

**ENRIQUE ROXAS ARGELLIES, PLAINTIFF AND APPELLEE, VS.
BIBIANO L. MEER, COLLECTOR OF INTERNAL REVENUE,
DEFENDANT AND APPELLANT.**

G.R. No. L-3730. April 25, 1952

Ponente: BENGZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/839fc2ecbab0/>

BENGZON, J.:

The Collector of Internal Revenue has appealed from a decision of the Manila Court of First Instance requiring him to refund to the appellee the amount of P30,544.97 as income tax unduly collected.

There is no dispute about the facts, both parties having submitted a stipulation.

Appellee Enrique Roxas Argellies, 41, is a Spaniard born here, but residing in France since he was a year old. He acquired by inheritance from his mother, in 1930, a lot with buildings on Echague Street, Manila. The property (and others belonging to him) has been administered all the time by Ayala y Cia., a local firm who has taken charge of leasing the premises to others, collecting the rents and turning them over-minus its fees-to the appellee. In 1942 the buildings were destroyed by fire, and after the war the American Army occupied the land paying some compensation. As the owner had no funds to finance the reconstruction of the buildings, he decided to sell the lot, and sold it, thru Ayala y Cia., obtaining a net profit of P74,899.77. Believing that the gain was capital gain, the appellee declared one-half of such amount in his income tax return. The defendant, holding that it was not capital gain, but ordinary profit, required Roxas Argellies to pay the additional tax of P30,944.97-which the latter did. Hence this action to recover.

The question is, as framed by the parties: the profit obtained in the sale of the land, is it capital gain? The plaintiff and the lower court say, yes; but the Collector of Internal Revenue says no, contending that the realty was used in the trade or business of the plaintiff, who was a real estate dealer engaged in leasing real estate. It should be explained in connection with defendant's position that the income tax law in defining capital assets (from which capital gains are obtained) expressly excludes "real property used in the trade or business of the taxpayer." To round out his point the Collector affirms that Roxas Argellies was engaged in the trade or business of leasing real estate under section 193 (S) of the National Internal Revenue Code as amended by Rep. Act No. 42[1].

Consequently the whole argument centers around this issue: Was Roxas Argellies engaged in the business of leasing real estate? If so, the tax was properly levied and collected. If he was not, refund must be ordered.

As stated before, appellee has always resided outside of the Philippines. His Echague property has been administered and leased to others by a local firm (Ayala y Cia) who made the contracts, collected rents and paid them over to the owner. He has not reinvested such rents in this country and does not appear to have taken any part in the management of his local holdings. He did no more than receive the fruits of his properties, which he held for income purposes.

In a case in New York[2] the appellants were the owners in common of nine parcels of realty in the city of New

York, which they acquired by inheritance. The properties were not held for speculative but only for income purposes. Since 1913, at which time they acquired the first of the properties, appellants had employed a real estate agent at an annual compensation, whose business it was to operate the properties. The real estate agent kept books of account, collected the rents, negotiated leases and made minor repairs, but appellants themselves made disbursements, executed leases and passed upon major alterations. Appellants maintained no office or clerical staff of their own, and all matters in connection with the properties were transacted through the office of the realty agent.

The issue in that case was whether appellants were "engaged in business" in New York so as to be subject to tax. The highest court of that state held they were not, explaining:

"When used in tax statutes similar to that involved in the case at bar, "business" or "doing business" connote something more than the ownership of property and the receipt of income derived from property * * *. Although the very nature of the case does not permit an exact formula by which to determine when the activities of a property owner amount to the doing of business, there has been evolved the principle which distinguishes between a passive and an active owner or investor. One who allocates the active administration of the properties to others and himself performs only such acts as are appropriate to safeguard his ownership, is to be distinguished from one who himself actively participates in administering the management of the properties * * *. If the activities of these appellants (owners) were deemed to be doing of business, then the doing of business would comprise every instance where property is owned in common and the owners act but to safeguard their property. If there is to be maintained a distinction between ownership on the one hand and the doing of business on the other, a distinction established by the cases, * * * then these appellants may not be regarded as having been engaged in the doing of business." (Italics ours).

We regard the above decision as persuasive. In fact the case fo appellee is stronger, since he executed no lease contracts and did not pass on alterations of his buildings.

Supporting the above view are other decisions of State courts:

"Mere ownership of houses, or other buildings, even when one receives rents therefrom and occupies oneself with the maintenance and repair thereof," has been held not to constitute business. (12 C. J. S. P. 772, citing decisions from California, Kansas, Minnesota, Nebraska, Ohio and Texas).

"We conclude that the employer in this instance was not in a regular business. Looking after his own property-six houses-and collecting the rent of same, as well as making occasional repairs, can hardly be considered a business." (Clausen vs. Dinnebeil, New Jersey, 15 Atlantic Rep. 2d p. 205).

Wherefore it must be held, as we hold, that Enrique Roxas Argellies was not engaged in the business of leasing real properties. Of course this is in reference to the law as it stood in 1946. What modification was introduced by Republic Act No. 588 is not herein to be discussed.

The judgment is affirmed without costs. So ordered.

Paras, C. J., Feria, Pablo, Tuason, Montemayor, and Reyes, JJ., concur.

[1] Rep. Act. No. 588 is a 1950 amendment.

[2] Nauss vs. Graves (28 N. E. (2d) 881).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.