Library

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

March 18, 1960

MARIA B. CASTRO,
Plaintiff,

- versus -

MANILA CIVIL
CASE NO. 15316

JOSE ARANAS, in his capacity as Collector of Internal Revenue,
Defendant.

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

E. AWAD & CO., INC.,
Intervenor.

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

D E C I S I O N

This is in connection with plaintiff's complaint, praying for a judgment declaring null and void the assessment, distraint and forfeiture of plaintiff's properties, ordering the immediate release of the forfeited properties to the plaintiff, declaring the judgment in Criminal Case No. 4976 of the Court of First Instance of Manila res judicata so as to stop defendant, his agents and/or attorneys from further proceedings against plaintiff under said law and facts, and declaring unconstitutional and void the War Profits Tax Law (Republic Act No. 55); and intervenor's complaint in intervention, which seeks to have intervenor declared sole owner of the properties described therein and to have the same delivered to him. However, in the memorandum for the intervenor, it is prayed that intervenor be declared sole owner of one-half undivided interest thereof, and that said interest be delivered to it. Both complaints were originally filed with the Court of First Instance of Manila and this case was subsequently remanded to the Court of Tax Appeals under the provisions of Section 22 of Republic

Act No. 1125.

The facts pertinent to the resolution of the complaint (as amended) as gathered from the records of the case, are as follows:

On February 28, 1947, plaintiff filed her war profits tax return, which showed a net worth on December 8, 1941 in the amount of ₱409,581.57 and a net worth on February 26, 1945 in the sum of ₱431,884.00 (Exhibit 36, pp. 298-301, Folder of Defendant's Exhibits; Exhibit Z, pp. 152-155, Folder of Plaintiff's Exhibits). While the return indicated a net increase of ₱22,302.43, plaintiff claimed a 6% deduction <u>per annum</u> on the net worth on December 8, 1941 amounting to ₱16,726.82, thus resulting in taxable increase in net worth in the sum of ₱5,575.61, which was not taxable under the War Profits Tax Law.

At the instance of defendant, Criminal Case No. 4976 was filed on November 22, 1947 against plaintiff for violation of Section 4, in connection with Section 8, of the War Profits Tax Law for allegedly defrauding the Republic of the Philippines in the total amount of ₱1,048,687.77 (Exhibit X, p. 147, Folder of Plaintiff's Exhibits). Simultaneous with the filing of the criminal case, plaintiff received for the first time the notice of assessment dated November 19, 1947. The assessment was based upon the report of Supervising Examiner Felipe Aquino of the Bureau of Internal Revenue, who recommended that plaintiff be assessed and be made to pay the total sum of ₱1,048,687.76 as war profits tax and surcharge.

Plaintiff moved to quash the criminal action filed against her, which motion was denied. Meanwhile, on December 20, 1947, she filed an amended war profits tax return, making it appear that her net worth on February 26, 1945 was ₱315,438.32 while her net worth on December 8, 1941 remained unchanged at ₱409,581.57. Accordingly, there was a decrease of ₱94,143.25 in the net worth, instead of an increase of ₱22,302.43 as originally returned.

During the hearing of the criminal case, Supervising Examiner Aquino, who testified on behalf of the prosecution, declared in answer to questions propounded by the City Fiscal "that as a result of a detailed re-investigation conducted by his office, it was found out that no war profit tax was due from the accused in connection with the present case." Whereupon, the City Fiscal moved for the dismissal of the case. Finding the petition for dismissal to be well taken, the Court of First Instance of Manila, in an order dated February 22, 1950, dismissed Criminal Case No. 4976 (Exhibit X-1, p. 148, Folder of Plaintiff's Exhibits).

After the dismissal of Criminal Case No. 4976, Supervising Examiner Aquino submitted reports on the tax liability of plaintiff, which became the bases of subsequent assessments.

Upon insistent requests of plaintiff for a re-investigation of her tax case, a committee, otherwise known as the Pedrosa Committee, was created to review or re-examine the assessment for war profits tax issued against her. After a thorough investigation of the case, this committee, on September 12, 1950, submitted its report, recommending the assessment of ₱3,593,950.78 as war profits tax, surcharge and interest from April, 1947 to September 30, 1950 against plaintiff. On the basis of the findings and recommendations of the committee, which were approved in toto by the President of the Philippines, defendant, on September 23, 1950, determined against and demanded from plaintiff the payment of ₱3,597,766.02 as war profits tax, surcharge and interest, computed as follows:

Net worth on February 26 1945 as per amended war profits tax return		₱ 315,438.32
Add: Undeclared cash on February 26, 1945:		
As per this report	₱1,871,542.13	
Amount declared	64,097.52	1,807,444.61
Overdeclared accounts Payable:		
As per amended return..	₱ 106,000.00	
Amount per this report	30,000.00	76,000.00
Net worth on February 26, 1945		₱2,198,882.93
Less net worth on December 8, 1941:		
Net worth as per amended return	₱ 409,581.57	
Less accounts payable	43,547.22	366,034.35
Increase in net worth as per this report		₱1,832,848.58
Less 6% per annum on ₱366,034.35 from December 8, 1941 to February 26, 1945		70,644.63
Taxable increase in net worth		₱1,762,203.95

War Profits Tax due thereon:

On ₱ 50,000.00 (₱6,000.00 exempt)	@50%		₱ 22,000.00
" 50,000.00	@60%		30,000.00
" 200,000.00	@70		140,000.00
" 200,000.00	@80		160,000.00
" 500,000.00	@90		450,000.00
" 762,203.95	@95		724,093.75
₱1,762,203.95		Total	₱1,526,093.75
50% surcharge			763,046.88

Total war profits tax and 50% surcharge	₱2,289,140.63
15% surcharge	343,371.09
1% monthly interest from April 1, 1947 to October 5, 1950	965,254.30
TOTAL AMOUNT COLLECTIBLE ON OCTOBER 5, 1950	₱3,597,736.02

To enforce the collection of the alleged war profits tax and surcharge in the amount of ₱2,229,976.94, together with the 15% surcharge and the 1% monthly interest from April 1, 1947 to the date of payment, defendant, on March 1, 1950, issued a warrant of distraint and levy against the properties of plaintiff (Exhibit 85, p. 374, Folder of Defendant's Exhibits). On March 8, 1950, plaintiff was served a notice of seizure of her real estate properties which were located in Tagaytay City, Caloocan, Manila, Pasay, Tarlac, Laguna and Nueva Ecija (Exhibit 104-A, p. 406, Folder of Defendant's Exhibits). In order to prevent the scheduled sale at public auction, she filed, on October 18, 1950, before the Court of Fifst Instance of Manila a petition (Civil Case No. 12356), seeking, among others, to enjoin the Collector of Internal Revenue from proceeding with the collection by summary methods of the war profits tax demanded. This petition for injunction was denied.

Respondent announced by several notices of sale at public auction on November 22 and 27, 1950 of petioner's properties situated in the cities of Manila, Pasay and Tagaytay and in the municipalities of Caloocan and Makati, Rizal, and Moncada, Tarlac, which properties are described in Exhibits C, C-1 to C-5 and D of the Amended Complaint (Exhibits 84, 60, 58, 73, 65, 98, pp.

373, 347, 355, 362, 352 and 396, Defendant's Folder of Exhibits). These properties were advertised for sale to satisfy the alleged tax liability of petitioner in the amount of ₱2,289,140.63 as war profits tax, inclusive of surcharges and interest from April 1, 1947 to the date of payment. The notice of sale of the Manila properties was published in the Manila Times on October 18 and 25 and November 1, 1950 (Exhibits 87 to 89, pp. 376 to 378, Defendant's Folder of Exhibits). Copies of the said notice of sale were posted at the main entrance of the Bureau of Internal Revenue; at the City Hall, Manila; at the Post Office Building; and on the places where the properties are located (pp. 394-395, t.s.n.). The notice of sale of the Pasay properties was not published in the newspaper because there was no newspaper in Pasay City at the time. However, copies of the notice were posted in the City Hall of Pasay City, in the place where the property is located, and in the market (p. 305, t.s.n.). Copies of notice of sale of the Caloocan properties were posted at the main entrance of the Municipal Building of Caloocan, in the public market, in the places where the properties are located (p. 346, t.s.n.). Copies of notice of the sale of the Makati property were posted at the main entrance of the Municipal Building of Makati and in the place where the property is located (p. 362, t.s.n.). The notice of sale was not published in the newspaper because there was no newspaper in Makati (p. 368, t.s.n.). Copies of the notice of sale of the Tarlac properties were posted in the Town Hall, in a chinese store in front of the market, in the "taquilla" of the public market, and on the place where the property is located (pp. 324-325, t.s.n.).

Meanwhile, on December 10, 1951, plaintiff filed the instant petition for review (Civil Case No. 15316) with the Court of First Instance of Manila, to which petition defendant answered. And on March 18, 1954 intervenor filed his complaint in intervention, claiming that Blocks Nos. 7, 8, 10, 12, 14 and 16 of the properties levied upon and forfeited to the Government belonged to it, not to plaintiff. Plaintiff, however, answered this complaint in intervention, admitting that only one-half of these properties claimed by intervenor belonged to it, but not Block No. 12 which is her exclusive property. Before the case could be heard on the merits before said Court, the Court of Tax Appeals was created by Republic Act No. 1125 and pursuant to Section 22 thereof, the record of the case was remanded to this Court for final disposition. During the pendency of this case before the Court of Tax Appeals, the plaintiff's complaint, upon prior leave of this Court, was supplemented, and finally amended.

