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Court must unravel complicated real estate transfers

On the surface, a recent Tax Court case appears unremarkable, but it involved application of the Internal Revenue Code to a rather unusual set of facts.

In 1962, Adelina Van immigrated to the United States from China, as a single mother with her four children. In the 1970s, Van struck up a romantic relationship with a gentleman who purchased a home for her that became the subject of her estate's tax issue. In 1997, Adelina Van gifted title to her residence to her daughter and three granddaughters. Van continued to live in the house rent free until her death in 2000. The estate excluded the value of the residence, and the IRS disagreed.
The IRS viewed the situation as a classic gift with a retained life interest of the type that includes the property in the estate under §2036(a). But the estate had a different view of the situation.

To understand the estate's position, the story must begin at the beginning.
Van and her children moved into the home, rent free, in 1973. Her significant other retained title to the house. Although he apparently did not reside in the home, the gentleman paid all the expenses associated with purchasing and maintaining the home. By 1988, Van's daughter Norma had married James Hu. The Hus expressed interest in purchasing Van's home from her friend.

The owner was willing to sell the house to Van rather than to the Hus. The friend and Van agreed on a sale with a cash downpayment and a secured promissory note. The Hus provided Van with all of the cash necessary for both the downpayment plus principal and interest payments on the note.

In 1989, Van took title to the house and immediately reconveyed title to herself and her two granddaughters as joint tenants. Then without telling the Hus, Van had the grandchildren reconvey the title back to her in 1994.

In 1997, Van created a revocable trust and deeded the house to herself as trustee. In 1999, she transferred the house from herself as trustee to her daughter and three granddaughters. All of these transfers were executed without consideration.

When Van died in 2000, the estate reported the value of the house on the estate tax return and then deducted the value, explicitly noting the estate's belief that Van had no ownership in the house. The estate's position was that the Hus had provided the purchase money and that title had passed to Mrs. Hu and her three daughters before Van's death.

The estate took the position that any evidence showing Van as the owner of the house simply reflected the fact that Van was acting as agent for the Hus in dealing with the seller of the house. The court was not convinced.

Looking at the entire scenario, the court concluded that the Hus had made a gift to Van of the cash she used to purchase the house for herself. Van later transferred the house for less than adequate consideration as a gift to her daughter and granddaughters.
Because Van continued to enjoy rent-free occupancy of the house until her death, that gift was a transfer with retention of possession or enjoyment for life. So the value of the house was included in Van's estate under §2036(a).

The court also rejected the estate's argument that the initial purchase of the house caused the creation of a "resulting trust" under California law. The court described the resulting trust doctrine as follows: "[It] arises in favor of the payor of the purchase price of the property where the purchase price, or part thereof, is paid by one person and title is taken in the name of another."

In this case, the court was persuaded that Van's intention to occupy the home, and the fact that she occupied it until her death, invalidated the resulting trust argument. Van held title to the house for her own benefit, not for the benefit of the Hus.
Although it did not change the outcome of the case, the estate prevailed on one aspect. The court ruled that the way the estate disclosed the existence of the house on its return, and the level of cooperation the estate gave to the IRS during its examination of the return, effectively shifted the burden of proof from the estate to the IRS.

(Estate of Adelina C. Van. et. al. v. Commissioner (T.C. Memo 2011-22, Jan. 27, 2011