Lorenzo

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ARISTON HERMANO
c/o LOURDES D. HERMANO,
Petitioner,

- versus - C.T.A. CASE NO. 1657

THE COMMISSIONER OF
INTERNAL REVENUE,
Respondent.
x- - - - - - - - - - - - -x

April 7, 1967

D E C I S I O N

This is an appeal from a decision of respondent Commissioner of Internal Revenue assessing against and demanding from petitioner the amounts of ₱1,062.07 and ₱598.52, as deficiency estate and inheritance taxes, respectively, inclusive of surcharge, interest and compromise penalties.

On August 7, 1957, Ariston J. Hermano died intestate leaving as heirs his widow, Lourdes D. Hermano, and three children. He left real and personal properties, consisting of a 1,154 sq. m. lot located at 1621 Wright, Manila, with a house built in 1947, part of which is rented; 4 parcels of rice land situated at Roxas City; and 11,000 shares of stock of the Consolidated Mines, Inc.

At the time of his death, the deceased was insured with the Philippine American Life Insurance Company in the amount of ₱2,500.00, with his wife as irrevocably designated beneficiary. (Exh. 7, p. 89, BIR rec.)

The widow was appointed administratrix of the estate of the deceased in Special Proceeding No. 33896 of the Court of First Instance of Manila. On September 22, 1956, the Court of First Instance approved the project of partition presented by the heirs.

On April 16, 1958, the administratrix Lourdes D. Hermano filed an estate and inheritance tax return on the basis of which respondent issued on May 19, 1958, an assessment for estate tax in the amount of ₱213.90 (Exh. B-1, p. 82 BIR rec.), which she paid on August 29, 1958 (Exh. B, p. 83 BIR rec.).

After the investigation of the estate and inheritance tax liability of the heirs, BIR examiner Floro B. Abella rendered a report of his findings, the pertinent portion of which is quoted below:

> "It was ascertained in the course of investigation that the deceased owned real properties situated in the City of Manila and in the Province of Capiz. He also owned personal properties consisting of shares of stock and proceeds of insurance. The real property in Manila is a parcel of land situated at Wright St., with an area of 1,154 sq. m. together with the improvement thereon. The land is assessed at ₱22,540.00 and the improvements assessed at ₱32,000.00. In the absence of comparable sales the land is assessed at ₱40.00 per sq. m. The said valuation is deemed fair taking into account that the assessed value has been increased by more than 100%. The fair market value of the land is ₱46,160.00. The improvements are taken at their assessed value. The deceased also owned

> 11,000 shares of stock of the Consolidated Mines, Inc., with a par value of ₱0.01. However, the records of the Manila Stock Exchange showed that the said shares of stock were quoted at ₱0.09 per share at the time of the decedent's death. The deceased was also insured with the Phil. American Life in the amount of ₱2,500.00. The property of the deceased situated in the Province of Capiz, consisted of rice-lands with a fair market value of ₱1,970.00 as per report of the Provincial Revenue Officer of that Province. The gross estate of the deceased amount of ₱83,620.00. The deductions claimed were reduced from ₱38,174.98 to ₱36,795.00 after verifying the records of Special Proceedings No. 33896 of the Court of First Instance of Manila. Based on the above valuation there is due the amount of ₱1,780.53 as transfer taxes and penalties.
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> "In view of the foregoing, it is respectfully recommended that an assessment notice be issued to the Administratrix, Mrs. Lourdes Dinglasan Hermano at 1621 Wright, Manila, for the collection of the above-mentioned amount of ₱1,780.53." (Exh. 5 & D-1, pp. 74-75, BIR rec.)

On the basis of the above report, respondent, on February 8, 1962, assessed against and demanded from petitioner-administratrix the amounts of ₱1,062.07 and ₱598.52 as estate and inheritance taxes, respectively, inclusive of interest and compromise penalties (Exhs. 14 & 15, and D, pp. 76-77, BIR rec.) computed as follows:

Estate tax --------------------	₱848.98
5% surcharge on ₱198.90 ---------	9.95
1% int. from 5-7-59 to 3-7-62 on ₱198.90 ----------------	67.63
½% int. on ₱650.08 from 5-7-59 to 3-7-62 ----------------	110.51

Compromise for non-payment ------	₱ 10.00
Compromise for no notice of death	15.00
	₱1,062.07

Inheritance tax ---------------	₱ 518.20
½% int. on ₱518.20 from 8-7-59 to 3-7-62 ----------	80.32
	₱ 598.52

On February 28, 1962, petitioner, through counsel, assailed the assessment on the ground that it was without basis in fact and law and requested a hearing (Exh. 6, p. 96, BIR rec.). Accordingly, on March 21, 1962, a hearing was conducted. For reasons not here pertinent further hearing was postponed.

On June 3, 1964, respondent wrote counsel for petitioner, requesting the latter to submit a memorandum substantiating his protest, together with additional documentary evidence (Exh. 11, p. 111, BIR rec.). Despite subsequent letters of similar request, petitioner failed to submit the memorandum and documentary evidence called for. Eventually, respondent denied petitioner's request for reconsideration of the assessment. From this denial, the latter appealed to this Court.

