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May 11, 1961

HELENE ROBAIN MAGAZ AND
JORGE MAGAZ,
Petitioners,

- versus - C.T.A. CASE NO. 354

COLLECTOR OF INTERNAL REVENUE,
Respondent.

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

ALAIN JAULERRY, represented
by his Judicial Guardian, Mr.
Alfredo Melian,
Petitioner,

- versus - C.T.A. CASE NO. 355

COLLECTOR OF INTERNAL REVENUE,
Respondent.

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

D E C I S I O N

On October 19, 1957, the petitioners in the two cases entitled above, with the conformity of the respondent, filed a motion for a joint hearing which was granted by the Court because of the common interests of the former and the identity of the factual and legal issues involved in the two cases. This decision, therefore, covers the two cases.

In C.T.A. Case No. 354, petitioners Helene Robain Magaz and Jorge Magaz, are spouses, citizens of Spain and non-residents in the Philippines, while in C.T.A. Case No. 355, petitioner Alain Jaulerry, is a minor, a citizen of France and is also a non-resident in the Philippines. (Par. 1, Partial Stipulation of Facts, pp. 22-28, CTA rec., hereinafter cited as STIFACTS.) They instituted their respective petitions for review for the recovery from the respondent of income taxes alleged to have been erroneously paid by them for the year 1954.

It appears that in the Last Will and Testament of the late Don Enrique Roxas Argellies, a Spanish citizen who died on September 8, 1952, while domiciled in the City of Manila, and who left considerable properties situated in the Philippines, petitioners Helene Robain Magaz and Alain Jaulerry, were named as the universal heirs of the said decedent's estate. The said Last Will and Testament was duly admitted to probate by the Court of First Instance of Manila, and the Ayala y Compañia, a duly registered general copartnership organized and existing under the laws of the Philippines, was appointed administrator of the estate. (Par. 2, STIFACTS.)

Pursuant to an instrument of "Partition", (pp. 47-52, BIR rec.) signed and filed by the lawyers of the estate, with the conformity of the administrator of the estate and Alfonso Zobel who was then acting as the judicial guardian of universal heirs Helene Robain Magaz and Alain Jaulerry, and duly approved by the Court of First Instance of Manila on December 23, 1952 (p. 46, BIR rec.), an undivided half of all the real and personal properties of the decedent was adjudicated to each of the petitioners, Helene Robain Magaz and Alain Jaulerry. (Par. 3, STIFACTS.)

In accordance with the terms of the "Partition", said instrument became effective on December 31, 1952, so that from January 1, 1953, all the income, interests and dividends of any kind and nature, corresponding to the properties of decedent inherited by the petitioners, have pertained directly, in equal shares, to them as universal heirs. In consideration of this adjudication to the petitioners, they bound themselves, among other things, as follows:

> "Each heir will pay one-half (1/2) of all the estate and inheritance taxes due to the Philippine Government, including the inheritance taxes corresponding to the amounts paid to the Legatees, in accordance with the Will Annex 'A' of this Partition". (Par. 4, STIFACTS.)

The estate and inheritance tax return was duly filed by the administrator of the estate of the late Enrique Roxas Argellies. Upon investigation and verification thereof, the respondent determined and assessed the amounts of ₱666,665.04 and ₱2,004,180.58 as estate and inheritance taxes due thereon, or the total sum of ₱2,670,845.62. In accordance with law, these taxes were due and payable on June 8, 1954 and September 8, 1954, respectively. (Par. 5, STIFACTS.)

On February 20, 1954, the attorneys of the estate and of the universal heirs, the petitioners herein, wrote the respondent "that the payment on the due date of the said taxes, would impose undue hardship upon the estate or any of the heirs", and requested the respondent to allow the payment of the assessed taxes in installments, in accordance with the provisions of Section 95 (b) of the National Internal Revenue Code. (Exh. J, also marked as Exh. 1, pp. 44-45, BIR rec.)

On March 1, 1954, after an exchange of correspondence, the respondent, subject to certain conditions which were complied with by the petitioners agreed that the estate and inheritance taxes due on the transmission of the estate of the late Enrique Roxas Argellies, be paid in installments over a period of four (4) years. (Par. 6, STIFACTS; see Exh. K, also marked as Exh. 2; Exh. L, also marked as Exh. 3; Exh. M, also marked as Exh. 4, pp. 38-43, BIR rec.)

Since the calendar year 1953, the petitioners have been duly filing their respective income tax returns, and have been reporting their respective shares of the income and expenses from the properties they have inherited from the deceased Enrique Roxas Argellies. In their income tax returns for the year 1954, each of the petitioners claimed as interest deduction ₱25,213.73, said amount being one half of the total amount of ₱50,427.46 paid by way of interest on the extended payments of the estate and inheritance taxes. The income taxes due as per said returns were timely paid by the petitioners. (Par. 8, STIFACTS.)

