

**WELLS FARGO & BANK; UNION TRUST COMPANY,
PETITIONER AND APPELLANT, VS. THE COLLECTOR OF INTERNAL
REVENUE, RESPONDENT AND APPELLEE.***G.R. No. 46720, June 28, 1940*

Ponente: MORAN, J.

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An appeal from a declaratory judgment rendered by the Court of First Instance of Manila.

Birdie Lillian Eye, wife of Clyde Milton Eye, died on September 16, 1932, at Los Angeles, California, the place of her alleged last residence and domicile. Among the properties she left was her one-half conjugal share in 70,000 shares of stock in the Benguet Consolidated Mining Company, an anonymous partnership (*sociedad annima*), organized and existing under the laws of the Philippines, with its principal office in the City of Manila. She left a will which was duly admitted to probate in California where her estate was administered and settled. Petitioner appellant, Wells Fargo Bank & Union Trust Company, was duly appointed trustee of the trust created by the said will. The Federal and State of California's inheritance taxes due on said shares have been duly paid. Respondent Collector of Internal Revenue sought to subject anew the aforesaid shares of stock to the Philippine inheritance tax, to which petitioner-appellant objected. Wherefore a petition for a declaratory judgment was filed in the lower court, with the statement that, "if it should be held by a final declaratory judgment that the transfer of the aforesaid shares of stock is legally subject to the Philippine inheritance tax, the petitioner will pay such tax, interest and penalties (saving error in computation) without protest and will not file an action to recover the same; and the petitioner believes and therefore alleges that if it should be held that such transfer is not subject to said tax, the respondent will not proceed to assess and collect the same." The Court of First Instance of Manila rendered judgment, holding that the transmission by will of the said 35,500 shares of stock is subject to Philippine inheritance tax. Hence, this appeal by the petitioner.

Petitioner concedes (1) that the Philippine inheritance tax is not a tax on property, but upon transmission by inheritance (*Lorenzo vs. Posadas*, 35 Of. Gaz., 2393, 2395), and (2) that as to real and tangible personal property of a non-resident decedent, located in the Philippines, the Philippine inheritance tax may be imposed upon their transmission by death, for the self-evident reason that, being a property situated in this country, its transfer is, in some way, dependent, for its effectiveness, upon Philippine laws. It is contended, however, that, as to intangibles, like the shares of stock in question, their situs is in the domicile of the owner thereof, and, therefore, their transmission by death necessarily takes place under his domiciliary laws.

Section 1536 of the Administrative Code, as amended, provides that every transmission by virtue of inheritance of any share issued by any corporation or *sociedad annima* organized or constituted in the Philippines, is subject to the tax therein provided. This provision has already been applied to shares of stock in a domestic corporation which were owned by a British subject residing and domiciled in Great Britain. (*Knowles vs. Yatco*, G. R. No. 42967. See also *Gibbs vs. Government of P. I.*, G. R. No. 35694.) Petitioner, however, invokes the rule laid down

by the United States Supreme Court in four cases (*Farmers Loan and Trust Company vs. Minnesota*, 280 U. S. 204; 74 Law. ed., 371; *Baldwin vs. Missouri*, 281 U. S., 586; 74 Law. ed., 1056, *Beidler vs. South Carolina Tax Commission*, 282 U. S., 1; 75 Law. ed., 131; *First National Bank of Boston vs. Maine*, 284 U. S., 312; 52 S. Ct., 174, 76 Law. ed., 313; 77 A. L. R., 1401), to the effect that an inheritance tax can be imposed with respect to intangibles only by the State where the decedent was domiciled at the time of his death, and that, under the due-process clause, the State in which a corporation has been incorporated has no power to impose such tax if the shares of stock in such corporation are owned by a non-resident decedent. It is to be observed, however, that in a later case (*Burnet vs. Brooks*, 288 U. S., 378; 77 Law. ed., 844), the United States Supreme Court upheld the authority of the Federal government to impose an inheritance tax on the transmission, by death of a non-resident, of stocks in a domestic (American) corporation, irrespective of the situs of the corresponding certificates of stock. But it is contended that the doctrine in the foregoing case is not applicable, because the due-process clause is directed at the State and not at the Federal Government, and that the federal or national power of the United States is to be determined in relation to other countries and their subjects by applying the principles of jurisdiction recognized in international relations. Be that as it may, the truth is that the due-process clause is "directed at the protection of the individual and he is entitled to its immunity as much against the state as against the national government." (*Curry vs. McCannless*, 307 U. S., 357, 370; 83 Law. ed., 1339, 1349.) Indeed, the rule laid down in the four cases relied upon by the appellant was predicated on a proper regard for the relation of the states of the American Union, which requires that property should be taxed in only one state and that jurisdiction to tax is restricted accordingly. In other words, the application to the states of the due-process rule springs from a proper distribution of their powers and spheres of activity as ordained by the United States Constitution, and such distribution is enforced and protected by not allowing one state to reach out and tax property in another. And these considerations do not apply to the Philippines. Our status rests upon a wholly distinct basis and no analogy, however remote, can be suggested in the relation of one state of the Union with another or with the United States. The status of the Philippines has been aptly defined as one which, though a part of the United States in the international sense, is, nevertheless, foreign thereto in a domestic sense. (*Downey vs. Bidwell*, 182 U. S., 244, 341.)

At any rate, we see nothing of consequence in drawing any distinction between the operation and effect of the due-process clause as it applies to the individual states and to the national government of the United States. The question here involved is essentially not one of due-process, but of the power of the Philippine Government to tax. If that power be conceded, the guaranty of due process cannot certainly be invoked to frustrate it, unless the law involved is challenged, which is not, on considerations repugnant to such guaranty of due process or that of the equal protection of the laws, as, when the law is alleged to be arbitrary, oppressive or discriminatory.

Originally, the settled law in the United States is that intangibles have only one situs for the purpose of inheritance tax, and that such situs is in the domicile of the decedent at the time of his death. But this rule has, of late, been relaxed. The maxim *mobilia sequuntur personam*, upon which the rule rests, has been decried as a mere "fiction of law having its origin in considerations of general convenience and public policy, and cannot be applied to limit or control the right of the state to tax property within its jurisdiction" (*State Board of Assessors vs. Comptoir National D'Escompte*, 191 U. S., 388, 403, 404), and must "yield to established fact of legal ownership, actual presence and control elsewhere, and cannot be applied if to do so would result in inescapable and patent injustice." (*Safe Deposit & Trust Co. vs. Virginia*, 280 U. S., 83, 91-92.) There is thus a marked shift from artificial postulates of law, formulated for reasons of convenience, to the actualities of each case.

An examination of the adjudged cases will disclose that the relaxation of the original rule rests on either of two fundamental considerations: (1) upon the recognition of the inherent power of each government to tax persons, properties and rights within its jurisdiction and enjoying, thus, the protection of its laws; and (2) upon the principle

that as to intangibles, a single location in space is hardly possible, considering the multiple, distinct relationships which may be entered into with respect thereto. It is on the basis of the first consideration that the case of *Burnet vs. Brooks*, supra, was decided by the Federal Supreme Court, sustaining the power of the Government to impose an inheritance tax upon transmission, by death of a nonresident, of shares of stock in a domestic (American) corporation, regardless of the situs of their corresponding certificates; and on the basis of the second consideration, the case of *Cury vs. McCanless*, supra.

In *Burnet vs. Brooks*, the court, in disposing of the argument that the imposition of the federal estate tax is precluded by the due-process clause of the Fifth Amendment, held:

"The point, being solely one of jurisdiction to tax, involves none of the other considerations raised by confiscatory or arbitrary legislation inconsistent with the fundamental conceptions of justice which are embodied in the due-process clause for the protection of life, liberty, and property of all persons—citizens and friendly aliens alike. *Russian Volunteer Fleet vs. United States*, 282 U. S., 481, 489? 75, Law ed., 473, 476; 41 S. Ct, 229; *Nichols vs. Coolidge*, 274 U. S., 531, 542, 71 Law ed., 1184, 1192; 47 S. Ct, 710; 52 A. L. R., 1081; *Heiner vs. Donnon*, 285 U. S., 312, 326; 76 Law. ed., 772, 779; 52 S. Ct., 358. in the instant case the Federal Government had jurisdiction to impose the tax, there is manifestly no ground for assailing it. *Knowlton vs. Moore*, 178 U. S., 41, 109; 44 Law. ed., 969, 996; 20 S. Ct, 747; *McGray vs. United States*, 195 U. S., 27, 61; 49 Law. ed., 78, 97; 24 S. Ct., 769; 1 Ann. Cas., 561; *Flint vs. Stone Tracy Co.*, 220 U. S., 107, 153, 154; 55 Law. ed., 389, 414, 415; 31 S. Ct, 342; Ann. Cas., 1912B, 1312; *Brushaber vs. Union P. R. Co.*, 240 U. S., 1, 24; 60 Law. ed., 493, 504; 36 S. Ct, 236; L. R. A., 1917 D; 414, Ann. Cas., 1917B, 713; *United States vs. Doremus*, 249 U. S., 86, 93; 63 Law. ed., 493, 496; 39 S. Ct., 214." *Italics ours.*)

And, in sustaining the power of the Federal Government to tax properties within its borders, wherever its owner may have been domiciled at the time of his death, the court ruled:

"* * * There does not appear, a priori, to be anything contrary to the principles of international law, or hurtful to the polity of nations, in a State's taxing property physically situated within its borders, wherever its owner may have been domiciled at the time of his death." * * *

"As jurisdiction may exist in more than one government, that is, jurisdiction based on distinct grounds—the citizenship of the owner, his domicile, the source of income, the situs of the property—efforts have been made to preclude multiple taxation through the negotiation of appropriate international conventions. These endeavors, however, have proceeded upon express or implied recognition, and not in denial, of the sovereign taxing power as exerted by governments in the exercise of jurisdiction upon any one of these grounds." * * * (See pages 396-397; 399.)