The issues presented for our determination are as follows:

> (1) Whether or not the right to assess the estate and inheritance taxes has prescribed;

(2) Whether or not the real property situated at Wright St., Manila, should be valued at its assessed value of ₱22,540.00 or at the appraised value ₱46,160.00 fixed by the respondent;

(3) Whether or not in the determination of the fair market valuation of the house standing on the lot at Wright St., its depreciation value for 10 years should be taken into consideration;

(4) Whether or not the 11,000 shares of stock of the Consolidated Mines, Inc. should be appraised at their par value of ₱0.01 per share or at ₱0.09 per share, the market quotation obtaining at the Manila Stock Exchange; and

(5) Whether or not the ₱2,500.00 received by the widow as irrevocable beneficiary of a life insurance policy taken by deceased should be included in the gross estate for tax purposes.

With respect to the first issue, it is contended by petitioner that the right to assess the taxes in question has prescribed. Respondent avers the contrary. We agree with respondent. The records show that the assessment for estate and inheritance taxes was issued on February 8, 1962, which is well within five (5) years from April 16, 1958, the date of the filing of the estate and inheritance tax return by the administratrix; hence, respondent's right to assess the same has not prescribed (Coll. of Int. Rev. v. De Los Angeles, G.R. No. L-9899, Aug. 13, 1957; Coll. of Int. Rev. v. Bautista, G.R. No. L-12250, May 27, 1959).

With respect to the second issue, it appears that petitioner-administratrix appraised the lot located in Manila containing 1,154 square meters at its assessed value of ₱22,540.00. Respondent Commissioner appraised its value at ₱46,160.00, or at ₱40.00 per square meter.

Considering that the assessed value of real property is very much below the fair market value (Zamora vs. Collector, et al. G.R. Nos. L-15290, L-15280, L-15289 & L-15281, May 31, 1963), the assessed value of ₱22,540.00 of the real property in question cannot be taken as its fair market value. It should, therefore, be appraised at double its assessed value or at ₱45,080.00 (Sambrano vs. J. Antonio Araneta, CTA Case No. 56, July 25, 1966, citing Castro vs. Collector, G.R. No. L-12124, April 26, 1962).

The house standing on the lot at Wright St., Manila, was appraised by respondent at ₱32,000.00, its assessed value. But petitioner-administratrix seeks to deduct from the assessed value of ₱32,000 the sum of ₱14,115.60, the alleged total depreciation from 1947 to 1957. She testified that the building is a two-storey house, portion of which is rented ever since it was constructed in 1947. While it is true that the building had depreciated in value, there is no showing that its actual fair market value was less than its assessed value at the time of the demise of Ariston J. Hermano. Consequently, we take it that the assessed value, which was ₱32,000.00, was the correct fair market value of the building on the date of death of the decedent.

On the fourth issue, there is evidence to the effect that the shares of stock of the Consolidated Mines, Inc. were quoted in the Manila Stock Exchange at the time of demise at ₱0.09 per share. There being no evidence introduced by petitioner to the contrary, the valuation made by respondent of the 11,000 shares at ₱990.00 must be sustained.

Petitioner assails the inclusion of ₱2,500.00 as part of the estate on the ground that this amount belonged to the widow, Lourdes D. Hermano, who was irrevocably designated beneficiary of the deceased in his life insurance policy. It being admitted that the designation of the surviving widow as beneficiary was irrevocable, the proceeds of the insurance policy are exempt from estate and inheritance taxes. (See Sec. 88(e), Rev. Code.) Therefore, the ₱2,500.00 received by petitioner Lourdes D. Hermano as proceeds of the policy of her deceased husband is not includible in the gross estate for tax purposes.

Finally, the amount of ₱213.90, paid by petitioner-administratrix as estate tax on the basis of the estate and inheritance tax return, was not deducted by respondent Commissioner in the computation of the deficiency estate and inheritance taxes in question. This sum of ₱213.00 should be deducted to avoid duplication.

In line with the foregoing opinion, there is due from the estate and the heirs the sums of ₱545.58 and ₱448.40, as deficiency estate and inheritance taxes, respectively, computed as follows:

Lot (₱22,540 x 2) -----------		₱45,080.00
House ---------------------		32,000.00
Rice lands ----------------		1,904.00
Realty --------------------		₱78,984.00
Value of 11,000 shares ------		990.00
Gross estate --------------		₱79,974.00
Less: Claims re estate	₱34,095	
Funeral expenses	2,700	36,795.00
Net estate ---------------		₱43,179.00
Estate tax due -------------		₱ 759.48
Less tax previously paid -----		213.90
Deficiency estate tax --------		₱ 545.58
Net estate ----------------		₱43,179.00
Less estate tax ------------		759.48
Amount subject to inheritance tax --------------------		₱42,419.52
Share of each heir: ₱42,419.52 / 4 = ₱10,604.88		
Inheritance tax due from each heir ---- ₱112.10 x 4		
Deficiency inheritance tax due		₱ 448.40

WHEREFORE, the decision appealed from is hereby modified. Petitioner is ordered to pay respondent Commissioner of Internal Revenue, or his representative, the sums of ₱545.58 and ₱448.40 as deficiency estate and inheritance taxes, respectively, plus the interests provided for in Sections 100 and 101(b)(1) of the Revenue Code. If said amounts, plus interests, are not paid within 30 days after this decision becomes final and executory, the surcharge of 5% on the unpaid taxes shall also be paid in accordance with Section 101(c) of the Revenue Code. Without pronouncement as to costs.

SO ORDERED.

Quezon City, April 7, 1967.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge