

IN RE INTESTATE ESTATE OF THE DECEASED PEDRO LIM. THE COLLECTOR OF INTERNAL REVENUE, PLAINTIFF AND APPELLEE, VS. PATROCINIO LIM DE BAUTISTA, ADMINISTRATRIX AND APPELLANT.

G. R. No. 43690. January 29, 1937

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

This is an appeal taken by the administratrix of the intestate estate of the deceased Pedro Lim from the resolution of the court of February 5, 1935, ordering her to pay to the Collector of Internal Revenue the sum of P5,173.02 as inheritance tax, plus the sum of P2,364.66 as accrued interest thereon at 12 per cent per annum from April 7, 1928, to July 5, 1932, besides the interest accruing from the latter date until paid and the compromise surcharge fixed at P10 by said official.

The facts of the case were stipulated by the parties as follows:

"1. That the deceased Don Pedro Lim died intestate in the City of Manila on October 6, 1927, having left real properties consisting of two hundred and ninety-two (292) hectares of rice land in common and undivided ownership with his sisters Adela Lim, de Sioco, Patrocinio Lim de Bautista and Dolores Lim de Rodriguez and his nephew Armando Lim, situated in the Provinces of Tarlac and Nueva Ecija; 2. That proceedings for the distribution of the estate of the deceased were instituted in this court on June 5, 1929 by the applicant Patrocinio Lim de Bautista who on the 5th day of the same month and year was appointed administratrix of the said estate; 3. That on March 18, 1930, Messrs. Bernardo C. Garcia and Jorge A. Rumbawa were appointed commissioners of claims and appraisal, who after having qualified themselves for the said office, on March 19, 1930, ordered the publication of notices in the newspaper La Defensa that the commission was to meet for a period of six (6) months from the said date to hear claims against the estate and appraise the properties left by the deceased, the said period of six (6) months not having been extended at any time by this court; 4. That on June 16, 1932, that is one (1) year, eight (8) months and twenty-seven (27) days after the expiration of the commission of said commissioners of claims and appraisal, they presented their report to this court wherein they made it appear that they have assessed the real properties left by the deceased above referred to in the sum of P131,400; 5. That on June 21, 1932, the court approved the report of the commissioners of claims and appraisal mentioned in the preceding paragraph and relieved them of their duties as such commissioners; 6. That the administratrix filed her inheritance tax return with the Collector of Internal Revenue on July 5, 1932, which is hereto attached as Exhibit A; 7. That the Collector of Internal Revenue considering said value of P131,400 fixed by the commissioners of claims and appraisal assessed against the heirs of the deceased Don Pedro Lim an inheritance tax in the sum of P15,173.02, plus an interest at the rate of 12 per cent per annum from April 7, 1928 to July 5, 1932 amounting to P2,864.66, and a compromise surcharge of P10 for not having filed the said inheritance tax return within six (6) months from the date of the death of the deceased. This assessment appears in the inheritance tax return hereto attached and made a part hereof as Exhibit B; 8. That on March 4, 1933, the Collector of Internal Revenue required the administratrix in writing to pay to the treasurer of the City of Manila on or before March 31, 1933 the sum of P7,817.68 which is the total sum of the

inheritance tax assessed by the said Collector; 9. That the administratrix refused and still refuses to pay the total sum of P7,817.68 alleging that the real properties left by the deceased are not worth the sum of P131,400 and that neither she nor the heirs should pay interest on the inheritance tax assessed on the basis of this valuation from April 7, 1928 to July 5, 1932; 10. That on July 30, 1932, that is one (1) year, ten (10) months and eleven (11) days after their commission had expired and after they had been relieved by the court as such commissioners, the said commissioners of claims and appraisal submitted an amended report, dated July 25, 1932, wherein they reduced the assessment of the real properties above mentioned from P131,400 to P103,000; 11. That this court, on May X9, 1933, denied the motion presented by the attorney for the administratrix, dated March 14, 1933, and ordered the administratrix to pay the inheritance tax taking as a basis the assessment of the real properties made by the commissioners in the sum of P131,400; 12. That the assessed value of the real properties left by the deceased consisting of two hundred and ninety-two (292) hectares above referred to was at the time of the death of the deceased P98,439.18; 13. That the project of partition was submitted in this case on July 21, 1932 and approved by this court on August 1, 1932,"

The incident which gave rise to the resolution appealed from originated from the motion of October 10, 1934, filed by the administratrix through her attorney, praying that, pursuant to the doctrine laid down by this court in the case of the Intestate estate of the deceased Tomas Siy Cong Bieng (alias Siy Chong Lin), G. R. No. 40921,[1] a hearing be held on a date to be fixed, after notice to the Collector of Internal Revenue, for the purpose of determining the exact amount to be paid as inheritance tax by the heirs. In paragraph 3 of said motion, the administratrix alleged that the Collector of Internal Revenue claims the value of the property, which must serve as the basis for determining the tax, to be P131,400, which is the same value fixed by the commissioners on appraisal in their first report, while the heirs maintain that the true value thereof should be P103,430.73, which is the value fixed by said commissioners in their second report. In this appeal, however, the administratrix has changed her mind, because she contends that the value of the property upon which the inheritance tax should be based is P98,439.18, being the assessed value of the property of the intestate estate.