The sales at public auction of the properties proceeded simultaneously, but separately, as scheduled. However, there were no bidders (Exhibits 90, 61 & 62, 69, 74, 66, 99, pp. 379, 348-349, 357, 363, 353, 397, Folder of Defendant's Exhibits). Consequently, the Pasay property was declared forfeited to the Republic of the Philippines for its assessed value of ₱18,320.00; the Balintawak properties, for their assessed value of ₱521,492.00; the Makati property, for its assessed value of ₱4,830.00; the Tarlac properties, for their assessed value of ₱12,520.00; and the Tagaytay properties, for ₱62,930.00 (Exhibits 63, 92, 94, 91, 100, pp. 350, 381-384, 387, 380, 398, Folder of Defendant's Exhibits).

In view of the failure of the special committee, charged to conduct the sale of the Manila properties of plaintiff, to declare said properties forfeited in favor of the Government, defendant, by a notice of sale dated July 2, 1952, announced the sale at public auction on August 11, 1952 of plaintiff's Manila properties to satisfy the alleged war profits tax liability, including surcharge and interest from April 1, 1947, amounting to ₱2,289,140.63 (Exhibits 107 and 109, pp. 408, 411, Folder of Defendant's Exhibits). This notice of sale was published in the Philippine Herald on July 11, 18 and 25, 1952 (Exhibit 110, p. 412, Folder of Defendant's Exhibits). On the date of the scheduled sale, no bid was offered (Exhibit 108-B, p. 410, Folder of Defendant's Exhibits), and the properties were declared forfeited for their assessed value of ₱233,460.00 (Exhibits 112 and 96, pp. 414-418, 390-394, Folder of Defendant's Exhibits).

Again, on July 24, 1953, defendant issued a warrant of distraint and levy against the properties of plaintiff to satisfy the sum of ₱2,289,140.63, as war profits tax, surcharge and interest allegedly due from the latter (Exhibit 76, p. 365, Folder of Defendant's Exhibits). In pursuance of the said warrant, plaintiff's parcel of land in Caloocan, Rizal, was seized (Exhibit 79, p. 368, Folder of Defendant's Exhibits), and scheduled for sale at public auction on April 23, 1954 (Exhibit 80, p. 369, Folder of Defendant's Exhibits). Copies of the notice of sale were posted in the Municipal Building of Caloocan, in a conspicuous place where the property is located, and on the property (p. 375, t.s.n.). There being no bid for the property, the same was declared forfeited to the Republic of the Philippines for its assessed value of ₱4,990.00 (Exhibit 95, p. 389, Folder of Defendant's Exhibits). Plaintiff was notified of such forfeiture on August 26, 1954 (Exhibit 82, p. 371, Folder of Defendant's Exhibits).

All these properties, which were subsequently forfeited to the government, were not redeemed within the statutory period provided in Section 328 of the Tax Code.

On June 3, 1955, plaintiff instituted an appeal (C.T.A. Case No. 141) before this Court, seeking the review and revocation of the assessment in question, and a declaration of nullity of defendant's action already taken to enforce the said assessment. As an incident to the appeal from the assessment, plaintiff, on October 5, 1955, filed a petition before this Court to enjoin defendant from taking any step to consolidate the ownership of the properties advertised for sale and/or forfeiture on November 2, 1954. However, it is also prayed, in the petition, that an order be issued for the hearing on this incident pending the trial on the legality of the assessment.

On December 29, 1956, this Court rendered its decision on plaintiff's appeal in C.T.A. Case No. 141, upholding the constitutionality of Republic Act No. 55 (War Profits Tax Law); ruling that the dismissal of Criminal Case No. 4976 by the Court of First Instance of Manila did not constitute or operate as a bar to the assessment or collection of the war profits tax in question under the doctrine of res judicata; ruling "that the properties which were advertised for sale on November 22 and 27, 1950 and April 23, 1954 should be forfeited as follows:

"Property	Date Sold	Forfeited Value
Manila	November 22, 1950	₱ 466,920.00
Balintawak	November 22, 1950	1,042,780.00
Pasay	November 22, 1950	36,640.00
Makati	November 22, 1950	9,660.00
Tarlac	November 27, 1950	25,040.00
Tagaytay	November 27, 1950	125,860.00
Calcocan	April 23, 1954	9,980.00
	Total -------	₱1,716,880.00"

and holding plaintiff liable for a deficiency war profits tax in the amount of ₱1,360,514.66, inclusive of surcharge and interest, after deducting the values of the properties sold.

