

Handy Vs. Delaware Trust Co.

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Court : US Supreme Court

Decided On : Mar-21-1932

Appeal No. : 285 U.S. 352

Appellant : Handy

Respondent : Delaware Trust Co.

Judgement :

Handy v. Delaware Trust Co. - 285 U.S. 352 (1932)

U.S. Supreme Court Handy v. Delaware Trust Co., 285 U.S. 352 (1932)

Handy v. Delaware Trust Co.

No. 546

Argued February 26, 1932

Decided March 21, 1932

285 U.S. 352

CERTIFICATE FROM THE CIRCUIT COURT OF APPEALS

FOR THE THIRD CIRCUIT

SYLLABUS

Decided upon the authority of *Heiner v. Donan, ante*, p. [285 U. S. 312](#) .

Certificate from the Circuit Court of Appeals upon an appeal from a judgment of the District Court, 51 F.2d 867, against the Collector on a claim for refund of taxes alleged to have been illegally exacted.

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MR. JUSTICE SUTHERLAND delivered the opinion of the Court.

This case, like No. 514, *Heiner v. Donnan, ante*, p. [285 U. S. 312](#) , is here on a certificate from the Circuit Court of Appeals for the Third Circuit. The question submitted is:

"Does the second sentence of 302(c) of the revenue act of 1926 violate the due process clause of the fifth amendment to the Constitution of the United States? "

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In this case, as in No. 514, just decided, the decedent, within two years prior to his death, had made transfers *inter vivos* without consideration which were complete and irrevocable. The Commissioner included the value of the property so transferred in the value of the gross estate, and assessed a death transfer tax accordingly. Following a claim for refund and its rejection, the executor brought this action to recover the amount of the tax attributable to such inclusion. The trial court found that, in fact, none of the transfers had been made in contemplation of death, and rendered judgment for the executor for the amount claimed on the ground that 302(c) violated the due process clause of the Fifth Amendment, and was therefore unconstitutional.

Our decision in No. 514 requires an affirmative answer to the question submitted.

It is so ordered.

MR. JUSTICE CARDOZO took no part in the consideration or decision of this case.

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