In the first and second assignments of error, it is contended that the court erred in fixing the true value of the property at the amount specified by the commissioners in their first report of June 16, 1932, and approved by the court on the 21st of said month and year, instead of the assessed value thereof. The reasons alleged consist in that the assessment is excessive; that the commissioners reduced the value thereof, to P103,000 in their amended report of July 25, 1932, and that when said functionaries submitted their first report, they no longer had authority as such because 1 year, 8 months and 27 days had already elapsed from the date their commission expired to that on which they submitted their first report.

Both assignments of error would sufficiently be refuted on all their grounds by merely stating that the questions raised therein already constitute *res judicata* in view of the fact that the court, in considering the motion filed by the administratrix on March 14, 1933, praying that the value of the property of the intestate estate on which the inheritance tax should be levied be fixed at P103,000, declared in its order of May 19, 1933, that the value thereof should be P131,400 and ordered the administratrix to pay the inheritance tax fixed by the Collector of Internal Revenue upon the basis of said amount., As the order had not been appealed from by anybody, it became final and is binding upon the administratrix and the heirs.

Section 1542 of the Revised Administrative Code, as amended, provides that for the purpose of determining the value of the real property subject to the payment of inheritance tax, the assessed value thereof as shown by the tax rolls should be taken as the minimum. There is no law providing that the assessed value must necessarily be the basis of the tax. On the other hand, sections 668 and 669 of the Code of Civil Procedure require the appointment of commissioners on appraisal to appraise the estate of a deceased person and, generally, it is the amount fixed by them that is taken into account and serves as the basis for the settlement and distribution of the inheritance. As the

value of the real property of the deceased had been fixed at P131,400 by the commissioners appointed, no error was committed when the Collector of Internal Revenue adopted it as the basis for determining the inheritance tax and the court ordered the tax so determined to be paid by the administratrix.

The contention that the commissioners reduced said value to P103,000 is without merit because when they did so they no longer had authority and were not acting as such commissioners, inasmuch as their appointments had expired and the court had relieved them of their duties in its order of June 21, 1932. The contention that the first report of the commissioners is of no legal value because it was submitted after the expiration of the period fixed by the court for the committee to act, is likewise untenable. While it is true that the first report was submitted after the lapse of said period, as it was approved without objection on the part of the administratrix and the heirs, it must be understood that the court had extended the original period, which it could legally do in accordance with sections 689 and 690 of the Code of Civil Procedure.

The third assignment of error is a mere corollary of the two former assignments and, therefore, the foregoing conclusions are equally applicable thereto with the effect that the inheritance tax so fixed is correct and in accordance with law.

In the fourth assignment of error, the administratrix questions the charging of interest on the tax fixed, corresponding to the period from April 7, 1928, to July 5, 1932, plus the interest accruing thereon from the latter date until the tax is paid. The period of six months within which the inheritance tax ought to have been paid expired on April 6, 1928. The administratrix presented the inheritance tax return and the Collector of Internal Revenue assessed the amount of the tax on July 5, 1932, Section 1544, paragraph (b), of the Revised Administrative Code, as amended by section 3 of Act No. B606, provides, among other things, that the inheritance tax return must be filed within six months after the death of the predecessor in interest and the tax paid within 20 days after service of assessment notice, except when testamentary or intestate proceedings have been instituted prior to the expiration of said period, in which case the return must be filed by the executor or administrator within 30 days after the date of approval by the court of the schedule of partition and the tax paid within 20 days after service of assessment notice by the Collector of Internal Revenue. In cases where no schedule of partition is presented, or if presented, is not approved or acted upon by the court within a period of 18 months from the date of the institution of the special proceeding, then the Collector of Internal Revenue shall assess the tax, file the tax return for the taxpayer and demand payment thereof from the executor or administrator within 20 days after service of the notice of assessment. If the tax is not paid within the time prescribed, a surcharge of 25 per cent and interest at the rate of 12 per cent per annum to be counted from the date of the delinquency, shall be charged. The predecessor in interest died on October 6, 1927. The period of six months within which to pay the tax expired on April 6, 1928. The intestate proceeding was not instituted until June 5, 1929, or more than one and a half years after the death of the predecessor in interest. Since the administratrix became delinquent from April 7, 1928, because, as already seen, she had failed to pay the tax within six months after the death of the predecessor in interest, she is bound to pay the interest fixed by law from said date to the date on which the tax was assessed and notice thereof served by the Collector of Internal Revenue, which took place on July 5, 1932, plus the interest accruing thereon from the latter date until the tax is fully paid. This court, therefore, concludes that the fourth assignment of error is unfounded.

The fifth and last assignment of error refers to the resolution appealed from and to the court's denial of the motion for a new trial. It is a corollary of the former assignments of error already considered and decided. This court sees no necessity of again passing upon it "because it would only mean a repetition of what has already been stated.

In view of all the foregoing reasons, the resolution appealed from is affirmed, with the costs of this instance to the administratrix-appellant. So ordered.

Avancena, C. J., Villa-Real, Abad Santos, Diaz, and Laurel, JJ., concur.

[1]60 Phil., 493.

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