In *Curry vs. McCanless*, supra, the court, in deciding the question of whether the States of Alabama and Tennessee may each constitutionally impose death taxes upon the transfer of an interest in intangibles held in trust by an Alabama trustee but passing under the will of a beneficiary decedent domiciled in Tennessee, sustained the power of each State to impose the tax. In arriving at this conclusion, the court made the following observations:

"In cases where the owner of intangibles confines his activity to the place of his domicile it has been found convenient to substitute a rule for a reason, cf. *New York ex rel. Cohn vs. Graves*, 300 U. S., 308, 313; 81 Law. ed., 666, 670; 57 S. Ct, 466; 108 A. L. R., 721; *First Bank Stock Corp. vs. Minnesota*, 301 U. S., 234, 241; 81 Law. ed., 1061, 1065; 57 S. Ct., 677; 113 A. L. R., 228, by saying that his intangibles are taxed at their situs and not elsewhere, or, perhaps less artificially, by invoking the maxim *mobilia sequuntur personam*, *Blodgett vs. Silberman*, 277 U. S., 1; 72 Law. ed., 749; 48 S. Ct., 410, supra; *Baldwin vs. Missouri*, 281 U. S., 586; 74 Law. ed., 1056; 50 S. Ct., 436; 12 A. L. R., 1303, supra, which means only that it is the identity or association of intangibles with the person of their owner at his domicile which gives jurisdiction to tax. But when the taxpayer extends his activities with respect to his intangibles, so as to avail himself of the protection

and benefit of the laws of another state, in such a way as to bring his person or property within the reach of the tax: rather there, the reason for a single place of taxation no longer obtains, and the rule is not even workable substitute for the reasons which may exist in any particular case to support the constitutional power of each state concerned to tax. Whether we regard the right of a state to tax as founded on power over the object taxed, as declared by Chief Justice Marshall in *McCulloch vs. Maryland*, 4 Wheat, 316; 4 Law. ed., 579, supra, through dominion over tangibles or over persons whose relationships are the source of intangible rights, or on the benefit and protection conferred by the taxing sovereignty, or both, it is undeniable that the state of domicile is not deprived, by the taxpayer's activities elsewhere, of its constitutional jurisdiction to tax, and consequently that there are many circumstances in which more than one state may have jurisdiction to impose a tax and measure it by some or all of the taxpayer's intangibles. Shares of corporate stock may be taxed at the domicile of the shareholder and also at that of the corporation which the taxing state has created and controls; and income may be taxed both by the state where it is earned and by the state of the recipient's domicile. Protection, benefit, and power over the subject matter are not confined to either state." * * * (Pp. 1347-1349.)

"* * * we find it impossible to say that taxation of intangibles can be reduced in every case to the mere mechanical operation of locating at a single place, and there taxing, every legal interest growing out of all the complex legal relationships which may be entered into between persons. This is the case because in point of actuality those interests may be too diverse in their relationships to various taxing jurisdictions to admit of unitary treatment without discarding modes of taxation long accepted and applied before the Fourteenth Amendment was adopted, and still recognized by this Court as valid." (P. 1351.)

We need not belabor the doctrines of the foregoing cases. We believe, and so hold, that the issue here involved is controlled by those doctrines. In the instant case, the actual situs of the shares of stock is in the Philippines, the corporation being domiciled therein. And besides, the certificates of stock have remained in this country up to the time when the deceased died in California, and they were in possession of one Syrena McKee, secretary of the Benguet Consolidated Mining Company, to whom they have been delivered and indorsed in blank. This indorsement gave Syrena McKee the right to vote the certificates at the general meetings of the stockholders, to collect dividends thereon, and dispose of the shares in the manner she may deem fit, without prejudice to her liability to the owner for violation of instructions. For all practical purposes, then, Syrena McKee had the legal title to the certificates of stock held in trust for the true owner thereof. In other words, the owner residing in California has extended here her activities with respect to her intangibles so as to avail herself of the protection and benefit of the Philippine laws. Accordingly, the jurisdiction of the Philippine Government to tax must be upheld.

Judgment is affirmed, with costs against petitioner appellant.

Avanceña, C.J., Imperial, Diaz, and Concepcion, JJ., concur.

Laurel, J.;

I concur in the result.

Judgment affirmed.

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