REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

EMMANUEL C. OÑATE,
Respondent.

CTA EB NO. 2370
(CTA CASE NO. 9498)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
MAR 18 2022 4:08pm

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DECISION

CASTAÑEDA, JR., J.:

Before the Court *En Banc* is a Petition for Review filed by the Commissioner of Internal Revenue (CIR) under Section 11 of Republic Act No. (RA) 1125, as amended by RA 9282, which seeks to reverse the following:

1. February 19, 2020 Decision[1] of the CTA Third Division[2] the dispositive portion of the decision reads:

> "**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* is hereby **GRANTED**. Respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** the amount of Twenty-Five Million Seven Hundred Two Thousand Nine Hundred Fifty-Two Pesos and 11/100 (₱25,702,952.11) to petitioner, representing erroneously withheld final tax.

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[1] Annex A, Petition for Review, *Rollo*, pp. 20-32.

[2] Penned by Associate Justice Erlinda P. Uy, with the concurrence of Associate Justices Ma. Belen M. Ringpis-Liban and Maria Rowena Modesto-San Pedro.

SO ORDERED."

2. September 17, 2020 Resolution[3] denying the CIR's Motion for Reconsideration for lack of merit.

THE FACTS

The facts, lifted from the assailed Decision and from the records, are as follows:

The Parties

Petitioner CIR is the chief official of the Bureau Internal Revenue and the person authorized to grant refund or credit of taxes erroneously or illegally collected.[4]

Respondent Emmanuel C. Oñate (Oñate) is a resident citizen, with residential address at 2416 Bouganvilla Street, Dasmariñas Village, Makati City and a holder of Taxpayer Identification No. (TIN) 130-826-834-000.[5]

Antecedents

From 1978 to 1980, Oñate opened and maintained seven trust accounts with Land Bank, more particularly described as follows:[6]

Trust Account No.	Date Opened	Beginning Balance
01-014	09.07.78	₱ 250,000.00
01-017	11.16.78	1,312,896.00
01-024	02.23.79	900,000.00
01-075	10.08.79	500,000.00
01-082	10.25.79	200,001.00
01-089	03.18.80	43.98
01-125	03.13.80	188,161.00

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[3] Annex B, Petition for Review, *Rollo*, pp. 33-35.
[4] February 19, 2020 Decision, *Rollo*, p. 21.
[5] *Id.*
[6] *Land Bank of the Philippines v. Emmanuel Oñate,* G.R. No. 192371, January 15, 2014, *see* Exhibit 5, Docket, Vol. 1, p. 497.

Each trust account was covered by an Investment Management Account (IMA) with Full Discretion and has a corresponding passbook where deposits and withdrawals were recorded.[7]

In a letter dated October 8, 1981, however, Land Bank demanded from Oñate the return of ₱4 million it claimed to have been inadvertently deposited to Trust Account No. 01-125 as his additional funds but actually represents the total amount of the checks issued to Land Bank by its corporate borrowers as payment for their pre-terminated loans.[8]

Oñate refused. To settle the matter, a meeting was held, but the parties failed to reach an agreement. Since then, the issue of "miscrediting" remained unsettled.[9]

Then on June 21, 1991, Land Bank unilaterally applied the outstanding balance in all of Oñate's trust accounts against his resulting indebtedness by reason of the "miscrediting" of funds. Although it exhausted the funds in all of Oñate's trust accounts, Land Bank was able to debit the amount of ₱1,528,583.48 only.[10]

To recoup the remaining balance of Oñate's indebtedness, Land Bank filed with the Regional Trial Court (RTC) a Complaint for Sum of Money seeking to recover the amount of ₱8,222,687.89 plus interest at the legal rate of 12% per annum computed from May 15, 1992 until fully paid.[11]