Upon examination by respondent's examiner of petitioners' 1954 income tax returns, the amounts of

₱25,213.73 which each respectively claimed as interest deductions were disallowed, and on April 3, 1956, the respondent assessed against and demanded from petitioners Helene Robain Magaz and Alain Jaulerry the amounts of ₱14,104.00 and ₱14,120.00, respectively, as deficiency income taxes for the year 1954. (Par. 9, STIFACTS; Exh. C, also marked as Exh. 9, pp. 35-36, BIR rec.)

On May 8, 1956, the petitioners paid under protest the above-mentioned deficiency income taxes assessed against them (Par. 10, STIFACTS), and on July 20, 1956, they filed their joint claim for the refund of the sums of ₱14,104.00 and ₱14,120.00 which each paid. (Par. 11, STIFACTS; Exh. F, pp. 54-61, BIR rec.) In a letter-decision dated January 24, 1957, which was received by the petitioners on February 1, 1957, the respondent denied their claim for refund. (Par. 12, STIFACTS; Exh. G, also marked as Exh. 6, pp. 62-63, BIR rec.) Not being agreeable with the decision of the respondent, the petitioners on February 28, 1957, filed their respective petitions for review.

The issues in these cases, as correctly stated by both the petitioners and the respondent, are as follows:

1. Whether or not the interests paid by the petitioners pursuant to Section 99 (a) of the Tax Code on the extended payments of the estate and inheritance taxes are deductible under Section 30 (b) of the same Code; and

2. Whether or not the payment of the interests claimed by the petitioners as deductions in their respective income tax returns were actually made by them or by Ayala y Compañia as administrator of the estate of the late Enrique Roxas Argellies.

With regard to the first issue, the respondent now admits the correctness of the contention of the petitioners that the interests paid by them in accordance with the provisions of Section 99 (a) of the Tax Code constitute interest payments within the purview of Section 30 (b) of the Tax Code, and therefore, deductible for income tax purposes. This contention of the petitioners which we find to be meritorious finds support in the recent case of the Commissioner of Internal Revenue vs. Consuelo L. Vda. de Prieto, G. R. No. L-13912, promulgated on September 30, 1960, wherein the Supreme Court ruled that:

> "The term 'indebtedness' as used in the Tax Code of the United States containing similar provisions as in the above-quoted section has been defined as an unconditional and legally enforceable obligation for the payment of money. (Federal Taxes, Vol. 2, p. 13,019, Prentice-Hall, Inc.; Mertens' Law of Federal Income Taxation, Vol. 4, p. 542.) Within the meaning of that definition, it is apparent that a tax may be considered an indebtedness. x x x x It follows that the interest paid by herein respondent for the late payment of her donor's tax is deductible from her gross income under Section 30 (b) of the Tax Code above quoted."

Therefore, we hold and so declare that the interests in question are deductible from the gross income of the petitioners in computing their net income for taxable year 1954.

With regard to the second issue, we note from the instrument of "Partition" (Exh. A, pp. 47-52, BIR rec.) which was filed by the administrator of the estate with the conformity of the judicial guardian of the petitioners, and duly approved by the Court of First Instance of Manila (Exh. B, also marked as Exh. 5, p. 46 BIR rec.), that the said document of "Partition" took "effect as of December 31, 1952, in such a manner that from January 1, 1953, all the income, interest and dividends of any kind and nature corresponding to the real estate, shares and other securities of the Estate, shall pertain directly to the universal heirs" - the petitioners in the cases at bar, and to carry out this stipulation, the administrator "shall open two accounts in the names of HELENE ROBAIN and ALAIN JAULERRY as of January 1, 1953, and shall credit and debit said two accounts for all income and payments corresponding to the heirs". Said document of "Partition" also provided that "Each heir shall pay one-half (1/2) of all the estate and inheritance taxes due to the Philippine Government, including the inheritance taxes corresponding to the amounts paid to the Legatees".

From the above-quoted provisions of the document of "Partition", taken together with the other testimonial and documentary evidences presented by the parties, we conclude and so hold that the interests in question were the direct liabilities of the petitioners herein - the only universal heirs of the late Enrique Roxas Argellies. Said interests on the extended payments of the estate and inheritance taxes were paid by the petitioners, and therefore, they have the right to claim the same as allowable deductions in their respective income tax returns.

To our mind, for income tax purposes, the estate of the deceased Enrique Roxas Argellies, was already settled and the period of administration terminated as of December 31, 1952. Hence, the estate of the decedent could not have claimed the questioned deductions in 1954. On the other hand, from January 1, 1953, the petitioners herein were the ones required to report for income tax assessment their respective shares of the income from the properties of the decedent. Accordingly, they are also entitled to claim the corresponding legally allowable deductions from the gross income in order to arrive at the correct taxable net income.

WHEREFORE, in view of the foregoing considerations, the respondent Commissioner of Internal Revenue is hereby ordered to refund to petitioner Helene Robain Magaz the sum of ₱14,104.00; and to petitioner Alain Jaulerry, the amount of ₱14,120.00, respectively, without interest, as erroneously collected deficiency income taxes for the year 1954. Without pronouncement as to costs.

SO ORDERED.

Manila, Philippines, May 11, 1961.

AUGUSTO M. LUCIANO
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

ROMAN M. UMALI
Associate Judge