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Mccoach Vs. Pratt

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Court : US Supreme Court

Decided On : Mar-01-1915

Appeal No. : 236 U.S. 562

Appellant : Mccoach

Respondent : Pratt

Judgement :

McCoach v. Pratt - 236 U.S. 562 (1915)
U.S. Supreme Court McCoach v. Pratt, 236 U.S. 562 (1915)

McCoach v. Pratt

No. 149

Argued January 25, 1915

Decided March 1, 1915

236 U.S. 562

CERTIORARI TO THE CIRCUIT COURT OF APPEALS

FOR THE THIRD CIRCUIT

SYLLABUS

Where testator died before July 1, 1902, but creditors had the right, under the local law, as in Pennsylvania, to file claims within a year, and legatees cannot demand payment out of the personal estate until after ascertainment that there is a residue available for payment of legacies, the interests of the legatees were not absolutely vested in possession or enjoyment prior to July 1, 1902, and the tax paid on such legacies under the War Revenue Act of 1898 should, pursuant to 3 of the Act of June 27, 1902, be refunded. *United States v. Jones, ante,* p. 236 U. S. 106 , followed, and *Hertz v. Woodman,* 218 U. S. 205 , distinguished.

201 F. 1021 affirmed.

The facts, which involve the construction of the War Revenue Act of 1898 and the refunding act of June 27, 1902, are stated in the opinion.

Page 236 U. S. 565

MR. JUSTICE VAN DEVANTER delivered the opinion of the Court.

Whether a succession tax collected under 29 and 30 of the Act of June 13, 1898, 30 Stat. 448, 464, c. 448, shall be refunded is the matter here in controversy. The facts bearing upon its solution are these: Ferdinand J. Dreer, a resident of Philadelphia, Pennsylvania, died May 24, 1902, leaving a will directing that certain legacies be paid out of his personal estate to two sons and two grandchildren. The executors took charge of the property and proceeded to administer it under the supervision of the orphans' court, as the local law required, first for the benefit of the creditors and next for the benefit of the legatees. The former had a year within which to file their claims, and the latter were not entitled to demand payment of the legacies until that time expired, and then only in the event there was a residue available for the purpose. *Jones' Appeal,* 99 Pa. 124, 130; *Rastaetter's Estate,* 15 Pa.Super.Ct. 549, 553-555. On July 1, 1902, a date the importance of which will be seen presently, less than two months of the prescribed year had passed, and whether there would be a residue for the payment of legacies was as yet

undetermined. In July, 1903, the Collector of Internal Revenue demanded of the executors a succession tax of $1,692.75 on account of the legacies, and the tax was paid under protest. Shortly thereafter, the executors sought in the appropriate way to have the tax refunded, but the request was denied, and they then sued the collector to recover back the amount. In the circuit court, the executors prevailed, and the judgment was affirmed by the circuit court of appeals. 201 F. 1021.

By 29 of the Act of 1898, an executor, administrator, or trustee having in charge a legacy or distributive share exceeding $10,000 in actual value arising from personal

Page 236 U. S. 566

property and passing from a decedent to another by will or intestate laws was subjected to a tax graduated according to the value of the legacy or distributive share, but that section was repealed by the Act of April 12, 1902, 32 Stat. 96, c. 500, with a qualification that the repeal should not be effective until July 1 following, and should not prevent the collection of any tax imposed prior to the latter date. Next came the Act of June 27, 1902, 32 Stat. 406, c. 1160, the third section of which reads as follows:

"That in all cases where an executor, administrator, or trustee shall have paid, or shall hereafter pay, any tax upon any legacy or distributive share of personal property under the provisions of the Act approved June thirteenth, eighteen hundred and ninety-eight, entitled, 'An Act to Provide Ways and Means to Meet War Expenditures, and for Other Purposes,' and amendments thereof, the Secretary of the Treasury be, and he is hereby, authorized and directed to refund, out of any money in the Treasury not otherwise appropriated upon proper application being made to the Commissioner of Internal Revenue, under such rules and regulations as may be prescribed, so much of said tax as may have been collected on contingent beneficial interests which shall not have become vested prior to July first, nineteen hundred and two. And no tax shall hereafter be assessed or imposed under said Act approved June thirteenth, eighteen hundred and ninety-eight, upon or in respect of any contingent beneficial interest which

shall not become absolutely vested in the possession or enjoyment prior to said July first, nineteen hundred and two."

As the context shows, the word "vested" in the first sentence has the same meaning as "absolutely vested in possession or enjoyment" in the second (*Vanderbilt v. Eidman,* 196 U. S. 480 , 196 U. S. 500 ; *United States v. Fidelity Trust Co.,* 222 U. S. 158), and the words "contingent" and "absolutely vested in possession or enjoyment" are used

antithetically, and applied to both legacies and distributive shares. What is meant by "contingent" is indicated by the phrase with which it is contrasted and by its application to distributive shares as well as to legacies. The only sense in which the former are contingent -- and it is practical, rather than technical -- is that they come into being only where, in due course of administration, the debts of the deceased are ascertained and it is found that a surplus remains for distribution. It is in this sense that the word is applied to distributive shares, and, of course, it is applied to legacies in the same way. In speaking of this section, we said in *United States v. Jones,* 236 U. S. 106 :

"It deals with legacies and distributive shares upon the same plane, treats both as 'contingent' interests until they 'become absolutely vested in possession or enjoyment,' directs that the tax collected upon contingent interests not so vested prior to July 1, 1902, shall be refunded, and forbids any further enforcement of the tax as respects interests remaining contingent up to that date."

That case related to a tax collected upon distributive shares in an estate in Pennsylvania. The intestate had died before July 1, 1902, but the time for presenting claims against the estate had not expired prior to that date, and therefore what, if any, surplus would remain was still uncertain, and the heirs were not as yet entitled to a distribution. It was accordingly held that the distributive shares did not become "absolutely vested in possession or enjoyment" before July 1, 1902, but remained contingent in the sense of the statute, and consequently

that the tax should be refunded. The present case differs from that only in the fact that here, the tax was collected upon legacies. This difference is not material. The refunding act deals with both in the same way, and the local law subordinates the rights of legatees to those of creditors in like manner as it does the rights of distributees. It follows that the tax here in question must be refunded.

Page 236 U. S. 568

The case of *Hertz v. Woodman,* 218 U. S. 205 , is relied upon by the government, as it was in *United States v. Jones, supra,* but, for reasons there given, we think it is not in point here.

Judgment affirmed.

MR. JUSTICE Mc REYNOLDS took no part in the consideration and decision of this case.

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