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COURT OF TAX APPEALS
QUEZON CITY

PHILIPPINE NATIONAL BANK,
as Administrator of the
Intestate Estate of
JOSE CASTILLO Y REFUERZO,
Petitioner,

April 30/60

- versus -

C.T.A. CASE
No. 1348

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

D E C I S I O N

This refers to the claim for refund of the sum of ₱19,600.00 which petitioner paid to respondent as partial payment of the transfer taxes on the estate of the late Jose Castillo y Refuerzo.

Petitioner, as administrator of the Intestate Estate of Jose Castillo y Refuerzo, who died on December 25, 1953, filed the corresponding estate and inheritance tax return on December 24, 1954, declaring therein the amount of ₱413,420.00 as the assessed value of the real property left by the deceased, and the sum of ₱197,572.21 as the fair market value of his personal property.

Pending investigation, respondent, on January 19, 1955, issued Estate and Inheritance Tax Notice No. EA-25748-53 against petitioner Bank for the sums of ₱21,096.63 and ₱7,100.40 as estate and inheritance taxes, respectively, or a total of ₱28,197.03.

Pursuant to the said assessment, petitioner paid the total amount of ₱32,322.04, inclusive of surcharge, interest and compromise.

After investigation, respondent conceded the valuation of the personal property of the estate as correctly declared but determined the fair market value of the entire estate of the deceased at ₱1,618,309.88 and a net taxable estate of ₱1,146,702.10. Consequently, respondent issued Assessment Notice Numbered EST-A-25748-53, demanding payment of the sums of ₱162,191.47 and ₱82,253.48 as deficiency estate and inheritance taxes, after crediting the sums of ₱19,267.22 and ₱10,863.46 previously paid on account of the aforesaid provisional assessment. This deficiency assessment is based upon the increased valuation of the real property as determined by respondent.

Pending its request for reconsideration or reduction of the deficiency assessment, petitioner, on February 15, 1963, paid the amount of ₱19,600.00 as partial payment under Assessment Notice No. EST-A-25748-53. Respondent denied the request for reconsideration, but conceded the correctness of the position of petitioner with respect to the personal property described as follows:

> "1. The amount of ₱25,000 comprising of two promissory notes due from the spouses Francisco Benitez, Jr. and Angela Vargas should be reduced to ₱10,800 for the reason that one of the

notes for ₱5,000 is exclusively in favor of the widow of the decedent, Mrs. Beatriz M. Vda. de Castillo, and that the original amount of the other promissory note for ₱20,000 is no longer its present value at the time of death of the deceased as decided by the Court thru its Order of April 2, 1962. x x x.

"2. The amount of ₱1,800 value of redeemed San Miguel Brewery stocks should be deducted from the amount of 'CASH' if the same amount is to be reflected under 'Stocks and Bonds' or to be treated vice versa but not to be taken up in both captions. x x x.

"3. The 'Credit' due from Mrs. Patria Castillo-Buendia in the amount of ₱5,000 should be deleted from the totals of 'Credit Due the Estate' as this amount does not form a part of the estate as of December 25, 1953 (time of death of the decedent). This very same amount was handed to Mrs. Buendia sometime in November 1953, to be used as educational expenses of the other two heirs, Lydia and Yvonne Castillo, who were then studying in the United States. x x x."*

Petitioner assails the correctness of the last assessment. Hence, the claim for refund of the amount of ₱19,600.00.

The principal issue raised in this case relates to the valuation of the real property left by the deceased Jose Castillo y Hefuerzo for purposes of estate and inheritance taxes.

In determining the fair market value of real property for transfer tax purposes, the law provides:

*See Exh. B, pp. 338-339, BIR rec. referred to as Items 1, 2 & 3 in Exh. K, p. 344, BIR rec.

> "The estate shall be appraised at its fair market value as of the time of death, or as of six months thereafter, at the election of the executor or administrator in the case of the estate tax or the heirs in the case of inheritance tax. However, for the purpose of determining the value of real property, the assessed value as of the time of death, or, at the election of the executor, administrator or the heirs, as of six months after death, as shown by the tax rolls shall be considered as the fair market value, unless the contrary is shown." (Sec. 91, Revenue Code.)

