JOSE G. LONGA,
JUAN G. LONGA,
VICENTE G. LONGA,
MARIA L. DE VICENTE,
RAFAELA G. LONGA,
LYDIA G. LONGA,
VICTORIA TORREJON, as
Administratrix of Intestate
ESTATE of Pedro Longa,
deceased, and

ROSA L. DE PUEO,
represented by their
Attorney-in-fact

ALBERTO URIARTE,
Petitioners,

- versus - C.T.A. CASE NO. 653

JOSE ARAÑAS, as Commissioner
of Internal Revenue,
Respondent.
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DECISION

This is an appeal from the decision of respondent denying the claim of petitioners for the refund of the amount of ₱10,755.00 representing 20% corporate income tax for 1957, which was collected and paid under Section 24 of the National Internal Revenue Code, in relation to Section 84 (b) of the same Code.

It appears that petitioners, with the exception of their attorney-in-fact, Alberto Uriarte, are brothers and sisters and co-owners or co-heirs of a certain real property known as the "Hacienda Sta. Monica", situated in Manjuyod, Negros Oriental. This property was inherited by them from their deceased parents, Ignacio Longa and Dolores Gonzales de Longa, who, during their lifetime, devoted it to the production of sugar.

Just as their deceased parents had done before them, petitioners, on February 12, 1950, entered into a contract with the Central Azucarera de Bais for a period of ten (10) years for the milling of the sugar cane grown in the hacienda; to draw cash advances from year to year for use in the operation, administration and management of their property, which advances were charged against their share of the sugar produced by the Central; and, to enjoy such facilities as free telephone, transportation, maintenance of irrigation canals, bodega, and others (See Exh. F, pp. 15-28 BIR rec.).

In November, 1955, petitioners, in their individual capacities, appointed Alberto Uriarte administrator of their property. This property was left undivided by the heirs for more than ten (10) years in order "to preserve its value and to continue the existing contractual relations with the Central Azucarera de Bais for milling purposes." (Exhs. 1 & 5, pp.2-3 & 50-51 BIR rec.,respectively.).

Petitioners did not contribute or invest additional capital to expand the property in question. Neither did they engage in trade or business with this inherited property as capital.

During the year under review (1957), petitioners shared equally in the expenses of administration of their property, as well as in the net income derived therefrom (See Exh. 3, pp. 34-47 BIR rec.), which they correspondingly reported in their individual income tax returns for that same year, and paid the tax on their respective shares.

On the theory that petitioners had formed an unregistered partnership, and therefore, are liable for corporate tax under Sec. 24, in relation to Sec. 84(b), both of the Tax Code, respondent, on April 30, 1958, assessed against and demanded from petitioners the amount of ₱10,755.00 as corporate tax on the net income received by petitioners from the operation of the "Hacienda Sta. Monica" during the period from January 1, to December 31, 1957 (Exh. 4, p. 48 BIR rec.), which amount petitioners paid in two (2) equal installments of ₱5,377.50 under Official Receipts Nos. 1348728 and 1348804 dated May 23, 1958 and August 15, 1958, respectively. Subsequently, petitioners, in three (3) letters dated June 2, 1958, June 10, 1958 and September 1, 1958, requested for the refund of the amount of ₱10,755.00 on the ground that petitioners were not constituted as a partnership subject to corporate tax (Exhs. C, C-1 & C-2.).

The claims of petitioners for refund were denied by respondent in his letter dated March 6, 1959, the pertinent portions of which read, thus:

"The investigation conducted by this Office shows that Hacienda Sta. Monica was inherited by the Longa brothers and sisters from their deceased parents more than ten (10) years ago. They keep it undivided among themselves up to the present time in order to preserve its value and to continue the existing contractual relations with the Central Azucarera de Bais for milling purposes, as evidenced by the CONTRATO DE MOLIENDA executed by and between the Longa brothers and sisters and the Central Azucarera de Bais. For the purpose of its development, preservation and common enjoyment, the heirs deem it convenient and beneficial to their respective interests to put the Hacienda under the joint management of Mr. Alberto Uriarte as Administrator.

"Your clients might not have created or organized a distinct partnership in writing and some of the characteristics thereof may be absent in the venture abovementioned. The form, however, is not controlling because under the provisions of the National Internal Revenue Code the partnership contemplated as a corporation refers to an organization which is not necessarily a partnership in the technical sense. (Collector of Internal Revenue vs. Batangas Transportation Co., et al., G.R. No. L-9692). For tax purposes, a partnership may exist no matter how it is created or organized (Sec. 24, Tax Code).

"In view thereof, it is regretted that your request for the refund of ₱10,755.00 is hereby denied.", (Exh. D, pp. 9-10, CTA rec.; Exh. 5, pp. 50-51 BIR rec.)

Not satisfied with the above decision, petitioners, on May 4, 1959, interposed the present appeal to which respondent filed an answer, alleging, among others, that the petition for review was filed beyond the reglementary period.

Respondent having failed to press and discuss in his memorandum the issue of prescription, we take it that he has abandoned the said issue.

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Consequently, the only question to be resolved in this appeal is whether or not petitioners had formed an unregistered partnership taxable as a corporation under Section 24 of the National Internal Revenue Code, in relation to Section 84 (b) of the same Code.

