## SUPREME COURT OF THE UNITED STATES

# United States v. First National City Bank

United States v. First National City Bank, 379 U.S. 378 (1965) · No. No. 59 · Decided January 18, 1965

### SUMMARY

The Supreme Court considered whether a federal district court with personal jurisdiction over a national bank could temporarily enjoin the bank from transferring funds held for a foreign corporation in an overseas branch. The Court held that the district court could issue the injunction under its equitable authority and 26 U.S.C. § 7402(a), because the bank controlled the foreign branch and the order preserved property potentially subject to the Government's tax lien. The Court reversed the Second Circuit, while Justice Harlan, joined by Justice Goldberg, dissented.

### CASE DETAILS

| | |
|---|---|
| COURT | Supreme Court of the United States |
| WRITING FOR THE COURT | Justice Douglas; Justice Goldberg; Justice Harlan |
| JURISDICTION | Federal |
| DECIDED | January 18, 1965 |
| DOCKET | No. 59 |
| DISPOSITION | reversed |
| PROCEDURAL POSTURE | The United States sought review of a divided Second Circuit decision reversing a temporary injunction issued by the United States District Court for the Southern District of New York. The injunction barred First National City Bank from transferring property or rights to property held for Omar, S.A., including funds held in the bank's Montevideo branch. |
| STANDARD OF REVIEW | Review of the District Court's temporary injunction as an exercise of equitable power under 26 U.S.C. § 7402(a), including whether the injunction was necessary or appropriate to enforce the internal revenue laws. |
| PRECEDENTIAL VALUE | Published Supreme Court precedent |
| PARTIES | United States v. First National City Bank |

### TOPICS

injunctions · tax collection · personal jurisdiction · foreign affairs · civil procedure

## PRACTICE AREAS

civil procedure · tax · remedies · international law · banking law

## QUESTIONS PRESENTED

1. Whether a federal district court with personal jurisdiction over a bank may enjoin the bank from transferring property under its control in a foreign branch pending service of process on the foreign taxpayer.
2. Whether the temporary injunction was a reasonable and appropriate exercise of equitable power under 26 U.S.C. § 7402(a) to preserve the status quo and prevent dissipation of assets.
3. Whether the court could evaluate the temporary injunction in light of New York's subsequently effective long-arm jurisdiction statute and the possibility of obtaining personal jurisdiction over Omar.

## HOLDINGS

1. Once a federal district court obtains personal jurisdiction over a bank, it may order the bank to freeze property under the bank's control, including property held in a foreign branch, because the bank and its branches are parts of one federally chartered corporation.
2. The temporary injunction was a reasonable and appropriate measure under 26 U.S.C. § 7402(a) to preserve the status quo and prevent further dissipation of assets pending service on Omar and adjudication of the merits.
3. The temporary injunction could be judged as of the time of Supreme Court review in light of New York's subsequently effective long-arm statute and the possibility that Omar could be served outside New York.

## KEY QUOTATIONS

> *"Once personal jurisdiction of a party is obtained, the District Court has authority to order it to "freeze" property under its control, whether the property be within or without the United States."* (379 U.S. at 384)

> *"We conclude that this temporary injunction is "a reasonable measure to preserve the status quo" pending service of process on Omar and an adjudication of the merits."* (379 U.S. at 385)

## FACTUAL BACKGROUND

The Commissioner of Internal Revenue made jeopardy assessments totaling approximately $19 million against Omar, S.A., a Uruguayan corporation, alleging that Omar had realized taxable income in the United States. The United States filed an action seeking foreclosure of the federal tax lien and an order preventing First National City Bank from transferring Omar's assets, including funds held in the bank's Montevideo branch. The District Court enjoined the bank, which was subject to personal jurisdiction in New York, from transferring Omar's property held by the bank or its branches inside or outside the United States; Omar had not yet been served.

## PROCEDURAL HISTORY

The District Court issued a temporary injunction based on affidavits alleging that Omar, a Uruguayan corporation facing approximately $19 million in jeopardy tax assessments, was removing assets from the United States. A Second Circuit panel and the court sitting en banc reversed. The Supreme Court granted certiorari and reversed the Court of Appeals.

#### DISPOSITION

reversed

#### REMAND INSTRUCTIONS

The Court reversed the Court of Appeals' judgment, leaving the temporary injunction in place pending service of process on Omar and adjudication of the merits, subject to the District Court's authority to modify or protect against conflicts with foreign law.

#### CASES CITED

- Sokoloff v. National City Bank, 239 N.Y. 158, 145 N.E. 917; 250 N.Y. 69, 164 N.E. 745
- United States v. Montreal Trust Co., 35 F.R.D. 216
- Simonson v. International Bank, 14 N.Y.2d 281, 200 N.E.2d 427 (1964)
- Virginian Railway Co. v. System Federation No. 40, 300 U.S. 515, 552 (1937)
- United States v. Morgan, 307 U.S. 183, 194 (1939)
- Hecht Co. v. Bowles, 321 U.S. 321, 330 (1944)
- New Jersey v. New York City, 283 U.S. 473, 482 (1931)
- Societe Internationale v. Rogers, 357 U.S. 197, 211 (1958)
- Western Union Co. v. Pennsylvania, 368 U.S. 71 (1961)
- United States v. Morris & Essex Railroad Co., 135 F.2d 711, 713-714 (2d Cir. 1943)
- De Beers Consolidated Mines, Ltd. v. United States, 325 U.S. 212, 220 (1945)
- Deckert v. Independence Shares Corp., 311 U.S. 282, 290 (1940)
- First National City Bank v. Internal Revenue Service, 271 F.2d 616 (2d Cir. 1959)
- United States v. Bess, 357 U.S. 51 (1958)
- Aquilino v. United States, 363 U.S. 509, 514 (1960)
- Hall Signal Co. v. General Railway Signal Co., 153 F. 907
- A. H. Bull Steamship Co. v. National Marine Engineers' Beneficial Association, 250 F.2d 332, 337 (2d Cir. 1957)
- Amey v. Colebrook Guaranty Savings Bank, 92 F.2d 62, 63 (2d Cir. 1937)
- Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964)
- United States v. Harden, [1963] Can. Sup. Ct. 366, 41 D.L.R.2d 721
- Government of India v. Taylor, [1955] A.C. 491 (H.L.)
- Peter Buchanan Ld. & Macharg v. McVey, [1955] A.C. 516 (Eire Sup. Ct.)

- Zimmermann v. Sutherland, 274 U.S. 253 (1927)
- Hilton v. Guyot, 159 U.S. 113 (1895)
- Crane v. Commissioner, 331 U.S. 1 (1947)
- American Banana Co. v. United Fruit Co., 213 U.S. 347, 356-357 (1909)

### CITED IN

- United States v. First National City Bank, United States v. First National City Bank, 379 U.S. 378 (1965)
- United States v. First National City Bank, United States v. First Nat'l City Bank, 379 U.S. 378 (1965)
- United States v. First National City Bank, United States v. First National City Bank, 379 U.S. 378 (1965)
- United States v. First National City Bank, United States v. First National City Bank, 379 U.S. 378 (1965)
- United States v. First National City Bank, United States v. First Nat’l City Bank, 379 U.S. 378, 390 (1965)