

No. 34 was approved on Sept. 30, 1946, until the complaint was filed by VP who took over the land under petitioners' tenancy as lessee of the owner.

**HELD:** Where a situation involves an old and pre-existing tenant, he cannot be forced to alter the existing share agreement, unless we are to authorize an indirect way of easing out the tenant without one of the just causes specified in the Rice Share Tenancy Law. If any change is desirable in the sharing ratio, the initiative and decision should lie with the tenant. The law, in enumerating expressly certain sharing ratios (Sec. 8, R. A. No. 34), is presumed to have taken into account the fact that the landlord is thereby to receive a fair return from his land and any investment thereon.

Sec. 16, of the Rice Share Tenancy Law conferring upon the landlord the prerogative of management, must be interpreted to cover details other than the choice of the sharing ratio. (*SATURNINO PINEDA ET AL. vs. VIDAL PINGUL & CIR*, G. R. No. L-5565, Sept. 30, 1952.)

*Ejection of tenants; fraud or breach of trust.*

**FACTS:** Respondents (landlords) seek authorization to eject the petitioner (tenant) on the ground that the latter, without respondents' consent converted one hectare of coconut land into palay land and kept for himself all the produce thereof.

**HELD:** In view of the admission that the coconut trees on the coconut land have never been cut or removed and that the petitioner merely planted rice on the spaces between the trees, no conversion actually took place. The existence of the coconut trees on the land preserves its character as coconut land. While the petitioner failed to obtain the previous consent of the respondents to the planting of palay on the spaces, this may be attributed to an honest misconception of the law or to a misunderstanding of his tenancy relations that led him to believe in good faith that he could raise palay on said spaces as a side crop.

There is no sufficient ground for the ouster of the petitioner, although he should be prohibited from hereafter planting palay on the coconut land without first obtaining the consent of the respondents. (*BERNARDINO MELENCIO vs. THE COURT OF INDUSTRIAL RELATIONS ET ALS.*, G. R. No. L-4286, April 30, 1952.)

## TAXATION

*Taxation: Tax delinquency; effect of sale at public auction of delinquent properties under C. A. No. 470.*

There being no substantial difference between the provisions of C. A. No. 470 and Act No. 82, regarding the remedies for the collection of delinquent taxes, the ruling in the case of *Government vs. Adriano*, 41 Phil. 117, to the effect that a purchaser at a tax delinquency sale cannot claim any better title than that of his predecessor is applicable to the sale of real estate for non-payment of real estate tax under C. A. No. 470. (*THE DIRECTOR OF LANDS vs. ZACARIAS LIM ET AL.*, G. R. No. L-4372, April 30, 1952.)

*Taxation: Surplus property; imposter.*

Where entity purchased goods from instrumentalities of the U. S. government in the Philippines, it is deemed an imposter and liable to compensating tax. (Sec. 190, Commonwealth Act No. 466, Sec. 1248 Revised Administrative Code applied.) (*P.M.P. NAVIGATION Co. vs. B. MEER*, G. R. No. L-4621, March 24, 1952.)

*Taxation: Exemption; salvaged property; Republic Act No. 361 applied.*

Where vessels, their equipment and/or appurtenances were salvaged on or before June 9, 1949, they are exempt from compensating tax. (*P.M.P. NAVIGATION Co. vs. B. MEER*, G. R. No. L-4621, March 24, 1952.)

*Taxation: Meaning of "gross receipts" in franchise granted to Phil. Long Distance Telephone Co.; Act No. 3436 (1928), as amended by C. A. No. 407, and Act No. 1368 of the Phil. Commission (1905), Sections 4 and 5.*

**FACTS:** Plaintiff Co. is a corporation organized and carrying on business under a special franchise granted by the Phil. Legislature, Act No. 3436 approved on Nov. 28, 1928, as amended by C. A. No. 407, and under the franchise contained in Act No. 1369 of

the Phil. Commission, originally granted to John I. Sabin and Louis Glass on July 6, 1905, and acquired by plaintiff on Aug. 1, 1930, from its immediate predecessor, the Phil. Telephone and Telegraph Co., with the approval of the Public Service Commission.

Under Act No. 1368, Secs. 4 and 5, plaintiff is subject to the franchise tax of 2% of all gross receipts. Act No. 3436 reduced it to 1%. Plaintiff paid the franchise tax but omitted 13 items as basis of the tax, the eight important ones of which may be grouped as amounts due from customers but *uncollected* and either written off or carried on plaintiff's books:

Amount taxed -----	P167,417.25
Amount of Tax -----	3,066.57

Plaintiff paid the amount of P3,997.22 (total) under protest, and asked for the ruling of the Collector of Internal Revenue. Ruling was adverse to plaintiff, hence this action. The trial court absolved defendant from the complaint without pronouncement as to costs. Hence this appeal, on an assignment of errors, including:

1. That the court erred in holding that the term "gross receipts" in plaintiff-appellant's franchise includes amounts due from customers even if uncollected and not actually received by plaintiff and either written off or carried on plaintiff's books.

**HELD:** "Gross receipts" used in the franchise contained in Act 1368 of the Phil. Commission, granted to the telephone Co. by virtue of its authority to require payment of certain percentage of "gross earnings" of a corporation to the Phil. treasury under the Jones Law and the Phil. Bill of 1902, includes amounts due from customers of the Co. but uncollected or written off or carried on company's books, as construed in relation with the Jones Law and Phil. Bill. It includes interests on Bank deposits as they constitute profits of the Co., subject to a franchise tax.

If through a misapprehension of law, an officer has erroneously executed it for a long time, the error may be corrected when the true construction is ascertained. The doctrine of estoppel does not apply. (PHIL. LONG DISTANCE TELEPHONE Co. *vs.* COLLECTOR OF INTERNAL REVENUE, G. R. No. L-3222, January 21, 1952.)

# A T E N E O LAW JOURNAL

Published five times a year during the academic year by the students of the College of Law, Ateneo de Manila.

ANTONIO C. CARAG  
*Editor-in-Chief*

BIENVENIDO GOROSPE  
*Case Editor*

PASCUAL BELTRAN, JR.  
*Legislation Editor*

ISAIAS FERNANDO, JR.  
*Book Review Editor*

## STAFF MEMBERS

### Cases

PRUDENCIO DE GUZMAN,  
JR.  
APELLES PADILLA  
EDUARDO CUDALA  
OSCAR HERRERA  
RAFAEL ABIERA  
PABLO ANGELES, JR.  
IÑIGO REGALADO, JR.

### Legislation

FELIX BACABAC  
DONALD FERRER  
JESUS JARAVATA  
NESTOR NOSCE  
ISIDRO SANTAMARIA, JR.  
RUBEN SUGGANG

### Book Reviews

ANTONIO BONOAN  
IGNACIO MACROHON, JR.  
FRANCISCO MANABAT  
FRANCIS MORAN  
BENITO SABBAN  
TEOFILO SANTOS  
ALFREDO SANZ  
NORBERTO VILLARAMA

### Business

JUAN IMPERIAL,  
*Manager*  
GENARO YUPANGCO  
GENEROSO VILLANUEVA

### Circulation

TOMAS A. MALLONGA,  
*Manager*  
JOSE TENGO  
NICANOR VERGARA

PROF. JESUS DE VEYRA  
*Moderator*

## EDITORIAL BOARD

JOSE C. REYES, *Chairman*  
TEOFISTO GUINGONA, JR., *Vice-Chairman*  
EUGENIO GUILLERMO  
ANTONIO QUINTOS  
ANTONIO DIAZ  
HECTOR HOFIENA

**DEDICATED TO OUR LADY, SEAT OF WISDOM**