REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

THE CHRISTIAN AND MISSIONARY ALLIANCE CHURCHES OF THE PHILIPPINES,
Petitioner,

- versus -

C.T.A. CASE NO. 668

COLLECTOR OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - - - - - - x

D E C I S I O N

The petitioner is a religious corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal office in Zamboanga City, Philippines.

On March 4, 1954 and on February 17, 1956, the petitioner received by way of donation from the Christian and Missionary Alliance "and the Philippine Mission of said corporation," a total of twelve (12) parcels of land and the improvements thereon. (Par. 1, Stipulation of Facts, hereinafter referred to as Stifacts, pp. 84-85, CTA rec.) The donor, Christian and Missionary Alliance, like the petitioner herein, is also a religious corporation. (Par. 2, Stifacts) The properties, subject matter of the aforementioned donations, were already devoted to religious purposes prior to the herein donations, and continued to be used by the petitioner-donee for the same purposes to which they had been employed by the donor prior to the donations. (Pars. 3 & 4, Stifacts)

On February 21, 1956, the petitioner applied with the Bureau of Internal Revenue for tax clearance certificates for the above donations, as donations exempt from taxation, for the purpose of registering the deeds of donation with the Register of Deeds of Zamboanga City and effecting the transfer of the certificates of title of the properties donated in favor of the petitioner. (Par. 5, Second Amended Petition for Review, hereinafter referred to as Petition, pp. 123-129; Par. 1, Answer to Amended Petition for Review, hereinafter referred to as Answer, pp. 142-145)

Instead of issuing the tax clearance certificates applied for, the respondent, on September 24, 1957, assessed against and demanded from the petitioner the amounts of ₱16,153.80 and ₱7,158.90 as donee's gift taxes for the years 1954 and 1956, respectively, or the total sum of ₱23,312.70. (Pars. 5 & 6, Stifacts)

On October 21, 1957, the petitioner protested against the said assessments for donee's gift taxes and requested for the reconsideration and cancellation of the same. However, on March 16, 1959, the respondent denied the request for reconsideration and insisted on the payment by the petitioner of the disputed donee's gift tax assessments. (p. 163, BIR rec.) Hence, the present appeal.

The only issue in this case, as correctly pointed out by the petitioner and agreed to by the respondent, is the determination of the legal question whether or not donations of real properties devoted exclusively to religious purposes, by a religious corporation in favor of another religious corporation, for the purpose of devoting said properties exclusively to the same religious purposes that it had been heretofore devoted to, are subject to the payment of gift taxes. (Par. 10, Petition; Par. 1, Answer) In short, is the petitioner herein liable for the donee's gift tax - assessed against it by the respondent? (Par. 7, Stifacts)

We believe and so hold that petitioner Christian and Missionary Alliance Churches of the Philippines is not liable for the payment of the donee's gift taxes on the twelve (12) parcels of land and the improvements thereon which it received from the Christian and Missionary Alliance. One of the essential elements of a taxable gift is that there must be a clear and unmistakable intent on the part of the donor to make the gift. In other words, the donative intent must be present in the transfer of property in order that the gift taxes can be assessed and collected. (P-H Federal Gift Tax, (1956), par. 125,010) In the case at bar, the donative intent is wanting. The cause or consideration is neither fondness, liberality, admiration, generosity, gratitude

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nor pity. (p. 787, Vol. I, Caguioa's Comments and Cases on Civil Law)

We have carefully examined and scrutinized the deeds of donation executed by Christian and Missionary Alliance in favor of the petitioner, and we noted the following condition which is present in all said donations:

> "That the condition of this Donation is that the DONEE shall use and apply the above-described properties, subject matter of this Donation, to the uses and purposes for which the same were applied and intended by the DONOR, and for no purpose other than religious or to fulfill the objects for which the DONEE was created, and on the failure of said DONEE to comply with these conditions, the said properties shall revert to the DONOR as if this Donation has not been executed in the first place." (See Stifacts, Annexes A to A-5, pp. 86-102, CTA rec.)

To our mind, considering the above-quoted condition and all the other provisions of the deeds of donation, the Christian and Missionary Alliance did not transfer by gift within the purview of the Gift Tax Law the properties mentioned in the contracts. Taxwise, it did not perform an act of liberality whereby it disposed gratuitously of the twelve (12) parcels of lands and the improvements thereon in favor of the Christian and Missionary Alliance Churches of the Philippines. The petitioner did not receive a thing

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or right under the deeds of donation. (Art. 725, Civil Code) On the contrary, it assumed an obligation to administer the properties transferred to it for religious purposes only - the same religious purposes for which the donor was created and still exists today. The petitioner received nothing of material value which could possibly be reached by gift taxation.

Subject to the restrictive and resolutory condition stated above, the properties mentioned in the donations have no "fair market value" as that term is used in Section 113 of the National Internal Revenue Code. The transfers of said properties from Christian and Missionary Alliance to that of the petitioner were in name only, and merely to enable the latter to better perform its obligation to administer the properties in question for religious purposes only, and accomplish its mission in the Philippines to "go ye into all the world and preach the gospel to every creature." (Exh. E, p. 58, CTA rec.)

Moreover, the records show that petitioner Christian and Missionary Alliance Churches of the Philippines, Inc. is simply "a religious society, connected with, subordinate to and a district organization of the 'The Christian and Missionary Alliance Mission of the Philippines'," and is "charged with the administration of the

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temporalities and management of the estates and properties of the Christian and Missionary Alliance Mission of the Philippines, within the territorial jurisdiction of the Islands of Mindanao and Sulu, which territories are portions of the Philippines." (Exh. F, pp. 62-69, CTA rec.; Underscoring supplied.) And the records further show that "the Christian and Missionary Alliance Mission of the Philippines" is just the Philippine arm of the donor - "the Christian and Missionary Alliance" - the local organization or Philippine branch or mission of the latter. (See Exh. M, p. 175, CTA rec.; See also TSN, pp. 29-30; 59-85) Hence, in all the instruments of donation under review, the donor is always described as "The Christian and Missionary Alliance, x x x and the Philippine Mission of said corporation." (Par. 1, Stifacts) From the eyes of the Gift Tax Law, the transfers of the twelve (12) parcels of land and the improvements thereon to the petitioner herein were, in effect, transfers from the right hand to the left hand. There should, therefore, be excluded from the category of donations all those acts which though grant benefits without compensation do not require any corresponding patrimonial loss; there must exist the animus donandi that is, the intention to give benefit or enrichment to the donee (p.792, Vol. I, Caguioa's Comments and Cases on Civil Law). We are of the opinion and so hold that such kinds of transfers of properties are not subject to gift taxes.

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DECISION
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WHEREFORE, in view of the foregoing considerations, the decision of the respondent Collector (now Commissioner) of Internal Revenue is hereby reversed, and the donations of the twelve (12) parcels of land and the improvements thereon made by the Christian and Missionary Alliance and its Philippine Mission to petitioner Christian and Missionary Alliance Churches of the Philippines, are hereby declared not subject to gift taxes.

SO ORDERED.

Manila, August 21, 1964.

AUGUSTO M. LUCIANO
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

ROMAN M. UMALI
Associate Judge

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