

TAX APPEAL BOARD OF THE STATE OF DELAWARE

ELWOOD N. POWLUS,)
)
 Petitioner,)
)
 v.) Docket No. 604
)
 DIRECTOR OF REVENUE,)
)
 Respondent.)

Before: Maurice A. Hartnett, III, Esquire, Chairman;
Joseph S. Yucht, Esquire, Vice Chairman;
Cyril W. Cain, Jr., Rhett Mc Griff, and Nettie
C. Reilly, Members.

Elwood N. Powlus, Petitioner, pro se.

John Fedele, Esquire, Counsel for Respondent.

DECISION AND ORDER

Joseph S. Yucht, Esquire: The taxes in controversy are inheritance taxes assessed against the Estate of Margaret L. Powlus.

During 1967 Elwood N. Powlus (Petitioner) and Margaret L. Powlus, as husband and wife, purchased premises located at 34 West Stephen Drive, Newark, Delaware. Apparently the Powlus marriage did not work out and a final decree of divorce was entered by the Superior Court of the State of Delaware in and for New Castle County on January 8, 1972, divorcing the parties. On February 3, 1972 the parties entered into an agreement which purported to settle the remaining rights and obligations between them. This said agreement was terminated and superseded by another agreement between the

parties dated October 23, 1972, which provided, inter alia, that Petitioner shall deed to Margaret L. Powlus "all his right, title and interest in and to a house and lot located at 34 West Stephen Drive, Newark, Delaware." On the same date, Petitioner deeded said premises to Margaret L. Powlus, which said deed is recorded in the office for the recording of deeds in Wilmington in Deed Record Y, Volume 86, Page 620.

After Petitioner conveyed his interest in said premises to his former wife, he obtained a building permit and paid for certain improvements to said premises. In addition to expending his own funds on said improvements, Petitioner also worked many hours improving said premises.

On February 21, 1974, the said Margaret L. Powlus died after first having made a Will dated February 3, 1972, which was duly probated. Item Second of said Will stated:

"All the rest, residue and remainder of my estate, both real and personal, wheresoever the same may be situate and any property over which I now have or may have the power of testamentary disposition, I give, devise and bequeath unto my former Husband, ELWOOD N. POWLUS, in fee simple absolutely."

As a result of said paragraph, Petitioner inherited, inter alia, premises located at 34 West Stephen Drive, Newark, Delaware. Subsequently, and as a further result, the Director of Revenue, assessed an inheritance tax liability against the Estate of Margaret L. Powlus in the amount of \$2,129.92. Said amount was computed as follows:

Value of gross estate including said real estate	\$29,790.05
Less Deductions allowable	<u>8,490.87</u>
Net Estate	\$21,299.18
Tax on said Estate at 10% Rate for Class D Beneficiary	\$ 2,129.92

Petitioner contended that some interest less than the 100% market value for said real estate should be used since:

1. He paid \$1,200.00 for an addition thereto after the divorce was final.

2. He expended his labor to make additional improvements thereto after the divorce was final.

3. He made payments on the mortgage, pursuant to the terms of his agreements, after the divorce was final. The sum of the arguments amount to an objection to paying inheritance taxes on the improvements to real estate made by Petitioner's cash expenditures and labor.

The Tax Appeal Board finds that the provisions of Title 30, Chapter 13, require that real estate be valued (for inheritance tax purposes) at the fair market value as of the date of death of the owner. As of February 21, 1974, said real estate in question was solely owned by Margaret L. Powlus, and valued at \$29,000.00. The fact that said premises was improved by Petitioner does not cause the fair market value to be reduced nor for a credit to be granted by the Director of Revenue. Petitioner does not question nor contend there was error in computing the value of the Gross Estate, nor error in computing the deductions, nor error in the computation of the inheritance tax based on his classification - Class D. Accordingly,

Petitioner could not challenge the legal basis for the assessment, but rather sought relief from the Tax Appeal Board in an equitable manner.

Try as we might, we cannot grant the relief sought. The law does not provide for an examination into the various factors causing property to be improved and then granting reduction in value or a reduction in the taxes to only those who improve the property of others and then inherit the same property and now must pay taxes thereon. The taxes imposed are based on the value of the property at the time of death and assessed against the recipient, regardless of the recipient's prior connection with said property. The petition for a redetermination of the deficiency set forth by the Director of Revenue in his notice of assessment dated May 13, 1975 is denied and the said decision of the Director of Revenue is affirmed.

SO ORDERED this *21st* day of *January*, 1976.

Joseph D. Yucht.
Michael A. [unclear]
Cyril W. Cain
Nettie C. Reilly
s/ Rhett [unclear]

SYNOPSIS

DOCKET NO. 604

TAX SEGMENT: INHERITANCE TAX
 Value of Gross Estate

ISSUE: The question is whether the value of the gross estate received from the former husband of the decedent should be reduced by additions made the petitioner and as well as sums expended by him during the life of the decedent.

TAB DECISION: The Tax Appeal Board found that the provisions of 30 Del. C., Chapter 13 require that real estate be valued at the fair market value as of the date of death of the owner. There is no provision for the grant of relief by a reduction of value due to improvement of property by the party who later inherits the property.

DECISION: For Respondent

DECISION DATE: January 21, 1976