On the complaint in intervention, the established facts are:

Intervenor, E. Awad & Co., Inc., is a corporation organized in accordance with Philippine laws for the purpose, among others, of manufacturing, buying, selling, importing, exporting, trading and generally dealing in embroideries, textiles, wearing apparels and general merchandise (Exhibits G & H, Intervenor's Exhibits). Sometime during the Japanese occupation, plaintiff was offered the sale of a certain piece of real property situated in Caloccan

Rizal, consisting of Blocks Nos. 7, 8, 10, 12, 14 and 16, but she lacked money. She asked Samuel Awad, then President of the E. Awad & Co., Inc. (pp. 28-29, t.s.n.), if the company would be interested in investing some money to buy land. The latter, who was equally short of cash, told plaintiff that if he could sell some textiles, the company would acquire a half interest in the property offered for sale. Accordingly, she proposed that textiles be sold, and Samuel Awad asked her to help him sell the textiles, for which help he agreed to pay a commission of 10%. From the proceeds of the sale, Samuel Awad set aside the amount, which he delivered to plaintiff, for the purchase of the half portion of the property by the company. Plaintiff made the purchase, and at the request of Samuel Awad registered the property in her name because the company (E. Awad & Co.) was owned primarily by American citizens (Exhibit D-2, Intervenor's Exhibits; pp. 11-14, t.s.n.)

In the ancillary administration proceedings of the intestate estate of Samuel E. Awad, initiated in the Court of First Instance of Manila, the ancillary administrator and E. Awad & Co., Inc. submitted a joint petition for approval of settlement agreement. The agreement was approved by the local probate court. In pursuance thereof and for the consideration stated therein, the estate of Samuel E. Awad, on September 14, 1955, "turned over, delivered, assigned and conveyed to E. Awad & Co., Inc. its successors and assigns, all known assets, claims and properties of every kind and nature located in the Philippines presently (then) standing in the name of the decedent Samuel E. Awad or of the ancillary administrator as such, as well as any and all claim, right, title and interest of the decedent Samuel E. Awad and his Estate, or of the ancillary administrator as such in and to all assets, claims and property of every kind and nature whatsoever located in the Philippines, whether standing in the name of the decedent Samuel E. Awad, or of the ancillary administrator as such, or of some other persons holding in behalf of the decedent, or his estate, now known or to be discovered in the future" (Exhibits AAA, L, L-1 to L-6, & 51; Exhibits BBB, M, M-1 to M-2, Intervenor's Exhibits), including a one-half interest in the real properties situated at Balintawak, Caloocan, Rizal, covered by T.C.T. Nos. 73960 and 70298, which are presently registered in the name of plaintiff (Exhibits N, N-1 to N-2, 53, and CCC, Intervenor's Exhibits).

It is contended on behalf of plaintiff and intervenor that the sales and forfeitures of the properties in question are null and void. Upon the other hand, defendant averred that said sales and forfeitures are valid.

Considering that, in our Decision of December 29, 1956 (C.T.A. Case No. 141), we ruled that Republic Act No. 55 (The War Profits Tax Law) is valid and constitutional; that the dismissal of Criminal Case No. 4976 by the Court of First Instance of Manila did not constitute or operate as a bar to the assessment or collection of the war profits tax in question under the doctrine of <u>res judicata</u>; and that plaintiff is liable for a deficiency assessment of ₱1,360,514.66, which amount was arrived at after deducting the values of the plaintiff's properties sold and/or forfeited on November 22 and 27, 1950 and April 23, 1954, we find it unnecessary to pass anew on the issues (raised and passed upon in C.T.A. Case No. 141, and also raised in the instant appeal) regarding the constitutionality of Republic Act No. 55, the bar to the assessment of the war profits tax in question and the collection of the same, and, incidentally, the validity of the sales and forfeitures of plaintiff's properties. These issues have been rendered moot and academic by our said decision. It is the settled policy of the law to forbid a matter once adjudicated to be again drawn in issue while the former adjudication remains in force (Melgar & Noel vs. Delgado & Alquizola, 54 Phil. 668, 681, quoting Freeman on Judgments, Vol.2, 5th ed. p. 782).

With the above conclusion in mind, we find it equally unnecessary to consider the issue relative to the ownership over the undivided one-half portion of Blocks Nos. 7, 8, 10, 12, 14 and 16, insofar as the same may affect the validity of the sales and forfeitures of said properties.

FOR ALL THE FOREGOING, we believe and so hold, as we have previously held, that the assessment appealed from should be modified in accordance with our Decision of December 29, 1956 (C.T.A. Case No. 141); that Republic Act No. 55 (The War Profits Tax Law) is constitutional; that the assessment in question and the collection thereof are not barred by the dismissal of Criminal Case No. 4976; and that the sales and forfeitures of plaintiff's properties, which were described in Exhibits "C", "C-1", "C-2", "C-3", "C-4", "C-5" and "D" of the Amended Complaint, are valid.

SO ORDERED.

Manila, March 12, 1960.

MARIANO NABLE
Presiding Judge

I CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

Associate Judge Roman M. Umali did not take part.