1945 Tax Ct. Memo LEXIS 115 (T.C. 1945)

Under Arkansas law, a wife's inchoate dower right is not an estate in land that can be transferred but rather a contingent expectancy, and therefore, proceeds from its relinquishment are taxable to the husband, not the wife.

Summary

LeCroy sought to exclude from his taxable income amounts paid to his wife for her relinquishment of dower rights in his property. He argued an agreement existed where she received one-third of net profits from property sales in exchange for releasing her dower rights. The Tax Court held that under Arkansas law, the wife's inchoate dower right is not a transferable estate but a contingent expectancy. Therefore, the payments were considered gifts and taxable to the husband, affirming the Commissioner's assessment.

Facts

LeCroy and his wife had an agreement that she would receive one-third of the net profits from the sales of his real property when she released her dower rights. In 1942 and 1943, LeCroy's wife received $1,452.66 and $5,325.91, respectively, for executing a deed to timber property and an oil and gas lease, relinquishing her dower rights. LeCroy argued these amounts were taxable to his wife, as she acted as grantor and lessor.

Procedural History

LeCroy petitioned the Tax Court, contesting the Commissioner's determination that the amounts paid to his wife for relinquishing dower rights were includible in his taxable income. The Commissioner argued that the land belonged to LeCroy, and the sales were made by him, making the entire consideration taxable to him.

Issue(s)

Whether amounts paid to a wife for the relinquishment of her dower rights in her husband's property sales are taxable to the husband or the wife, given that she received one-third of the net proceeds as consideration for the release of her dower interest.

Holding

No, because under Arkansas law, a wife's inchoate dower right is not an estate in land but a contingent expectancy incapable of transfer, making the proceeds from its relinquishment taxable to the husband.

Court's Reasoning

The court relied on Arkansas state law, which dictates that a wife's dower right during the husband's lifetime is not an estate in land but a contingent expectancy, a mere chose in action. The court cited several Arkansas Supreme Court cases, including *LeCroy v. Cook*, which directly addressed a similar contract between LeCroy and his wife. In *LeCroy v. Cook*, the Arkansas Supreme Court stated, "Until her husband's death – the wife's right of dower is inchoate, that is, it is contingent upon his death during her lifetime. 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." The Tax Court also referenced *Frank J. Digan, 35 B. T. A. 256*, drawing parallels to payments made to a wife for joining in a property conveyance. The court reasoned that whether the money was a direct gift or an assignment, it was part of the sale price that inured to the husband.

Practical Implications

This case clarifies that, in jurisdictions like Arkansas where a wife's dower right is considered a contingent expectancy rather than a transferable estate, any payments made to the wife for the relinquishment of her dower rights in a property sale are treated as part of the husband's taxable income. This impacts how tax attorneys advise clients in similar situations, requiring them to structure property sales and agreements with spouses accordingly. It emphasizes the importance of understanding state-specific property laws when determining the taxability of proceeds from real estate transactions. Later cases would need to examine the specific state law regarding dower or similar marital property rights to determine tax implications of relinquishment.

