

COLLECTOR OF INTERNAL REVENUE, PETITIONER, VS. ANGLO CALIFORNIA NATIONAL BANK (CROCKER-ANGLO NATIONAL BANK), AS TRUSTEE FOR CALAMBA SUGAR ESTATE, INC., RESPONDENT.*G.R. No. 12476. January 29, 1960*

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-12476/>**REYES, J.B.L., J.:**

Respondent Calamba Sugar Estate Inc., herein represented by its trustee, the Anglo California National Bank, is a foreign corporation organized and existing under the laws of the State of California, U. S. A., duly licensed (on May 18, 1946) to do business in the Philippines. It has consistently filed its income tax returns here through its resident attorney-in-fact. On May 14, 1956, the petitioner Collector of Internal Revenue notified the corporation of an assessment for alleged deficiency income taxes for the years 1953, 1954 and 1955 in the respective amounts of P138,855.00, P131,759.00 and P393, 459.00, supposedly based upon capital gains derived from the respondent's sale to the Pasumil Planters, Inc. of P250,000 shares of the capital stock of the Pampanga Sugar Mills (a domestic corporation) and of a promissory note, dated January 1, 1950, executed by the Pampanga Sugar Mills in the sum of \$500,000.00. In an appeal by the respondent from the ruling of the Collector, the Court of Tax Appeals reversed said ruling and absolved the respondent from liability.

This is an appeal by the Collector from that decision.

The parties stipulated that (a) the negotiations leading to the execution and conclusion of the agreement of sale, dated January 16, 1953, between the respondent corporation and the Pasumil Planters, Inc., took place in San Francisco, California; (b) the payments on account of the sale were made by the Pasumil Planters, Inc. at the same foreign city; and (c) the sale was made under and in accordance with the laws of that State. From the evidence presented, it also appears that on December 16, 1955, the Securities and Exchange Commission cancelled respondent's license to transact business in the Philippines, and on December 30, 1955, the corporation was dissolved in accordance with the California law.

The sole issue is whether the capital gains obtained from the sale constituted income from sources within or without the Philippines. It was the opinion of the Tax Court that they were income derived from abroad, and not subject to income tax.

It is hardly disputable that although shares of stock of a corporation represent equities that may consist of real as well as personal properties therein, they are considered under applicable law and jurisprudence as intangible personal properties (see Art. 417 [2], Civil Code of the Philippines; Sec. 35, Act No. 1459). Section 24 of the National Internal Revenue Codes levies income taxes on foreign corporations only on income derived from sources within the Philippines; and with respect to capital gains on the sale of personal properties, section 37 (e) of the same Tax Code deems the place of sale as also that place or source of the capital gain:

** * * Gains, profit, and income derived from the purchase of personal property within and its sale without the Philippines or from the purchase of personal property without and its sale within the Philippines, shall be

treated as derived entirely from sources within the country in which sold." (*Italics supplied*)

Construing the same provision of law (which is section 119 (e) of the 1934 Act, U.S. I.R.C.), United States courts are in accord in disallowing the imposition of income taxes by its government on capital gains where the sale takes place outside its territorial jurisdiction. It is likewise the prevailing view that in ascertaining the place of sale, the determination of when and where title to the goods passes from the seller to the buyer is decisive (*East Coast Oil Co. vs. Comm.*, 31 B.T.A. 588, *aff'd* 85 F. [2d] 322, *cer. den.* 299 U.S. 608, 81 L. Ed. 449, 57 S.Ct. 234; also *Disconto-Gaesellcraft vs. U.S. Steel Corporation*, 267 U.S. 22; *Compañia General de Tabacos de Filipinas vs. Collector*, 279 U.S. 306, 73 L.Ed. 704, 49 S.Ct. 304).

In this case, it is admitted that the negotiation, perfection and consummation of the contract of sale were all done in California, U.S.A. It follows that title to the shares of stock passed from the vendor to the vendee at said place, from which time the incidents of ownership were vested on the buyer.

The Collector argues that the situs of shares of stock of a corporation is considered to be at the domicile of the latter, as held in some cases cited by him; but in the instant problem, we are not concerned with the imposition of taxes upon the shares themselves, but on a sale effected abroad that resulted in capital gains, for which there is a specific provision of law (Sec. 37 [e] N.I.R.C.). As stated by the Tax Court, there is a distinction between the situs of personal properties and the situs of the income derived from the sale or exchange of such properties.

As to the contention that section 35 of the Corporation Law, (Act No. 1459) requires the transfer to be noted and entered upon the books of the corporation, such requirement does not invalidate the transfer between the parties nor is it essential to vest title upon the vendee. The capital gains, now sought to be taxed, arose from the severance of gain, from the investment occasioned by the transfer of title abroad and not on account of any registration that might be effected later.

Wherefore, the judgment under review is hereby affirmed. No costs.

Paras C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

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