In his Answer, Oñate asserted that the set-off was without legal and factual bases. He specifically denied any knowledge or involvement in the transaction between Land Bank and its clients. He also denied that he made fraudulent misrepresentation to induce the bank to deposit to his Trust Account No. 01-125 as his additional capital the payments allegedly tendered by the bank's corporate borrowers. He maintained that all the funds in his accounts came from legitimate sources and that he was totally unaware of and had nothing to do with the alleged "miscrediting."[12]

On May 31, 2006, the RTC rendered a Decision dismissing Land Bank's Complaint for its failure to establish that the amount of ₱4,086,888.89 allegedly "miscredited" to Oñate's Trust Account No. 01-125 actually came from the investments of Land Bank's clients. Hence, the RTC ordered Land Bank to restore the total amount of ₱1,471,416.52 which the bank unilaterally debited from Oñate's five trust accounts. The dispositive portion of the RTC's Decision reads:[13] ge

[7] *Id.*
[8] *Id.*, pp. 498-499.
[9] *Id.*, p. 499.
[10] *Id.*
[11] *Id.*
[12] *Id.*, p. 500.
[13] *Id.*, pp. 504-505.

> "**WHEREFORE**, in view of all the foregoing, decision is hereby rendered dismissing the complaint and ordering [Land Bank] to pay [Oñate] the total amount of P1,471,416.52 representing the total amount of funds debited from the five (5) trust accounts of the defendant with legal rate of interest of 12% per *annum*, compounded yearly, effective on 21 June 1991 until fully paid.
>
> No pronouncement as to costs.
>
> **SO ORDERED**."

Both parties appealed to the Court of Appeals (CA).[14]

In its December 18, 2009 Decision, the CA denied Land Bank's appeal and granted that of Oñate. The CA affirmed the RTC's ruling that Land Bank failed to establish the source of the funds it claimed to have been erroneously credited to Oñate's account. With respect to Oñate's appeal, the CA agreed that he is entitled to the unaccounted withdrawals which, as found by the Board, stood at ₱60,663,488.11 and $3,210,222.85. The CA's ruling was anchored on the bank's failure to observe Sections X401 and X425 of the Bangko Sentral ng Pilipinas Manual of Regulations for Banks (MORB) requiring it to give full disclosure of the services it offered and conduct its dealings with transparency, as well as to render reports that would sufficiently apprise its clients of the significant developments in the administration of their accounts. Aside from allowing undocumented withdrawals, the CA likewise noted that Land Bank failed to keep an accurate record and render an accounting of Oñate's accounts. For the CA, the entries in the passbooks are not sufficient because they do not specify where the funds withdrawn from Oñate's accounts were invested.[15]

The dispositive portion of the CA's Decision reads:[16]

> "**WHEREFORE**, the appeal of plaintiff-appellant Land Bank is **DENIED**.
>
> The appeal of defendant-appellant Emmanuel Oñate is hereby partially **GRANTED**. Accordingly, the May 31, 2006 Decision of the Regional Trial Court, Branch 141, Makati City is hereby **MODIFIED** in that, in addition to the previous grant of ₱1,471,416.52 representing the total amount of funds debited from defendant-appellant Oñate's trust accounts, plaintiff-appellant Land Bank is hereby ordered to pay defendant-appellant Oñate the sum of ₱60,663,488.11 and $3,210,222.85 representing the undocumented withdrawals it debited from the latter's trust account with interest at the rate of 12% per *annum*, compounded yearly from June 21, 1991 until fully paid.
>
> **SO ORDERED**."

[14] *Id.*
[15] *Id.*, pp. 505-506.
[16] *Id.*, p. 506.

