

THIRD DIVISION

[G.R. No. 140944, April 30, 2008]

RAFAEL ARSENIO S. DIZON, IN HIS CAPACITY AS THE JUDICIAL ADMINISTRATOR OF THE ESTATE OF THE DECEASED JOSE P. FERNANDEZ, PETITIONER, VS. COURT OF TAX APPEALS AND COMMISSIONER OF INTERNAL REVENUE, RESPONDENTS.

DECISION

NACHURA, J.:

Before this Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Decision^[2] dated April 30, 1999 which affirmed the Decision^[3] of the Court of Tax Appeals (CTA) dated June 17, 1997.^[4]

The Facts

On November 7, 1987, Jose P. Fernandez (Jose) died. Thereafter, a petition for the probate of his will^[5] was filed with Branch 51 of the Regional Trial Court (RTC) of Manila (probate court).^[6] The probate court then appointed retired Supreme Court Justice Arsenio P. Dizon (Justice Dizon) and petitioner, Atty. Rafael Arsenio P. Dizon (petitioner) as Special and Assistant Special Administrator, respectively, of the Estate of Jose (Estate). In a letter^[7] dated October 13, 1988, Justice Dizon informed respondent Commissioner of the Bureau of Internal Revenue (BIR) of the special proceedings for the Estate.

Petitioner alleged that several requests for extension of the period to file the required estate tax return were granted by the BIR since the assets of the estate, as well as the claims against it, had yet to be collated, determined and identified. Thus, in a letter^[8] dated March 14, 1990, Justice Dizon authorized Atty. Jesus M. Gonzales (Atty. Gonzales) to sign and file on behalf of the Estate the required estate tax return and to represent the same in securing a Certificate of Tax Clearance. Eventually, on April 17, 1990, Atty. Gonzales wrote a letter^[9] addressed to the BIR Regional Director for San Pablo City and filed the estate tax return^[10] with the same BIR Regional Office, showing therein a NIL estate tax liability, computed as follows:

COMPUTATION OF TAX

Conjugal Real Property (Sch. 1)	P10,855,020.00
Conjugal Personal Property (Sch.2)	3,460,591.34
Taxable Transfer (Sch. 3)	
Gross Conjugal Estate	<u>14,315,611.34</u>
Less: Deductions (Sch. 4)	<u>187,822,576.06</u>

Net Conjugal Estate	NIL
Less: Share of Surviving Spouse	<u>NIL.</u>
Net Share in Conjugal Estate	NIL
x x x	
Net Taxable Estate	<u>NIL.</u>
Estate Tax Due	<u>NIL.</u> ^[11]

On April 27, 1990, BIR Regional Director for San Pablo City, Osmundo G. Umali issued Certification Nos. 2052^[12] and 2053^[13] stating that the taxes due on the transfer of real and personal properties^[14] of Jose had been fully paid and said properties may be transferred to his heirs. Sometime in August 1990, Justice Dizon passed away. Thus, on October 22, 1990, the probate court appointed petitioner as the administrator of the Estate.^[15]

Petitioner requested the probate court's authority to sell several properties forming part of the Estate, for the purpose of paying its creditors, namely: Equitable Banking Corporation (P19,756,428.31), Banque de L'Indochine et. de Suez (US\$4,828,905.90 as of January 31, 1988), Manila Banking Corporation (P84,199,160.46 as of February 28, 1989) and State Investment House, Inc. (P6,280,006.21). Petitioner manifested that Manila Bank, a major creditor of the Estate was not included, as it did not file a claim with the probate court since it had security over several real estate properties forming part of the Estate.^[16]

However, on November 26, 1991, the Assistant Commissioner for Collection of the BIR, Themistocles Montalban, issued Estate Tax Assessment Notice No. FAS-E-87-91-003269,^[17] demanding the payment of P66,973,985.40 as deficiency estate tax, itemized as follows:

Deficiency Estate Tax- 1987

Estate tax	P31,868,414.48
25% surcharge- late filing	7,967,103.62
late	7,967,103.62
payment	
Interest	19,121,048.68
Compromise-non filing	25,000.00
non	25,000.00
payment	
no	15.00
notice of death	
no	<u>300.00</u>
CPA Certificate	
Total amount due & collectible	<u>P66,973,985.40</u> ^[18]

In his letter^[19] dated December 12, 1991, Atty. Gonzales moved for the reconsideration of the said estate tax assessment. However, in her letter^[20] dated April 12, 1994, the BIR Commissioner denied the request and reiterated that the estate is liable for the payment of P66,973,985.40 as deficiency estate tax. On May 3, 1994, petitioner received the letter of denial. On June 2, 1994, petitioner filed a

petition for review^[21] before respondent CTA. Trial on the merits ensued.

