15 T.C. 143 (1950)

A husband cannot reduce his taxable income by allocating a portion of the proceeds from the sale of his property to his wife in exchange for the release of her inchoate dower rights, as those rights are considered a contingent expectancy and not a transferable property interest under Arkansas law.

Summary

George LeCroy agreed to pay his wife, Lizzie, one-third of the net profits from the sale of his real property in lieu of dower rights. When LeCroy sold timber rights in 1942 and leased property for oil and gas in 1943, Lizzie received one-third of the proceeds. The LeCroys reported these amounts as Lizzie's income. The Commissioner of Internal Revenue determined that the entire proceeds should be included in George's income. The Tax Court agreed with the Commissioner, holding that under Arkansas law, a wife's dower right is a contingent expectancy, not a transferable interest, and therefore, the payments to Lizzie were essentially gifts from George's income.

Facts

George and Lizzie LeCroy, husband and wife, entered into an agreement in 1941 where George agreed to pay Lizzie one-third of the net profits from the sale of his real property in lieu of her dower rights. In 1942, George sold timber rights, and Lizzie received a portion of the proceeds. In 1943, George, along with others, leased property for oil and gas; Lizzie also received a portion of these proceeds in exchange for releasing her dower rights in the property. The LeCroys filed separate income tax returns, each reporting their respective shares of the income from these transactions.

Procedural History

The Commissioner of Internal Revenue assessed a deficiency against George LeCroy, arguing that the amounts paid to Lizzie should have been included in George's income. The Tax Court reviewed the Commissioner's determination.

Issue(s)

Whether amounts paid to Lizzie LeCroy for the release or relinquishment of her inchoate dower rights in her husband's property are includible in George LeCroy's income for the taxable years 1942 and 1943.

Holding

No, because under Arkansas law, a wife's dower right during the lifetime of her husband is not an estate in land but a contingent expectancy. Therefore, the proceeds from the sale of George's property are fully taxable to him, even if a

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portion is paid to Lizzie in exchange for releasing her dower rights.

Court's Reasoning

The court relied on Arkansas state law to determine the nature of dower rights. It cited several Arkansas Supreme Court cases establishing that a wife's dower right is merely a contingent expectancy until the husband's death. As such, it is not a transferable property interest that can generate income for the wife independent of the husband. The court also cited its prior decision in *David Fowler,* 40 B.T.A. 1292 (1939), which involved similar facts under New York law. The court reasoned that whether the funds were given to the wife directly or assigned to her out of the sale price, they were part of the sale price that inured to the husband for property he alone owned. The Tax Court quoted *LeCroy v. Cook*, 197 S.W.2d 970, 972 stating: "While it is a valuable contingent right, it is not such an interest in her husband's property as may be conveyed by her. It may only be 'relinquished' by her to her husband's grantee in the manner and form provided by statute." Because the wife's dower right is merely relinquished and not sold, payments for that relinquishment are considered part of the husband's income.

Practical Implications

This case clarifies that state law determines the character of property rights for federal income tax purposes. It highlights the distinction between a transferable property interest and a contingent expectancy. The decision prevents taxpayers from using agreements with their spouses to reallocate income from the sale of property where the spouse's rights are inchoate and not fully vested. It reinforces the principle that income is taxed to the one who controls the property that generates the income. Attorneys advising clients on property sales in states with similar dower laws should be aware that allocating a portion of the sale proceeds to the spouse for releasing dower rights will not shift the tax burden. This case serves as a reminder to analyze the true nature of property rights under state law before attempting to structure transactions to minimize tax liabilities.