Land Bank filed a Petition for Review on *Certiorari* with the Supreme Court.[17]

On January 15, 2014, in the case of *Land Bank of the Philippines v. Emmanuel Oñate*,[18] the Supreme Court decided in favor of Oñate where it affirmed with modification the CA decision. The high court found that as a consequence of its failure to prove the source of the "miscredited" fund, Land Bank had no right to debit the amount of ₱1,471,416.52 and must, therefore, return the same.[19] The Supreme Court decision reads in pertinent part:[20]

> "In the case at bench, while Oñate protested the setting off, no proof was presented that he formally demanded for the return of the amount so debited prior to the filing of the Complaint. Quite understandably so because at that time he could not determine with some degree of certainty the outstanding balances of his accounts as Land Bank neglected on its duty to keep him updated on the status of his accounts. Land Bank even undertook to furnish him with 'the exact computation' of what remains in his accounts after the set off. But this never happened until Land Bank initiated the Complaint on September 7, 1992. Oñate, on the other hand, filed his Answer (With Compulsory Counterclaim) on May 26, 1993. In other words, we cannot reckon the running of the interest prior to the filing of the Complaint or Oñate's Counterclaim as no demand prior thereto was made. Neither could the interest commence to run at the time of filing of any of aforesaid pleadings (as to constitute judicial demand) since the undocumented withdrawals in the sums of ₱60,663,488.11 and US$3,210,222.85, as well as the amount actually debited from all of Oñate's accounts, were determined only after the Board submitted its consolidated report on August 16, 2004 or more than 10 years after Land Bank and Oñate filed their Complaint and Answer, respectively. Note too that while Oñate sought to recover the amount of undocumented withdrawals before the RTC, the same was denied in the latter's May 31, 2006 Decision. The RTC granted Oñate only the total amount of funds debited from his trust accounts. It was only when the CA rendered its December 18, 2009 Decision that Oñate was awarded the undocumented withdrawals. Hence, we find it just and proper to reckon the running of the interest of 12% per *annum*, compounded yearly, for the debited amount and undocumented withdrawals on different dates. The debited amount of ₱1,471,416.52, shall earn interest beginning May 31, 2006 or the day the RTC rendered its Decision granting said amount to Oñate. As to the undocumented withdrawals of ₱60,663,488.11 and US$3,210,222.85, the legal rate of interest should start to run the day the CA promulgated its Decision on December 18, 2009.
>
> During the pendency of this case, however, the Monetary Board issued Resolution No. 796 dated May 16, 2013, stating that in the absence of express stipulation between the parties, the rate of interest in loan or forbearance of any money, goods or credits and the rate allowed in judgments shall be 6% per *annum*. Said Resolution is embodied in Bangko

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[17] *Id.*
[18] G.R. No. 192371, January 15, 2014.
[19] *Id.*, pp. 514-515.
[20] *Id.*, pp. 523-524.

> Sentral ng Pilipinas Circular No. 799, Series of 2013, which took effect on July 1, 2013. Hence, the 12% annual interest mentioned above shall apply only up to June 30, 2013. Thereafter, or starting July 1, 2013, the applicable rate of interest for both the debited amount and undocumented withdrawals shall be 6% per *annum* compounded annually, until fully paid.
>
> **WHEREFORE**, the Petition is hereby **DENIED** and the December 18, 2009 Decision of the Court of Appeals in CA-G.R. CV No. 89346 is **AFFIRMED with modification** in that the interest of 12% per *annum* compounded annually, for the debited amount of ₱1,471,416.52 shall commence to run on May 31, 2006, while the same rate of interest shall apply to the undocumented withdrawals in the amounts of ₱60,663,488.11 and US$3,210,222.85 starting December 18 2009. Beginning July 1, 2013, however, the applicable rate of interest on all amounts awarded shall earn interest at the rate of 6% per *annum* compounded yearly, until fully paid.
>
> **SO ORDERED.**"

On November 28, 2014, Land Bank finally paid Oñate the judgment award. The Land Bank payment represented the monetary award by the Supreme Court less the 20% final tax withheld on interest/yield from bank deposits/deposit substitutes amounting to Seven Million Nine Hundred Thirteen Thousand One Hundred Thirty-Four and 58/100 Pesos (₱7,913,134.58) and Seventeen Million Seven Hundred Eighty-Nine Thousand Eight Hundred Seventeen and 53/100 Pesos (₱17,789,817.53) from Peso and US Dollar awards, respectively.[21]

