Beers Vs. Glynn

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Appeal No. : 211 U.S. 477

Appellant : Beers

Respondent : Glynn

Judgement :

Beers v. Glynn - 211 U.S. 477 (1909)
U.S. Supreme Court Beers v. Glynn, 211 U.S. 477 (1909)

Beers v. Glynn

No. 45

Argued December 9, 1908

Decided January 4, 1909

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ERROR TO THE SURROGATE'S COURT OF THE

COUNTY OF NEW YORK, STATE OF NEW YORK

SYLLABUS

So far as the federal Constitution is concerned, the power of the state in respect to taxation is very broad, and includes exemption of certain classes of property from taxation to which other property is subjected, and different classes may be taxed by different methods of procedure without violating the due process and equal protection provisions of the Fourteenth Amendment.

The provisions in the New York Inheritance Tax Law, c. 713 of Laws of 1887, amending c. 483 of the Laws of 1887, for taxing personalty of nonresident decedents who had owned realty in that state, are not unconstitutional as denying to those interested in estates of that class of decedents due process or equal protection of the laws, because no provision is made for taxing personalty of nonresident decedents who had not owned any realty in New York.

The facts, which involve the constitutionality of 1 and 15 of the New York Inheritance Tax Law, are stated in the opinion.

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MR. JUSTICE BREWER delivered the opinion of the Court.

The question presented in this case is the validity of a collateral inheritance tax on certain property bequeathed to plaintiffs in error by Emily M. Lord, deceased. The testatrix and her husband had lived for many years at Morristown, New Jersey. She died there January 18, 1892. At the time of her death, she owned real estate situate in the State of New York, and certain personal property on deposit in a safe deposit company in the City of New York. The inheritance tax was claimed under c. 713 of the Laws of the State of New York for 1887, entitled, "An Act to Amend Chap. 483 of the Laws of 1885, Entitled, *An Act to Tax Gifts, Legacies, and Collateral Inheritances in Certain Cases.*"'

That act has twenty-six sections. It is sufficient, however, to refer to a part of 1 and 15:

"SEC. 1. After the passage of this act, all property which shall pass by will or by the intestate laws of this state, from any person who may die seised or possessed of the same while a resident of this state, or if such decedent was not a resident of this state at the time of death, which property, or any part thereof, shall be within this state, . . . shall be and is

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subject to a tax of five dollars on every one hundred dollars of the clear market value of such property."

"SEC. 15. The surrogate's court in the county in which the real property is situate of a decedent who was not a resident of the state, or in the county of which the decedent was a resident at the time of his death, shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this act, and the surrogate first acquiring jurisdiction hereunder shall retain the same, to the exclusion of every other."

It appears that the husband of the testatrix died in Morristown only ten days before his wife, but, as he owned no real estate situate in the State of New York, no inheritance tax was collected from his estate. In claiming the equal protection of the law under the Fourteenth Amendment, counsel for plaintiffs in error, after pointing to the discrimination between the two cases, contend that --

"The act of 1887, insofar as it applied to the property of nonresidents, was not capable of verbal separation as between provisions relating to the property of nonresidents who owned land in the state and provisions relating to the property of nonresidents who did not own land in the state, nor can the legislature have intended that it should apply to the former and not to the latter. Being unconstitutional under the Fourteenth Amendment as to the property of such nonresidents as did not own land in New York, in that it takes their property without due process of law, it was therefore unconstitutional as to the property of all nonresidents."

Also that--

"The imposition of a tax under the act of 1887 on the property bequeathed to these plaintiffs in error cannot be made without such a discrimination as will deny to them the equal protection of the laws."

We do not understand that the Court of Appeals of the State of New York has decided that the state has no power to collect an inheritance tax where the only property belonging

to the decedent situate within the State of New York is personalty, but simply that no provision has been made for reaching such a case.

Both parties refer to *In re Embury,* 19 App.Div. 214, which was decided in June, 1897, by the first department, and affirmed by the Court of Appeals on the authority of the opinion of the appellate division, 154 N.Y. 746. In that case, it appears from the opinion in the appellate division that Philip Embury was a citizen and resident of New Jersey, and died at West Orange, in that state, after the passage of the act of 1887. He had no real estate in New York, but only certain personal property. He left a will, which was duly probated in the county of his residence, and thereupon the executors withdrew the personal property from New York to New Jersey, and settled up the estate in accordance with the terms of the will. The opinion, after referring to 15 of the act of 1887, said (pp. 216, 217):

"The statute therefore only conferred on the surrogate jurisdiction in the case of such nonresident decedents as should die seised of real estate within the surrogate's county. . . . In other words, the statute of 1885, as amended by the act of 1887, declared such of Embury's property as was in New York taxable, but omitted to give the surrogate's court jurisdiction to impose the tax -- a situation to which an expression of the Court of Appeals in *In re Stewart,* 131 N.Y. 284, is applicable:"

"It is not enough for the legislature to declare that such interests are taxable. If no mode is provided for assessing and collecting the tax, the law is imperfect and cannot, as to such interests, be executed."

"A tax cannot be legally imposed unless the statute, in addition to creating the tax, provided for an officer or tribunal who shall appraise and assess the property on notice to the owner. *Stuart v. Palmer,* 74 N.Y. 188; *Remsen v. Wheeler,* 105 N.Y. 575. The principle decided in the cases cited applies to the transfer tax as well as to assessments for public improvements. *In re McPherson,* 104 N.Y. 321. . . . It is apparent, therefore,

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that, when the executors took the deposits and the bank stock out of the state for distribution, no tax had been imposed upon such property, and there was no method provided by law by which a tax could legally be imposed upon it. What they did they had not only the right, but it was their duty, to do. The legal title to the property in this state vested in them as the personal representatives of their testator by force of the laws of New Jersey. *In re Bronson,* 150 N.Y. 1. They were bound to take possession of it and make distribution according to the decree of the court having jurisdiction of the estate. Had a tax been imposed on the property, or had a statute providing for its imposition been in force, it would have been their duty to have paid it or to have requested the imposition of the tax, as the case might be, before removing the property."

Subsequently, the Court of Appeals, in *In re Fitch,* 160 N.Y. 87, 90, said, referring to the *Embury* case, that it

"held by an affirmance on the opinion below . . . that, while the statute declared such of Embury's property to be taxable as was situated in the City of New York, nevertheless, as it omitted to authorize the surrogate to impose the tax, the order made by that officer was without jurisdiction."

Under this condition, an inheritance tax may be collected where the decedent owns both personal and real property within the State of New York, and not where the only property belonging to the decedent situate within the state is personalty. But, though the operation of the statutes creates a difference, this, even if intentional, is not of itself sufficient to invalidate the tax. The power of the state in

respect to the matter of taxation is very broad, at least so far as the federal Constitution is concerned. It may exempt certain property from taxation while all other is subjected thereto. It may tax one class of property be one method of procedure and another by a different method. *Bell's Gap Railroad v. Pennsylvania,* 134 U. S. 232 , 134 U. S. 238 ; *Pacific Express Company v. Seibert,* 142 U. S. 339 ; *Merchants' Bank v. Pennsylvania,* 167 U. S. 461 , 167 U. S. 464 ;

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Travelers' Insurance Company v. Connecticut, 185 U. S. 364 ; *Michigan Central Railroad v. Powers,* 201 U. S. 245 . The right of exemption has been applied to succession taxes (*Magoun v. Illinois Trust & Savings Bank,* 170 U. S. 283 , 170 U. S. 299), in which this Court said:

"Nor do the exemptions of the statute render its operation unequal within the meaning of the Fourteenth Amendment. The right to make exemptions is involved in the right to select the subjects of taxation and apportion the public burdens among them, and must consequently be understood to exist in the lawmaking power wherever it has not in terms been taken away. To some extent it must exist always, for the selection of subjects of taxation is, of itself, an exemption of what is not selected. Cooley on Taxation 200; *see also* the remarks of Mr. Justice Bradley in *Bell's Gap Railroad v. Pennsylvania,* 134 U. S. 232 ."

Indeed, it may be laid down as a general rule that mere inequalities or exemptions in the matter of state taxation are not forbidden by the federal Constitution.

There is no error in the rulings of the courts of the State of New York, and the judgment is

Affirmed.