that the discovery of the erroneous, false and fraudulent return of the taxpayer, should take place within 3 years following the date of such return or the date of the payment of the tax, as required by section 9 (a) of Act No. 2833 in order that the Collector of Internal Revenue may collect the back tax owing. This question has already been decided by this court in the case of *Collector of Internal Revenue vs. Villeges* (56 Phil., 554, 559), wherein it was said:

"It is therefore a matter established by the American jurisprudence that the three-year prescription refers to the discovery of erroneous, false, or fraudulent returns, and to tax assessments and their summary collection, but not to their collection through judicial channels. The motion filed by the Collector of Internal Revenue in this case, is equivalent to a judicial action for the collection of the accrued income tax. Therefore, the fact that the omission of the net income from the administrator's return was discovered after the period of three years from the filing of such return, on March 13, 1926, does not prevent the collection of the proper tax assessed after such discovery."

And further on this court said in conclusion:

"In view of the foregoing considerations, we are of opinion and so hold that the three-year prescription established in section 9, subdivision (a), of Act No. 2833, refers to the discovery of erroneous, false, or fraudulent returns made by a taxpayer, and to the summary assessment and collection of said tax, but not to its collection by an action in court."

Wherefore, the appealed decision is modified by ordering the estate of the deceased Juan de la Viña to pay the back income taxes owing therefrom, for the amounts and for the years following:

For the year 1919

P4,171.46

For the year 1920

266.32

For the year 1923

1,688.26

For the year 1924

1,321.73

7,447.77

The appealed decision is affirmed in all other respects, with the costs to the estate of the deceased Juan de la Viña. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, and Laurel, JJ., concur.

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