On November 4, 2016, taxpayer Oñate filed a written claim for refund or tax credit for the total amount of Twenty-Five Million Seven Hundred Two Thousand Nine Hundred Fifty-Two and 11/100 Pesos (₱25,702,952.11) pursuant to Section 229 of the National Internal Revenue Code (NIRC) for having been collected erroneously by the BIR, broken down as follows:

Interest Income	20% Final Withholding Tax	Reference
₱ 39,565,672.93	₱ 7,913,134.58	Exhibit P-3, Docket, Vol. 1, pp. 482-483
88,949,087.66	17,789,817.53	Exhibit P-4, Docket, Vol. 1, pp. 484-485
₱ 128,514,760.59	₱ 25,702,952.11	

CTA Third Division

Alleging that there was no action from the CIR on his administrative claim for refund, Oñate filed a Petition for Review in the court *a quo*.[22]

Raising the following Special and Affirmative Defenses, the CIR filed his Answer on February 28, 2017:

[21] February 19, 2020 Decision, *Rollo*, p. 21.
[22] *Id.*

"1. The interest which is the subject of the instant case is not interest from a long-term investment but interest from a judgment award. Hence, it is subject to a final withholding tax.

2. Assuming but without admitting that it is an interest from a long-term investment, the corresponding interest given by the bank arising from a long-term investment are only covered by the exemption under Section 24(B)(1).

3. In an action for tax credit or refund, the burden is upon the taxpayer to prove that he is entitled thereto, and failure to discharge the said burden is fatal to the claim (*Emmanuel & Zenaida Aguilar v. Commissioner, CA-GR No. Sp 16432, March 30, 1990 cited in Aban, Law of Basic Taxation in the Philippines, 1st Edition, p. 206*);

4. Claims for refund are construed strictly against the claimant, the same partake the nature of exemption from taxation (*Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95*) and as such, they are looked upon with disfavor (*Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 121*);

5. Finally, petitioner should be reminded that taxes are important because it is the lifeblood of the government and so should be calculated without unnecessary hindrance (*Commissioner vs. Algue, Inc., L-28896, 17 February 1998*). Taxes are enforced proportional contribution from persons and property levied by the state, thus, no one is considered entitled to recover that which he must give up to another-*Non videtur quisquam id capere quod ei necesse est alii restitutere.*"[23]

Thereafter, the Pre-Trial Conference was held on August 22, 2017. By agreement, the parties filed their *Joint Stipulation of Facts and Issues* on September 4, 2017. Then, the court *a quo* issued the Pre-Trial Order on October 11, 2017.[24]

During trial, Oñate testified by way of a Judicial Affidavit and Supplemental Judicial Affidavit, to support the material allegations in his Petition for Review. He filed his *Formal Offer of Evidence* on March 8, 2018, all of which were admitted by the trial court in the Resolution dated April 19, 2018.[25]

On the other hand, the CIR presented Revenue Officer Alvin B. Lucas, who testified by way of Judicial Affidavit on September 19, 2018, then the CIR filed his *Formal Offer of Evidence*, to which petitioner filed his *Comment (To Respondent's Formal Offer of Evidence dated 18 September 2018).* In the Resolution dated December 13, 2018, all pieces of respondent's evidence were admitted, subject to the trial court's final evaluation and/or appreciation

[23] February 19, 2020 Decision, *Rollo*, p. 22.
[24] *Id.*
[25] *Id.*

of their purposes, materiality, relevancy, and probative value to the issues involved in this case.[26]

Oñate filed his Memorandum on February 4, 2019, while the CIR filed a Manifestation and Motion on February 18, 2019, stating that he is adopting all of his arguments found in his Answer dated February 27, 2017. Thereafter, the case was submitted for decision in the Resolution dated March 6, 2019.[27]

On February 19, 2020, the trial court promulgated its Decision, which granted Oñate's refund claim in full.

On June 24, 2020, the CIR then filed a Motion for Reconsideration, which the court *a quo* denied for lack of merit in its September 17, 2020 Resolution.[28]

CTA En Banc

Aggrieved, the CIR filed a Petition for Review on November 23, 2020 before the Court *En Banc* and prayed for the reversal of the February 19, 2020 Decision and the September 17, 2020 Resolution.[29]

On January 18, 2021, Oñate filed his Comment/Opposition (Re: Petition for Review dated November 20, 2020) by registered mail.[30]

In a Resolution dated February 8, 2021, the case was submitted for decision.[31]

THE ISSUES

Submitted for the Court's resolution are the alleged errors raised by the CIR:[32]

1. Whether the Honorable Court in Division committed reversible error in granting respondent's Petition for Review and ordering the refund or issuance of tax credit certificate in the amount of Twenty-Five Million Seven Hundred Two Thousand Nine Hundred Fifty-Two Pesos and 11/100 (₱25,702,952.11) representing the final tax withheld by Land Bank and subsequently remitted to the BIR; and,

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[26] February 19, 2020 Decision, *Rollo*, p. 23.
[27] *Id.*
[28] *Rollo*, pp. 33-35.
[29] *Rollo*, pp. 7-18.
[30] *Rollo*, pp. 50-65.
[31] *Rollo*, pp. 70-71.
[32] Petition for Review, *Rollo*, pp. 11-12.

2. Whether the Honorable Court in Division committed reversible error in holding that the legal interest imposed on judgement award is not taxable.

THIS COURT'S RULING

The Court resolves to *deny* the petition.

First, it was established and remains undisputed that the monetary award received by Oñate was based on *Land Bank of the Philippines v. Emmanuel Oñate*,[33] consisting of the undocumented withdrawals from his trust accounts plus interest. The award stemmed from the finding of the high court that Land Bank, which was remiss in complying with its obligations under the IMA, was guilty of negligence because it failed to maintain an accurate record that would have allowed it to detect and prevent over withdrawals.[34] The Supreme Court, thus, concluded that Land Bank had no right to debit the undocumented withdrawals from Oñate's *trust accounts* and must, therefore, restore the same to him.[35]

In the dispositive portion, the Supreme Court affirmed the CA decision with modification on the proper computation of the 12% and 6% interest rates on the undocumented withdrawals, thus:

> "**WHEREFORE**, the Petition is hereby **DENIED** and the December 18, 2009 Decision of the Court of Appeals in CA-G.R. CV No. 89346 is **AFFIRMED with modification** in that the interest of 12% per *annum* compounded annually, for the debited amount of ₱1,471,416.52 shall commence to run on May 31, 2006, while the same rate of interest shall apply to the undocumented withdrawals in the amounts of ₱60,663,488.11 and US$3,210,222.85 starting December 18 2009. Beginning July 1, 2013, however, the applicable rate of interest on all amounts awarded shall earn interest at the rate of 6% per *annum* compounded yearly, until fully paid.
>
> **SO ORDERED.**"[36]

The CIR's reliance on U.S. jurisprudence pertaining to the taxability of damages to compensate for lost capital or impairment of capital[37] actually supports Oñate's claim for refund insofar as the interests awarded by the Supreme Court were *interest on the funds that were wrongfully taken from his trust accounts with Land Bank.*

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[33] G.R. No. 192371, January 15, 2014.
[34] *Land Bank of the Philippines v. Emmanuel Oñate,* G.R. No. 192371, January 15, 2014, Exhibit 5, Docket, Vol. 2, pp. 515-518.
[35] *Id.*, Docket, Vol. 2, pp. 514-515.
[36] *Id.*, Docket, Vol. 2, p. 524.
[37] Petition for Review, Rollo, pp. 15-16.

Compensatory interest is that imposed by law or by the courts as penalty or indemnity for damages.[38] It is demandable by law under Article 2209 of the Civil Code even in the absence of express stipulation, verbal or written, regarding payment of interest.'[39]

Accordingly, the interest awarded were, in fact, interest income that Oñate could have earned on the *capital* he invested with the bank. The court *a quo* is, thus, correct in finding that the legal interests imposed in the Supreme Court's judgment award was imposed by the Supreme Court as a form of indemnity for the interest of the funds or capital lost by Oñate and would have earned had they not been wrongfully withdrawn by Land Bank.

This is consistent with the rule in civil law that the indemnification for damages should comprehend not only the value of the loss suffered, *i.e.,* the capital or funds invested by Oñate, but also the profits which he failed to obtain, *i.e.,* interest on the same capital or funds.[40]

Second, Section 24(B)(1) of the National Internal Revenue Code of 1997 (1997 NIRC) exempts "interest income from long-term deposit or investment in the form of savings, common or individual *trust funds*, deposit substitutes, *investment management accounts* and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas (BSP)" from income tax thus:

"CHAPTER III

TAX ON INDIVIDUALS

SEC. 24. ***Income Tax Rates.*** -

(A) *Rates of Income Tax on Individual Citizen and Individual Resident Alien of the Philippines.* -

xxx xxx xxx

(B) *Rate of Tax on Certain Passive Income:* -

(1) Interests, Royalties, Prizes, and Other Winnings. – A final tax at the rate of twenty percent (20%) is hereby imposed upon the amount of interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements; royalties, except on books, as well as other literary works and musical compositions, which shall be imposed a final tax of ten percent

[38] *Decena v. Asset Pool A (SPV-AMC), Inc.*, G.R. No. 239418, October 12, 2020.
[39] "Article. 2209. If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six per cent per annum. (1108)"
[40] "Article 2200. Indemnification for damages shall comprehend not only the value of the loss suffered, but also that of the profits which the obligee failed to obtain. (1106)."

(10%); prizes (except prizes amounting to Ten thousand pesos (P10,000) or less which shall be subject to tax under Subsection (A) of Section 24; and other winnings (except winning amounting to Ten thousand pesos (P10,000) or less from Philippine Charity Sweepstakes and Lotto which shall be exempt), derived from sources within the Philippines: *Provided, however*, That interest income received by an individual taxpayer (except a nonresident individual) from a depository bank under the expanded foreign currency deposit system shall be subject to a final income tax at the rate of fifteen percent (15%) of such interest income: *Provided, further*, That interest income from long-term deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas (BSP) shall be exempt from the tax imposed under this Subsection: *Provided, finally*, That should the holder of the certificate pre-terminate the deposit or investment before the fifth (5th) year, a final tax shall be imposed on the entire income and shall be deducted and withheld by the depository bank from the proceeds of the long-term deposit or investment certificate based on the remaining maturity thereof:

Four (4) years to less than five (5) years - 5%;

Three (3) years to less than (4) years - 12%; and

Less than three (3) years - 20%" (*Underscoring supplied*)

Interest income earned from trust accounts opened and maintained by Oñate with Land Bank, which became the subject of litigation and subsequently awarded in 2014 by the Supreme Court in *Land Bank of the Philippines v. Emmanuel Oñate*,[41] are, therefore, exempt from tax on passive income under the express provision of Section 24(B)(1).

Section 22 (FF) of the 1997 NIRC, as amended, also defines the term "long term deposit or investment certificate" as follows:

"Section 22. Definitions. – When used in this Title:

xxx xxx xxx

(FF) The term '*long-term deposit or investment certificates*' shall refer to certificate of time deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments with a maturity period of not less than five (5) years, the form of which shall be prescribed by the *Bangko Sentral ng Pilipinas* (BSP) and issued by banks only (not by non-bank financial intermediaries and finance companies) to individuals in denominations of Ten thousand pesos (P10,000) and other denominations as may be prescribed by the BSP." *jc*

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[41] G.R. No. 192371, January 15, 2014.