The law requires that the estate be valued at its fair market value which has been judicially defined as follows:

> "The term 'market value' is not an absolute term; it involves human equation. Valuation is an inexact science and the valuation reached by whatever method must remain an approximation. A valuation of absolute accuracy is impossible. This impossibility of precise valuation is generally recognized; the law is not so exact as to require mathematical certainty. Generally, however, the market value of property is the price which it will bring when it is offered for sale by one who desires, but is not obliged to sell it and, is bought by one who is under no necessity of having it." (II Formilleza, Commentaries and Jurisprudence on the National Internal Revenue Code, page 597, citing City of Manila v. Estrada, 25 Phil. 208; Manila Railway Co. v. Fabie, 17 Phil. 206; Manila Railroad Co. v. Alano, 36 Phil. 500; Manila Railroad Co. v. Velasquez, 32 Phil. 286; Manila Railroad Co. v. Caligsihan, 17 O.G. 1845; Lewis on Eminent Domain (2d), sec. 478; Stock Yards Case, 120 Mo. 541; Bocanegra v. Comm., C.T.A. No. 420, Oct. 12, 1959.)

Petitioner claims that the valuation made by respondent is grossly excessive. It is argued that the assessed value of the real property as shown by the covering tax declarations in force as of the death of the deceased should be considered as the fair market value. It is alleged that the examiners had no personal knowledge of the condition and value of the property in question at the time of the death of the decedent. On the other hand, respondent maintains that the valuation given by the examiners of the Bureau of Internal Revenue represents the fair market value at the time of the decedent's death or as of six months thereafter.

An examination of the records shows that respondent appraised the real property in question higher than the assessed values appearing in the tax rolls. In the determination of the fair market value of the real property, various factors were taken into consideration by respondent, a viz: the time of death of Jose Castillo y Refuerzo; investigation and ocular inspection of the property by respondent's agents to ascertain the kind, location, condition and nature thereof; and the prices of lands near or adjoining the property in question, as gathered from representative deeds of sales secured from notaries public.

There being evidence that the assessed value of the real property in question as shown by the tax rolls does not represent the fair market value thereof, we find respondent's determination to be the correct fair market value. Under Section 91 of the Revenue Code, the real property is required to be appraised at its fair market value and the assessed value thereof shall be considered as the fair market value only when evidence to the contrary has not been shown. (See Coll. vs. Fisher, G.R. Nos. L-11622 and L-11688, Jan. 28, 1961). It has been clearly shown in this case that the assessed value of said real property does not represent its fair market value.

But petitioner challenges the competency of the examiners in appraising the real property of the deceased and tried to discredit the valuation made by them. That the examiners have no personal knowledge of the condition and value of the property at the time of death of the decedent is not sufficient evidence to show the incorrectness of the valuation in the absence of proof that the appraisal is unreasonable.

Respondent, however, agreed to delete the amount of ₱5,000.00 as deductible item from the personal property of the decedent. Similarly, respondent agreed that the amount of ₱1,800.00, representing the value of the redeemed San Miguel Brewery stocks, be considered only once.

With respect to the amount of ₱25,000.00 due from the spouses Francisco Benitez, Jr. and Angela Vargas, it is not disputed that the promissory note for ₱5,000.00 executed by Mrs. Angela Benitez is the paraphernal property of the widow, Mrs. Beatriz

M. Vda. de Castillo, and therefore, it should be deducted accordingly. The other promissory note for ₱20,000.00 should be reduced to ₱10,800.00 per findings of the Court of First Instance of Manila, Branch XVI, in Civil Case No. 38200. (Exh. J, pp. 327-331, BIR rec.)

WHEREFORE, the claim for refund is denied, and petitioner is hereby ordered to pay the sums of ₱162,191.47 and ₱82,253.48 as deficiency estate and inheritance taxes, surcharge and interest, minus the amount of ₱51,922.04 previously paid, and the amount corresponding to the taxes due on the sums of ₱5,000.00, ₱1,800.00 and ₱14,200.00, plus interest at the rate of 1% a month as provided in Sec. 101(b)(1) of the Tax Code. With costs against petitioner.

SO ORDERED.

Quezon City, April 30, 1966.

ROMAN M. UMALI
Acting Presiding Judge

I CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge