14 T.C. 555 (1950)

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A mortgage is not deductible from a decedent's gross estate for estate tax purposes if the mortgage was not contracted bona fide for an adequate and full consideration in money or money's worth.

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Summary

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Frank Mann acquired title to several properties, each subject to a mortgage. He later paid off these mortgages and assigned them to his wife and daughter, who then reassigned them to him. Mann then assigned the mortgages to another daughter, reporting this as a gift and paying gift tax. Upon Mann's death, his estate sought to deduct the mortgage amounts from the gross estate for estate tax purposes. The Tax Court held that the mortgages were not deductible because the transfers lacked adequate monetary consideration and were essentially gifts. Furthermore, since the mortgages were not included in the gross estate as deductions, the gift tax paid was not creditable against the estate tax.

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Facts

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A.A. Matthews Co. mortgaged seven parcels of real estate in Astoria, Queens County, New York, in 1924-1925. Frank Mann acquired fee simple title to these properties at various dates. Subsequently, Mann paid the outstanding balances on these mortgages. He then assigned six mortgages to his wife, Justina Mann, and one to his daughter, Lillian Leffler. Justina and Lillian reassigned the mortgages to Mann. On July 8, 1941, Mann assigned all seven mortgages to his daughter, Blanche Hessner. Mann filed a federal gift tax return reporting the mortgages as a gift to Blanche and paid the gift tax. The assignments to Blanche were unrecorded until after Mann's death. The mortgages, although paid off, were not released of record.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in the estate tax liability of Frank Mann’s estate, disallowing the deduction of the mortgage amounts. Mann’s estate, through executrix Blanche Hessner, petitioned the Tax Court for a redetermination, claiming an overpayment of estate tax. The case was submitted on stipulated facts, exhibits, and a deposition.

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Issue(s)

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1. Whether the amounts of the first mortgages on the realty owned by the decedent at his death are deductible in computing the decedent’s net estate under Section 812(b) of the Internal Revenue Code.

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2. If the first mortgages are not deductible, whether the gift tax paid by the decedent on the gift of the mortgages should be allowed as a credit against the estate tax due under Section 813(a) of the Internal Revenue Code.

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Holding

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1. No, because the mortgages, though originally issued for monetary consideration, were later assigned without adequate monetary consideration, essentially becoming gifts.

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2. No, because the value of the first mortgages was not included in the decedent’s gross estate, so the gift tax payment is not allowable as a credit against the estate tax.

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Court’s Reasoning

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The court reasoned that the crucial factor was whether the mortgages were

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