The pertinent provisions of Sections 24 and 84 (b) of the National Internal Revenue Code provide as follows:

> "SEC. 24. Rate of tax on corporations. (A) In general, there shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding taxable year from all sources by every corporation organized in, or existing under the laws of the Philippines, no matter how created or organized but not including duly registered general co-partnerships (compañias colectivas) domestic life insurance companies and foreign life insurance companies doing business in the Philippines, a tax upon such income equal to the sum of the following: x x x".
>
> "SEC. 84. When used in this Title-
> x x x x x x x x x x
> (b) The term 'corporation' includes partnerships, no matter how created or organized, joint-stock companies, joint accounts (cuentas en participacion), associations or insurance companies, but does not include duly registered general copartnerships (compañias colectivas).

Petitioners, invoking our decision in the case of Jose P. de Leon, et al. vs. The Commissioner, Bureau of Internal Revenue, et al., CTA Case No. 738, September 11, 1961, contend they had constituted a co-ownership, not a partnership. On the other hand, respondent, citing

Eufemia Evangelista, et al. vs. The Collector of Internal Revenue, et al. G.R. No. L-9996, October 15, 1957, maintains that petitioners intended a partnership, the net income of which are subject to corporate tax.

The claim of petitioners that they had constituted a co-ownership and not a partnership, and, therefore, are not taxable on the net income derived from the "hacienda" under Section 24 of the National Internal Revenue Code, in relation to Section 84 (b) of the same Code, is well founded.

This Court, in holding that the organizational set up resulting from the operation of the properties involved in the De Leon case, supra is one of co-ownership not subject to the corporate tax imposed by law, considered the circumstances that said properties were inherited pro indiviso; that the heirs therein did not contribute from their own pockets in order to increase or enlarge the family properties; that the actions of the heirs were merely limited to the conservation and preservation of the inherited properties; that each heir individually reported in his income tax return his corresponding share in the income and expenses thereof; and, that the long continued existence of the co-ownership was due to a reasonably compelling cause.

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We find that the case at bar is fundamentally similar to the De Leon case. Thus, like the De Leon heirs, the Longa heirs inherited the "hacienda" in question pro indiviso from their deceased parents; they did not contribute or invest additional capital to increase or expand the inherited properties; they merely continued dedicating the property to the use to which it had been put by their forebears; they individually reported in their tax returns their corresponding shares in the income and expenses of the "hacienda"; and they continued for many years the status of co-ownership in order, as conceded by respondent, "to preserve its (the "hacienda") value and to continue the existing contractual relations with the Central Azucarera de Bais for milling purposes." (Exhs. 1 & 5, op. cit.)

In addition to the above-enumerated circumstances, there are other factors that argue well for the proposition that petitioners had established a co-ownership, not a partnership. Petitioners entered into a milling contract with the Central Azucarera de Bais in their individual capacities. Similarly, they executed the special power of attorney appointing Uriarte administrator of the property in their individual capacities. At no instance was it shown that petitioners, in their dealings with the Central Azucarera de Bais or with the administrator, represented themselves as partners.

The ruling of the Supreme Court in the Evangelista case, supra, relied upon by respondent, is not applicable to the present case because these two cases are based on entirely different sets of facts. Firstly, in the cited case, the "common fund was not something they (Evangelista sisters) found already in existence. It was not a property inherited by them pro indiviso but was created purposely. What is more, they jointly borrowed a substantial portion thereof in order to establish said common fund." While in the case at bar, the common fund was an inherited property, and was already in existence at the time petitioners became the owners by right of inheritance. They did not create it nor did it originate with them. They never borrowed money in order to establish that common fund, or contributed additional assets to the common fund.

Secondly, in the Evangelista case, the taxpayers were habitually engaged in the business of real estate dealers, while petitioners in the case at bar, were not so engaged, nor have they entered into any kind of business with the inherited property in question as capital for the purpose of increasing or expanding their capital through profits, the very purpose of partnership (II Padilla, Civil Code Annotated, 4th Ed., p. 139.)

In fact, petitioners held the property pro indiviso and devoted it to the production of sugar in the same manner that it was devoted by their parents primarily and solely for the purpose of "its development, preservation and common enjoyment", which is the very object of co-ownership. (II Padilla, Ibid.)

Finally, in the Evangelista case, there is no explanation of the purpose behind the organizational set up of petitioners therein or of the causes for its continued existence, while in the instant case, the set up was a result of the death of their father, and was merely continued by them. And the reason for the continuance of petitioners' state of relationship for more than ten (10) years, as respondent himself found, is "to preserve its value and to continue the existing contractual relations with the Central Azucarera de Bais for milling purposes"; and that for the convenience and best interests of petitioners, the inherited property was placed by them under the joint management of an administrator, which as we have already stated beforehand, are the very objectives of co-ownership.

With all the above circumstances taken into consideration, we find ourselves with no other alternative but to find and so hold that petitioners are not liable for the corporate income tax imposed under Section 24 of the Tax Code, in relation to Section 84 (b) of the same Code.

WHEREFORE, in view of the foregoing considerations, the decision of respondent Commissioner of Internal Revenue denying the refund of ₱10,755.00 representing corporate income tax paid by and collected from petitioners for the year 1957 is hereby reversed. Respondent is hereby ordered to refund the said amount of ₱10,755.00 to petitioners within thirty (30) days from receipt of this decision. Without pronouncement as to costs.

SO ORDERED.

Manila, July 31, 1963.

AUGUSTO M. LUCIANO
Associate Judge

I CONCUR:

ROMAN M. UMALI
Associate Judge

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