

BENITO GARCIA, PLAINTIFF AND APPELLEE, VS. THE COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND APPELLANT.

G.R. No. 44372. November 03, 1938

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

The Collector of Internal Revenue, defendant herein, required Benito Garcia to pay a specific tax of P204.08 after the latter had been sentenced in a criminal case to pay a fine for having taken six hundred and sixteen liters of alcohol from the distillery of Jose B. Suntay for the purpose of removing the same to a distant store without having previously paid the corresponding specific tax therefor. Appellee paid the tax under protest, filing afterwards a complaint to recover its amount. The court decided the case in favor of plaintiff, and the Collector of Internal Revenue appealed from the decision to this court.

Appellant, in his brief, assigned the following as errors committed by the lower court:

"The lower court erred in holding that the Government had made a claim against Benito Garcia for the amount of P204.08 as specific tax, in criminal case No. 5922 of the Court of First Instance of Bulacan, and that the court, in its decision, declined to award it to the Government.

"The lower court erred in holding that the manufacturer of alcohol ordinarily pays the tax and that, as the manufacturer of the alcohol in question was Jose B. Suntay, and Benito Garcia was a mere employee, the latter cannot be made to pay the tax in question.

"The lower court erred in ordering the defendant to pay the plaintiff the amount of P204.08, plus costs.

"The lower court erred in denying the motion for new trial filed by the defendant."

In the decision appealed from the court has proceeded upon the assumption that in the criminal case filed against plaintiff herein, the Government had sought payment from him of the amount of P204.08 as specific tax; but that the court in its decision refused to impose the same for the alleged reason that, as the alcohol in question had been confiscated and as the value of the same was probably greater than the amount of the tax, the Government already has had an opportunity to recover it. In truth, however, the payment of the tax was not sought in the criminal case above referred to because the object of the information was the imposition upon the offender of the corresponding penalty for violation of section 2727 of the Revised Administrative Code. The tax should have been recovered by the Collector of Internal Revenue independently of the criminal action instituted by the People of the Philippines against the accused Benito Garcia. Therefore, the fact that in the judgment rendered in said case no pronouncement whatsoever as regard said tax had been made, was no bar to the Government's recovering it afterwards, as the Collector of Internal Revenue, appellant herein, has done in his own name.

Furthermore, the confiscation in the criminal case was an accessory penalty imposed by article 25 of the Revised Penal Code, which is entirely different from the payment of the tax.

Another ground of the appealed decision, according to the reasoning of the court, is that the payment of the tax is

in reality made by the consumer, although the distiller has to pay it first, charging the same later in the price of the sale. In the present case, says the court, the plaintiff Garcia never had the opportunity to sell the alcohol and consequently would never be reimbursed for the amount of the corresponding specific tax. All this loses its apparent merit by the single consideration that one who violates the law must suffer all the consequences of his own acts. One of the consequences of violating the law is confiscation.

According to section 1479 of the Revised Administrative Code, the tax should be paid immediately before the removal of the article from the place of production. The law does not say that the tax may be paid immediately before the sale.

The second error committed by the court consists in holding that the distiller of alcohol ordinarily is the one who pays the tax and inasmuch as Jose B. Suntay was the distiller of the alcohol in question, while Benito Garcia was a mere employee, the latter could not be compelled to pay the tax referred to. This is an inaccurate interpretation of the law. Section 1479 aforecited of the Revised Administrative Code provides that the specific taxes on domestic products shall be paid by the manufacturer, producer, owner or person having possession of the same.

It is a fact that the six hundred and sixteen liters of alcohol were found in the possession of plaintiff when he transferred them from the factory to a distant store and there is neither allegation nor evidence that plaintiff had taken the alcohol from the distillery to remove the same to the store by order of his principal, Jose B. Suntay. In order to avoid disputes and to determine easily the person who should pay the specific tax, section 1479 of the Revised Administrative Code has farsightedly provided that the manufacturer, producer, owner or person having possession of the article shall pay the tax.

The judgment appealed from is reversed without a special pronouncement as to costs. So ordered.

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

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