As found by the CTA, the respective parties presented the following pieces of evidence, to wit:

In the hearings conducted, petitioner did not present testimonial evidence but merely documentary evidence consisting of the following:

Nature of Document (sic)	Exhibits
1. Letter dated October 13, 1988 from Arsenio P. Dizon addressed to the Commissioner of Internal Revenue informing the latter of the special proceedings for the settlement of the estate (p. 126, BIR records);	"A"
2. Petition for the probate of the will and issuance of letter of administration filed with the Regional Trial Court (RTC) of Manila, docketed as Sp. Proc. No. 87-42980 (pp. 107-108, BIR records);	"B" & "B-1"
3. Pleading entitled "Compliance" filed with the probate Court submitting the final inventory of all the properties of the deceased (p. 106, BIR records);	"C"
4. Attachment to Exh. "C" which is the detailed and complete listing of the properties of the deceased (pp. 89-105, BIR rec.);	"C-1" to "C-17"
5. Claims against the estate filed by Equitable Banking Corp. with the probate Court in the amount of P19,756,428.31 as of March 31, 1988, together with the Annexes to the claim (pp. 64-88, BIR records);	"D" to "D-24"
6. Claim filed by Banque de L' Indochine et de Suez with the probate Court in the amount of US \$4,828,905.90 as of January 31, 1988 (pp. 262-265, BIR records);	"E" to "E-3"
7. Claim of the Manila Banking Corporation (MBC) which as of November 7, 1987 amounts to P65,158,023.54, but recomputed as of February 28, 1989 at a total amount of P84,199,160.46; together with the demand letter from MBC's lawyer (pp. 194-197, BIR records);	"F" to "F-3"

8. Demand letter of Manila Banking Corporation prepared by Asedillo, Ramos and Associates Law Offices addressed to Fernandez Hermanos, Inc., represented by Jose P. Fernandez, as mortgagors, in the total amount of P240,479,693.17 as of February 28, 1989 (pp. 186-187, BIR records); "G" & "G-1"
9. Claim of State Investment House, Inc. filed with the RTC, Branch VII of Manila, docketed as Civil Case No. 86-38599 entitled "State Investment House, Inc., Plaintiff, versus Maritime Company Overseas, Inc. and/or Jose P. Fernandez, Defendants," (pp. 200-215, BIR records); "H" to "H-16"
10. Letter dated March 14, 1990 of Arsenio P. Dizon addressed to Atty. Jesus M. Gonzales, (p. 184, BIR records); "I"
11. Letter dated April 17, 1990 from J.M. Gonzales addressed to the Regional Director of BIR in San Pablo City (p. 183, BIR records); "J"
12. Estate Tax Return filed by the estate of the late Jose P. Fernandez through its authorized representative, Atty. Jesus M. Gonzales, for Arsenio P. Dizon, with attachments (pp. 177-182, BIR records); "K" to "K-5"
13. Certified true copy of the Letter of Administration issued by RTC Manila, Branch 51, in Sp. Proc. No. 87-42980 appointing Atty. Rafael S. Dizon as Judicial Administrator of the estate of Jose P. Fernandez; (p. 102, CTA records) and "L"
14. Certification of Payment of estate taxes Nos. 2052 and 2053, both dated April 27, 1990, issued by the Office of the Regional Director, Revenue Region No. 4-C, San Pablo City, with attachments (pp. 103-104, CTA records.). "M" to "M-5"

Respondent's [BIR] counsel presented on June 26, 1995 one witness in the person of Alberto Enriquez, who was one of the revenue examiners who conducted the investigation on the estate tax case of the late Jose P. Fernandez. In the course of the direct

examination of the witness, he identified the following:

Documents/Signatures	BIR Record
1. Estate Tax Return prepared by the BIR;	p. 138
2. Signatures of Ma. Anabella Abuloc and Alberto Enriquez, Jr. appearing at the lower Portion of Exh. "1";	-do-
3. Memorandum for the Commissioner, dated July 19, 1991, prepared by revenue examiners, Ma. Anabella A. Abuloc, Alberto S. Enriquez and Raymund S. Gallardo; Reviewed by Maximino V. Tagle	pp. 143-144
4. Signature of Alberto S. Enriquez appearing at the lower portion on p. 2 of Exh. "2";	-do-
5. Signature of Ma. Anabella A. Abuloc appearing at the lower portion on p. 2 of Exh. "2";	-do-
6. Signature of Raymund S. Gallardo appearing at the Lower portion on p. 2 of Exh. "2";	-do-
7. Signature of Maximino V. Tagle also appearing on p. 2 of Exh. "2";	-do-
8. Summary of revenue Enforcement Officers Audit Report, dated July 19, 1991;	p. 139
9. Signature of Alberto Enriquez at the lower portion of Exh. "3";	-do-
10. Signature of Ma. Anabella A. Abuloc at the lower portion of Exh. "3";	-do-
11. Signature of Raymond S. Gallardo at the lower portion of Exh. "3";	-do-
12. Signature of Maximino V. Tagle at the lower portion of Exh. "3";	-do-
13. Demand letter (FAS-E-87-91-00), signed by the Asst. Commissioner for Collection for the Commissioner of Internal Revenue, demanding payment of the amount of P66,973,985.40; and	p. 169