

S. DAVIS WINSHIP, PLAINTIFF AND APPELLANT, VS. PHILIPPINE TRUST COMPANY, DEFENDANT AND APPELLEE.*G.R. No. L-3869. January 31, 1952*

Ponente: PARAS, C.J.

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Prior to December, 1941, the Eastern Isles Import Corporation organized under and existing by virtue of the laws of the Philippines, all of the capital stock of which was and has been owned by American citizens, except one share with a par value of P100 in the name of Antonia Sevilla and one share with a par value of P100 in the name of Edmund A. Schwesinger, had a current account deposit with the Philippine Trust Company, and as of December 29, 1941, the balance in favor of said depositor was P51,410.91. Prior to December, 1941, the Eastern Isles, Inc., a corporation organized under and existing by virtue of the laws of the Philippines, all of the capital stock of which was and has been owned by American citizens, except one share with a par value of P100 in the name of F. Capistrano, had a current account deposit with the Philippine Trust Company, and as of December 29, 1941, the balance in favor of said depositor was P34,827.74. The Eastern Isles, Incorporated made a withdrawal of P204.37 which was debited to said account on June 10, 1942.

On October 4, 1943, the Japanese Military Administration in the Philippines issued an order requiring all deposit accounts of hostile people (including corporations) to be transferred to the Bank of Taiwan, as the depository of the Bureau of Enemy Property Custody of the Japanese Military Administration, which order the Philippine Trust Company was specifically directed to comply with. On September 29, 1944, in compliance with said order, the Philippine Trust Company transferred and paid the credit balances of the current account deposits of the Eastern Isles Import Corporation and of the Eastern Isles, Inc. to the Bank of Taiwan.

The pre-war current deposit accounts of the Eastern Isles Import Corporation and of the Eastern Isles, Inc. were subsequently transferred to S. Davis Winship who, on Aug. 12, 1947, presented to the Philippine Trust Company checks Nos. A-79212 and H-579401 covering the aforesaid deposits. The Philippine Trust Company, however, refused to pay said checks, whereupon, on September 6, 1947, S. Davis Winship instituted the present action against the Philippine Trust Company in the Court of First Instance of Manila, to recover upon the first cause of action the sum of P51,410.91 and under the second cause of action the sum of P34,827.74.

In its answer, the defendant Philippine Trust Company invoked the order of the Japanese Military Administration by virtue of which it transferred the current deposit accounts in question to the Bank of Taiwan as the depository of the Bureau of Enemy Property Custody of the Japanese Military Administration. After trial, the Court of First Instance of Manila rendered a decision upholding the contention of the defendant and accordingly dismissing the complaint. From this decision plaintiff appealed. In the case of *Everett Steamship Corporation vs. Bank of the Philippine Islands*, 84 Phil., 202; 47 O. G., No. 1, p. 165, we made the following pronouncement: This Court having ruled in the *Haw Pia* case that the collection by the Bank of Taiwan of the China Banking Corporation's credit from the latter's debtor, by order of the Japanese Military Administration, was not a confiscation but a mere sequestration of enemy's private personal property, and therefore the payment by the plaintiff to the Bank of

Taiwan was valid and released his obligation to the defendant bank, it follows that the transfer or payment by the defendant bank to the Bank of Taiwan of plaintiff's deposit, by order of the Japanese Military Administration, was valid and released the defendant's obligation to the plaintiff."

In view of this pronouncement, we have to affirm the appealed judgment. As it has been stipulated by the parties that the defendant transferred the deposits in question to the Bank of Taiwan in compliance with the order of the Japanese Military Administration, the defendant was released from any obligation to the depositors or their transferee. Appellant's contention that there is no positive showing that the transfer of the deposits was authorized by the board of directors of the defendant Philippine Trust Company, is of no moment, since it is admitted that said transfer was made by the Philippine Trust Company in compliance with the order of the Japanese Military Administration, and its logical effect is to make such act binding on said company. At any rate, the defendant corporation has not impugned its validity.

In the case of *Filipinas Compañia de Seguros vs. Christern Huenefeld & Co., Inc.*, 89 Phil., 54, we held that the nationality of a private corporation is determined by the character or citizenship of its controlling stockholders; and this pronouncement is of course decisive as to the hostile character of the Eastern Isles Import Corporation and the Eastern Isles, Inc., as far as the Japanese Military Administration was concerned, it being conceded that the controlling stockholders of said corporations were American citizens.

Wherefore, the appealed judgment is affirmed, with costs against the appellant. So ordered.

Pablo, Bengzon, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.

DISSENTING

PADILLA, J.:

I dissent for the same reasons stated in my opinion in the case of *La Orden de Padres Benedictinos de Filipinas vs. The Philippines Trust Company*, G. R. No. L-2020, 47 O. G. 2894, 2897.

Tuason, J., concurs.

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