The exemption under Section 24(B)(1) of the 1997 NIRC is too plain to be mistaken and too categorical to be misinterpreted, as aptly found by the court *a quo*:

> "A perusal of the judgment award rendered in favor of petitioner, in *Land Bank of the Philippines vs. Emmanuel Oñate*, shows that the Supreme Court imposed legal interest in favor of the petitioner on the judgment awards for the debited amount of ₱1,471,416.52 and undocumented withdrawals in the amounts of ₱60,663,488.11 and US$3,210,222.85.
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> In the said Decision, legal interest was imposed because of the 'unilateral offsetting of funds without legal justification and the undocumented withdrawals are tantamount to forbearance of money.' Thus, it was held that 'the unwarranted withholding of money, which rightfully pertains to another, amounts to a forbearance of money, which can be considered as an involuntary loan.'
>
> Applying the aforequoted jurisprudential pronouncement in this case, it is clear that the legal interest imposed on the judgment award subject of this case involves compensatory interest. To be specific, the legal interest imposed in the judgment award in favor of petitioner was imposed by the Supreme Court, as a form of penalty or indemnity for damages, as opposed to compensation fixed by the parties for the use or forbearance of money.
>
> Considering that compensatory interest, or the legal interest imposed by the courts on a judgment award in favor of a party litigant, is considered a form of penalty or indemnity for damages, it cannot rightfully be considered as taxable income. Thus, the subject legal interest awarded to the petitioner should not have been subjected to final withholding tax rate of twenty percent (20%) based on Section 24 (B) (1) 26 of the NIRC of 1997, as amended." (*Underscoring supplied; citations omitted*)

Third, the court *a quo* applied the *origin of the claim test* based on Oñate's arguments to determine if the origin and character of the award by the Supreme Court was taxable.

In *Vicente Madrigal, et al. v. James J. Rafferty, et al.*,[42] a refund claim to recover income tax allegedly wrongfully and illegally collected by the Collector of Internal Revenue called for consideration of the Income Tax Law, a law of American origin, with reference to the Civil Code, a law of Spanish origin. The Supreme Court *En Banc* ruled that since our tax laws are of American origin, interpretations by American courts of our parallel tax laws have persuasive effect on the interpretation of these laws:

> "In connection with the decision above quoted, it is well to recall a few basic ideas. The Income Tax Law was drafted by the Congress of the United States and has been by the Congress extended to the Philippine Islands. Being thus a law of American origin and being peculiarly intricate in its provisions, the authoritative decision of the official who is charged

[42] G.R. No. L-12287, August 7, 1918.

> with enforcing it has peculiar force for the Philippines. It has come to be a well-settled rule that great weight should be given to the construction placed upon a revenue law, whose meaning is doubtful, by the department charged with its execution. (U.S. vs. Cerecedo Hermanos y Cia. [1907], 209 U.S., 338; *In re* Allen [1903], 2 Phil., 630; Government of the Philippine Islands vs. Municipality of Binalonan, and Roman Catholic Bishop of Nueva Segovia [1915], 32 Phil., 634.) We conclude that the judgment should be as it is hereby affirmed with costs against appellants. So ordered."

More recently, the Supreme Court *En Banc* in *Chamber of Real Estate and Builders' Associations, Inc. v. The Honorable Executive Secretary Alberto Romulo, et al.* reiterated this tenet by stating again that since "our income tax laws are of American origin, interpretations by American courts of our parallel tax laws have persuasive effect on the interpretation of these laws."[43]

In this connection, the *origin of the claim test* set forth in American jurisprudence by the U.S. Supreme Court in *U.S. v. Gilmore*[44] can guide the Court in the interpretation of existing tax laws to resolve the issues in this case.

