Library

MERCEDES PASCUAL VDA. DE SALAO
ROBERTO P. SALAO, MARIA SALAO VDA.
DE SANTOS, LUCIANA P. SALAO, PABLO
P. SALAO, RESTITUTO P. SALAO and
ISABELA SALAO DE SANTOS,
Petitioner, C.T.A CASE NO. 2157

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

July 5/72

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

D E C I S I O N

Petitioners have appealed from the decision of respondent Commissioner of Internal Revenue assessing and demanding against them payment of ₱43,384.82 and ₱22,824.61 as deficiency estate and inheritance taxes, respectively, inclusive of interests.

Juan S. Salao died intestate on February 7, 1958, in Malabon, Rizal. He was survived by his wife, Mercedes Pascual Vda. de Salao and six (6) children, who are all petitioners herein. On March 3, 1958, Special Proceeding No. 2880 was instituted in the Court of First Instance of Rizal entitled "Intestate Estate of the late Juan S. Salao, deceased," for the settlement and distribution of the decedent's estate.

Pablo P. Salao was appointed by the court as administrator of the decedent's estate. He filed the required notice of death with the BIR Regional Office, Quezon City, on March 6, 1958. On February 6, 1959, he also filed the required estate and inheritance tax return, attaching thereto an inventory of the decedent's estate duly certified by an independent Certified Public Accountant. The transfer taxes due thereon in the amounts of ₱7,151.58 and ₱3,610.18 were paid by the administrator of the decedent's estate.

After three (3) investigations conducted by respondent's revenue examiners, they finally reported that the late Juan S. Salao left real and personal properties worth ₱627,742.87 and ₱4,004.50 or a total of ₱631,747.37. Deducting therefrom the allowable deductions of ₱129,723.56 as funeral and judicial expenses and claims against the decedent's estate, leaves a balance of ₱502,023.81 which was assessed for transfer taxes in the amounts stated above.

Petitioners have not disputed the revenue examiner's valuation of the following properties of the late Juan S. Salao, namely:

KIND OF PROPERTY AND LOCATION	PRICE PER HA. OR SQ. METER	MARKET VALUE
1. Fishpond, Meycauayan, Bulacan	₱3,000.00	₱41,169.00
2. Fishpond, Malabon, Rizal	5,000.00	89,293.50
3. Residential lot, Malabon	7.00	12,264.00
4. Fishpond, Malabon, Rizal		9,861.00
5. Residential lot, Malabon	15.00	5,085.00
6. Improvements:		
Malabon, Rizal	Assessed Value	10,270.00
Hermosa, Bataan	" "	3,600.00
Malabon, Rizal	" "	34,540.00

Sexmoan, Pampanga Assessed Value 350.00

TOTAL. . . . . ₱206,432.50

Petitioners, however, assailed and disputed the revenue examiners' valuation of the following decedent's estate, namely:

KIND OF PROPERTY AND LOCATION	PRICE PER HA. OR SQ. METER	MARKET VALUE
1. Fishpond, Sexmoan, Pampanga	₱2,500.00	₱101,391.25
2. Residential lot Navotas & Malabon, Rizal	7.00	20,182.40
3. Mangrove, Hermosa, Bataan	300.00	3,833.67
4. Fishpond, Hermosa, Bataan:		
1st Class	2,500.00	87,500.00
2nd Class	2,000.00	130,000.00
3rd Class	1,500.00	68,273.55
5. Riceland, Pampalit, Malabon, Rizal	1,500.00	10,129.50
TOTAL.		₱421,310.37

The issues posed for the resolution of the Court are the following:

1. Whether or not the market value of the decedent's estate adopted by respondent's examiners and contested by petitioners is reasonable and justified; and

2. Whether or not interest may be imposed and collected on the deficiency transfer taxes due on the transmission of the estate of the late Juan S. Galang.

Valuation of the Decedent's Estate.

It is incumbent upon the investigating examiners to prove the fair market value of the decedent's real property because the statute allows the heirs of the deceased or the executor or administrator of the decedent's estate under the "optional valuation date" to declare a lower value. However, once the revenue examiners have submitted proofs of the fair market value of the decedent's estate, the burden of proof is shifted to the heirs of the deceased and/or executor or administrator of the decedent's estate to prove the contrary.

In determining the value of the decedent's estate for transfer tax purposes, Section 91 of the Revenue Code, before its amendment, provides:

> Sec. 91. Determination of value of usufructs, annuities, and other property.- x x x x x x x x x
>
> 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. (Underlining supplied.)

The term "market value" is not an absolute term; it involves human equation. Valuation is an inexact science and the value reached by whatever method must remain an approximation. A valuation of absolute accuracy is impossible because the law is not so exact as to require mathematical certainty. Generally, however, the market value of property is the price it will bring when it is offered for sale by one who desires, but who is not obliged to sell it, and is bought by one who is under no necessity of having it. (City of Manila v. Estrada, 25 Phil. 208; Manila Railroad Co. v. Alano, 36 Phil. 500; Manila Railroad Co. v. Velasquez, 32 Phil. 286; See Comm. Corporation & Taxation v. Worcester County Trust Co., 305 Mass. 460, 26 N.E. 2d 305 (1940).)

FIRST ISSUE:

1. Fishpond at Sexmoan, Pampanga. Respondent's market value of ₱2,500.00 per hectare was based on the following data furnished by his examiners namely:

> a. Per assessed value of ₱930.00 per hectare.
>
> b. Per administrator's valuation of ₱2,300.00 per hectare.
>
> c. Per Deed of Sale, Isabela de Velez in favor of Lourdes Nepomuceno, dated October 29, 1957, located at San Pedro, San Antonio, Sexmoan, Pampanga, ₱1,850.00 per hectare.
>
> d. Per Probate Court, Special Proceedings No. 2524, Maria S. Buendia and Alfredo Romero, Sexmoan, Pampanga, 1955, ₱5,000.00 per hectare.

Petitioners contend that the said fishpond has an area of 40 hectares and the total assessed value thereof in the amount of ₱24,540.00 was only ₱600.00 per hectare and not ₱930.00 as computed by respondent's examiners. As the said fishpond has an area of a little over 40-1/2 hectares, we find petitioners contention correct as to ~~the~~ the estimated average assessed value of ₱600.00 per hectare.

Petitioners contend that a 20-hectare fishpond in Sexmoan, Pampanga, was sold on October 29, 1957, for about ₱2,160.00 per hectare by Isabela A. Vda. de Velez in favor of Lourdes Nepomuceno, while the revenue examiners computation was only ₱1,850.00 per hectare. As the sale took place little over 3 months before the death of Juan M. Salse on February 7, 1958, we find the administrator's market value of ₱2,300.00 per hectare as fair and reasonable. Consequently, the Sexmoan fishpond of the deceased should be valued at ₱93,279.95 instead of ₱101,391.25.

2. Residential lots at Navotas and Malabon, Rizal. Petitioners contend that the total area of the lots is 900 sq. m. while respondent's examiners reported a total area of 28,832. sq. m. The market value given by the revenue examiners was ₱7.00 per sq. m. while petitioners contend that it should be valued at ₱2.00 or less per sq. m. because the lots are situated in the far end of the poblacion; they are not income producing; they are very far from the principal road; and they are surrounded by squatters.

Respondent's examiners valued the decedent's residential lots in San Agustin and Dampalit, Malabon, Rizal, at ₱7.00 per sq. m. However, considering the reasons and justifications of petitioners with respect to the other residential lots in Bancu lasi, Navotas, Rizal and Dampalit, Malabon, Rizal we find it fair and reasonable to give a market value of ₱5.00 per sq. m., or a total of ₱14,416.00 instead of ₱20,182.40 as appraised by the revenue examiners.

3. Mangroves at Laus, Hermosa, Bataan. Petitioners contend that the swamplands or mangroves should be valued at ₱200.00 or less per hectare because they are covered by water and not utilized as fishpond; they are practically valueless; and they are the poorest and lowest kind of real estate. Respondent's examiners, however, valued it at ₱300.00 per hectare or only ₱0.03 per sq. m. instead of the assessed value of ₱200.00 per hectare. We find the examiner's valuation fair and reasonable. Consequently, we sustain the market value of the mangroves and swamplands in the amount of ₱3,833.67.

4. Fishponds at Hermosa, Bataan. Petitioners contend that they should be given a market value of not more than ₱1,800.00 and ₱2,300.00 per hectare for the reasons that: (1) the assessed value thereof is ₱1,410.55 per hectare; the said fishponds are farther from Manila than Sexmoan, Pampanga, and, therefore, the market value of ₱2,300.00 per hectare of fishpond therein should be lesser in Hermosa, Bataan; and the said fishponds with a total area of 145 hectares command a lower price because fishponds of small or regular size or area is within the reach of more buyers than big landed estates.

Respondent's market value of ₱1,500.00, ₱2,000.00 and ₱2,500.00 per hectare of fishpond was based on the following data furnished by his revenue examiners, to wit:

1. Per Assessed Value	₱1,371.00	per hectare
2. Per Administrator's Valuation	1,800.00	" "
3. Per Deed of Sale, Laureano Paguio in favor of Gerardo Quiambao, dated Oct. 28, 1959, located at Calaguiman, Samal, Bataan, See Annex "C" "C".	₱3,800.00	
T o t a l.	₱6,971.00	

Average . . . . ₱2,324.00 per hectare

Due to classification per tax declaration, the valuation is hereby adopted:

Ist. class	₱2,500.00	per hectare
2nd class	₱2,000.00	" "
3rd class	₱1,500.00	" "

In determining the market value of the fishponds of the deceased in Hermosa, Bataan, the investigating revenue examiners conducted an ocular inspection thereof. They considered many factors in arriving at the fair market value of the fishponds in question, namely: whether the beds of the fishponds are deep or shallow; the presence and abundance of "tilapia" - a certain specie of voracious fish which competes with the milkfish (bangus) in consuming the food of the latter and, therefore, hampers their growth; the presence of squatters and "barong-barongs" in the neighborhood of the fishponds as a factor in the pilferage and theft of fish; the inundation of fishponds during typhoons and rainy seasons; the accessibility of the fish market; etc. (t.s.n. pp. 80-89). These factors were considered by the revenue examiners in classifying the fishponds of the decedent into first, second, and third class with a market value of ₱2,500.00, ₱2,000.00 and ₱1,500.00 per hectare, respectively. Moreover, said examiners took into consideration a comparative sale of fishpond in Samal, Bataan, sometime in October 28, 1959, made by Laureano Paguio in favor of Gerardo Quiambao at the rate of ₱3,800.00 per hectare.

We are, therefore, constrained to adopt respondent's valuation of the decedent's fishponds in Hermosa, Bataan, at ₱87,500.00, ₱130,000.00 and ₱68,273.55, or a total of ₱285,773.55.

Ricelands at Malabon, Rizal - Petitioners contend that the said riceland with an assessed value of ₱700.00 per hectare should be given a market value of ₱1,000.00 per hectare because they are not irrigated and their production are low; they are not classified as first class riceland; and a comparative sale of riceland in Bulacan (Exh. B-3), which took place within six (6) months after the decedent's death, shows it was sold for about ₱1,000.00 per hectare.

Considering that most of the ricelands around Manila were converted into subdivision lots and sold at high prices per square meter, the valuation of ₱0.15 per square meter or ₱1,500.00 per hectare of the said ricelands is fair and reasonable. Consequently, the valuation of ₱10,129.50 given by the revenue examiners is upheld.

From the market value given by the revenue examiners, the following adjustments should be made:

Saxmoan fishpond
₱101,391.25 less ₱93,179.95 - - - -₱8,113.80

Navotas and Malabon lots
₱20,182.40 less ₱14,416.00 - - - -₱5,766.40
TOTAL . . . . ₱13,880.20

Deducting the said amount of ₱13,880.20 from the disputed valuation of real estate of the deceased in the amount of ₱627,742.87 leaves a balance of ₱613,862.67. The taxable estate of the late Juan S. Salao are, therefore, itemized as follows:

Real property - - - - - - - - - - - -	₱613,862.67
Personal property (not disputed) +	₱ 4,004.50
Gross estate - - - - - - - - - - - -	₱617,867.17
Total deductions (not disputed) -	129,723.56
Net estate subject to estate tax -	₱488,143.61

The estate and inheritance taxes and penalties due on the transmission of the decedent's estate are computed as follows:

Estate tax	₱41,725.80
½% mo. interest on ₱34,574.22 from Nov. 7, 1959 to May 23, 1961	₱ 3,198.12
TOTAL.	₱44,923.92
Less: amount paid	7,151.58
Balance due.	₱37,772.34
Inheritance Tax.	₱22,133.44
½% mo. interest on ₱18,523.26 from Feb. 7, 1960 to May 23, 1961	₱ 1,435.55

TOTAL	₱23,568.99
Less: Amount paid	3,610.18
Balance due.	₱19,958.81

SECOND ISSUE:

Petitioners contend that no penalty or interest should be imposed on the deficiency transfer taxes because the estate and inheritance tax return was filed in due time and the administrator of the decedent's estate acted in good faith and complied with his duties as such administrator under the law.

Sections 99, 100 and 101 of the Revenue Code specifically provides the time from which interest on the estate and inheritance taxes is to be computed. Nowhere in the said sections may be found any provision authorizing the respondent Commissioner of Internal Revenue to condone or waive the payment of interest. In short, the payment of interest is mandatory and self-executing.

The imposition of interest is not penal but compensatory for the delay in paying the tax to the State. Good faith in the actuations of the decedent's administrator is not a valid defense because the funds or taxes that properly belong to the Government on their due date were still utilized or in the hands of the decedent's estate. Thus, in the case of Maria B. Castro v. Collector of Internal Revenue, G. R. No. L-12174, December 28, 1962, our Supreme Court, in a resolution justifying the imposition of interest prescribed by the Revenue Code, held as follows;

> ...the imposition of 1% monthly interest is but a just compensation to the state for the delay in paying the tax, and for the concomitant use by the taxpayer of funds that rightfully should be in the government's hand (U.S. vs. Goldstein, 189 (2d) 752; Ross vs. U.S. 148 Fed. Supp. 330; US. vs. Joffray, 97 Fed. (2d) 488. The fact that the interest charged is made proportionate to the period of delay constitutes the best evidence that such interest is not penal but compensatory.

WHEREFORE, the decision of the respondent Commissioner of Internal Revenue appealed from is modified. Petitioners are hereby ordered to pay respondent or his authorized collection agent the deficiency estate and inheritance taxes in the amounts of ₱37,772.34 and ₱19,958.81, inclusive of interest, respectively, and the penalties prescribed by the National Internal Revenue Code for delinquency.

SO ORDERED.

Quezon City, July 5, 1972

ESTANISLAO A. ALVAREZ
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge