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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

Dec. 18, 1959

RAFAEL MORALES,
Petitioner,

- versus -

C.T.A. CASE NO. 605

COLLECTOR OF INTERNAL REVENUE,
Respondent.

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D E C I S I O N

This is an appeal from the decision of the respondent Collector (now Commissioner) of Internal Revenue, dated December 28, 1956, demanding the payment of "the sums of ₱641.39 and ₱631.60 as estate and inheritance taxes, respectively, assessed on the transmission to the heirs of the estate of the late Belen Lansañgan Morales, or a total of ₱1,272.99, together with the 5% surcharge and the 1% monthly interest thereon to be computed from July 3, 1956 to the date of payment, plus the sum of ₱20.00 as a compromise in extrajudicial settlement of the violation of Section 107 (a) of the Tax Code." (Exh. "9", also marked as Exh. "J", pp. 52-53, BIR rec.)

It appears that on November 1, 1950, petitioner's wife, the late Belen L. de Morales, died in the City of Manila, leaving real and personal properties. On December 27, 1950, the petitioner, pursuant to Section 92 of the Tax Code, sent a written notice of the death of his wife to the respondent. (Exh. "A", p. 14, BIR rec.) Sometime before April 28, 1951, he also filed with the respondent a deed of extrajudicial partition executed by him and his two daughters, as heirs of the late Belen L.

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de Morales. (Exh. "Q", pp. 1-5, BIR rec.; Exh. "3", pp. 31-36, BIR rec.) On the basis of the deed of extrajudicial partition, the respondent, issued the assessment notice dated April 28, 1951, demanding the payment of the amounts of ₱1,271.53 and ₱1,404.85, as estate and inheritance taxes, respectively (Exh. "1", p. 8, BIR rec.; also marked as Exh. "R"), which the petitioner paid on July 17, 1951 and October 12, 1951, respectively. (Annexes "B" and "E", Petition for Review, pp. 10 & 13, CTA rec.)

The sum of ₱1,276.53 paid as estate tax and compromise penalty was considered by the respondent only as partial payment, pending examination of the return and/or document (Exh. "1-A", p. 8, BIR rec.). Hence, after conducting an investigation, he issued on May 14, 1956, a new assessment against the petitioner, demanding the payment of the amounts of ₱641.39 and ₱631.60 as deficiency estate and inheritance taxes and interest, respectively, or a total sum of ₱1,272.99 (Exhs. "6" & "7", pp. 42 & 44, BIR rec.; also marked as Exh. "F" & "G").

On October 11, 1956, the respondent, thru Mr. Anselmo S. Macula, then Acting Chief of the Collection Branch, Regional District No. 3 of the Bureau of Internal Revenue, sent to the petitioner a "First Notice" informing him of his tax liability in the sum of ₱1,272.99, and demanding payment of the same within ten (10) days from receipt of said notice. (Exh. "H", p. 43, CTA rec.) On October 15, 1956, the petitioner wrote Mr. Macula, claiming that the period of limitation upon assessment has already elapsed, and therefore, a re-examination or re-assessment of the taxes in question was no longer feasible under the provision of Section 331 of the Tax Code. (Exh. "8", p. 45, BIR rec.; also marked as Exh. "I".)

In a letter-decision dated December 28, 1956, the respondent overruled petitioner's claim of prescription, and reiterated his demand for the payment of the deficiency estate and inheritance tax assessment, including 5% surcharge, interest and compromise penalty, in order to prevent the further accumulation of interest incident to delinquency. (Exh. "9", pp. 52-53, BIR rec.; also marked as Exh. "J".) On March 25, 1958, the respondent reminded the petitioner of his tax liability with the warning that if he failed to hear from the petitioner within five (5) days, he would resort to the summary remedies of collection as provided by law. (Exh. "10", p. 56, BIR rec.; also marked as Exh. "K".)

On October 14, 1958, the respondent served on the petitioner a Warrant of Distraint and Levy dated August 29, 1958 (Exh. "L", p. 62, BIR rec.), and also the corresponding Notice of Seizure and Notice of Sale, both dated October 10, 1958. (Exhs. "M" & "N", pp. 63 & 65, BIR rec.) The properties of the petitioner, distrained or levied upon and seized, were advertised for sale to the highest bidder on December 15, 1958.

On November 17, 1958, the petitioner requested for the recall and cancellation of the Warrant of Distraint and Levy, Notice of Seizure and the Notice of Sale (Exh. "O", p. 69, BIR rec.), and in answer thereto, the respondent, in a letter dated December 5, 1958, denied the request stating that "it appearing from our records that no return was filed for the estate left by the late Belen Lansañgan de Morales, pursuant to the provisions of Section 332 (a) of the Revenue Code, our assessments for deficiency transfer taxes x x x is believed in order." (Exh. "11", p. 74, BIR rec.; see also Exh. "P", p. 76, BIR rec.) Hence, on December 8, 1958, the taxpayer herein filed with this Court the instant "Petition for Review with Motion for Suspension".

From the pleadings submitted by both, the petitioner and the respondent, it appears that the only question which they would like this Court to resolve and decide is whether or not the right of the respondent Commissioner of Internal Revenue to assess and collect the deficiency estate and inheritance taxes under review is already barred by prescription. However, aside from said question of prescription, we deem it necessary to determine motu proprio whether or not the present appeal was filed within the 30-day period within which to appeal as prescribed in Section 11 of Republic Act No. 1125. To our mind, this issue is important in the case at bar inasmuch as it will affect the jurisdiction of this Court to decide this case on the merits. Therefore, we shall proceed first to find out whether or not the appeal was timely filed.

From the records of the case, we find that the decision of the respondent Commissioner of Internal Revenue, on the disputed assessment which is appealable to this Court is the letter-decision dated December 28, 1956. (St. Stephen's Assn. vs. Collector of Internal Revenue, G. R. No. L-11239, August 21, 1958.) The petitioner actually received this letter-decision of December 28, 1956 (par. 12, Petition for Review) and slept on it, although the records of the case is silent as to the date of receipt by the petitioner of said decision on the disputed assessment. However, considering that the instant "Petition for Review with Motion for Suspension" was filed with this Court only on December 8, 1958, or nearly two (2) years after the date of the decision in question, we believe and so hold that the instant appeal was not filed on time. Therefore, the decision of the respondent Commissioner of Internal Revenue dated December 28, 1956 is already final, executory and demandable. (Rep. of the Phil. vs. Del Rosario, G. R. No. L-10460, March 11, 1959; Uy Ham vs. Rep. of the Phil., G. R. No. L-13809, October 20, 1959), and the "Petition for Review with Motion for Suspension" filed by the petitioner should be dismissed.

Having decided that the appeal was not filed within the statutory period within which to appeal, and that consequently, the instant "Petition for Review with Motion for Suspension" should be dismissed, we believe it is not necessary to consider the question of whether or not the right of the respondent Commissioner of Internal Revenue to assess and collect the disputed deficiency estate and inheritance taxes has already prescribed, because the same has been rendered academic.

WHEREFORE, in view of the foregoing consideration, the "Petition for Review with Motion for Suspension" filed by the petitioner on December 8, 1958, should be, as it is hereby dismissed, with costs against the petitioner.

SO ORDERED.

Manila, December 18, 1959.

MARIANO NABLE
Presiding Judge

I concur:

ROMAN M. UMALI
Associate Judge

I abstain:

AUGUSTO M. LUCIANO
Associate Judge