In *U.S. v. Gilmore*, business owner Gilmore sued for refund of part of the income taxes paid by him for the years 1953 and 1954, on the ground that legal expenses incurred by him in defending divorce litigation with his former wife were deductible under Section 23(a)(2) of the Internal Revenue Code of 1939, as amended, which allots as deductions from gross income "ordinary and necessary expenses... incurred... for the conservation... of property held for the production of income." His gross income was derived almost entirely from his salary as president of three corporations which were franchised General Motors dealers and from dividends from his controlling stock in such corporations. His wife had sued for divorce, alimony, and an alleged community property interest in such stock, and he alleged that, had he not succeeded in defeating these claims, he might have lost his stock, his corporate positions, and the dealer franchises, from which nearly all of his income was derived.

There, the U.S. Supreme Court attempted to distinguish the deductibility of *business* expenses from *personal* expenses. The Court ruled that a husband's legal expenses incurred in a divorce proceeding were nondeductible *personal*, rather than *business*, expenses since the wife's claims stemmed entirely from the marital relationship. *Consequences are different from origin.* Thus, Gilmore's legal expenses could *not* be deducted even though his wife's claims might cause him to lose his controlling interest in three General Motors car dealer franchises. That was clearly a business, and it was his principal means of livelihood. Even taxpayer Gilmore's claim that the reputation-damaging charges of marital infidelity might cause General

[43] G.R. No. 160756, March 9, 2010.
[44] 372 U.S. 39, February 18, 1963.

Motors to exercise its right to cancel the husband's franchises carried no weight. These facts did *not* convert the *origin* of the legal expenses into a business expense:

> "The principle we derive from these cases is that the characterization, as "business" or "personal", of the litigation costs of resisting a claim depends on whether or not the claim *arises in connection with* the taxpayer's profit-seeking activities. It does not depend on the *consequences* that might result to a taxpayer's income-producing property from a failure to defeat the claim, for a *Lykes* teaches, that would carry us too far" and would not be compatible with the basic lines of expense deductibility drawn by Congress. xxx. Yet it cannot well be supposed that § 23(a)(1) would have afforded him a deduction, since his expenditures, made in connection with a marital litigation, could hardly be deemed "expenses... incurred... in carrying on any trade or business." xxx.
>
> For these reasons, we resolve the conflict among the lower courts on the question before us (note 4, *supra*) in favor of the view that the origin and character of the claim with respect to which an expense was incurred, rather than its potential consequences upon the fortunes of the taxpayer, is the controlling basic test of whether the expense was "business" or "personal" and hence whether it is deductible or not under § 23(a)(2). We find the reasoning underlying the cases taking the "consequences" view unpersuasive." (*Underscoring supplied; citations omitted*)

Accordingly, the U.S. Supreme Court held that the *origin and character of the claim* with respect to which an expense was incurred, rather than its potential *consequences* upon the fortunes of the taxpayer, is the controlling basic test of whether the expense was business or personal and, hence, whether or not it is deductible under Section 23(a)(2). The wife's claims stemmed entirely from the marital relationship, and not, under any tenable view of things, from income producing activity. Therefore, none of Gilmore's expenditures in resisting these claims can be deemed business expenses deductible under Section 23(a)(2).

Applying the *origin of the claim test* in the case at bar, the payments received by Oñate from winning the case against Land Bank clearly *originated* from the trust accounts he invested in the bank. Because the Supreme Court ordered the bank to return the undocumented withdrawals from the trust accounts, those funds are merely a return of capital to the taxpayer. With respect to the interest that were also awarded with the restored funds, they are in the nature of an indemnity to Oñate for the income he could have earned from the funds had they not been debited to begin with. It should be noted that the legal interest awarded were reckoned from May 31, 2006 and December 18, 2009. Thus, if the funds that were returned to Oñate had only remained in the trust accounts with Land Bank, they would have earned interest income which are expressly exempted by Section 24(B)(1) of the 1997 NIRC.

Considering the foregoing pronouncements, there is no cogent reason to reverse or modify the ruling of the court *a quo*.

WHEREFORE, premises considered, the Petition for Review is **DENIED** for lack of merit. Accordingly, the February 19, 2020 Decision and the September 17, 2020 Resolution are **AFFIRMED**.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(Inhibited)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice