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TAX APPEAL COURT
STATE OF HAWAII
FILED

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Attorneys for the Director
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IN THE TAX APPEAL COURT OF THE
STATE OF HAWAII

In the Matter of the Tax)	Case No. 2669
Appeal)	
)	
of)	FINDINGS OF FACT AND
)	CONCLUSIONS OF LAW
)	
GENTRY-PACIFIC, LTD.,)	
)	
Appellant.)	
_____)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This case was argued before the Honorable Robert G. Klein on April 6, 1990. Dawn Suyenaga Candon represented the Taxpayer and Cynthia Unwin represented the Director. The court, having considered all the evidence presented in this action by stipulation, and the oral and written arguments of counsel, enters the following findings of fact and conclusions of law. If it should later be determined that any of these findings of fact should be properly deemed conclusions of law,

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THE SEAL OF SAID COURT.

DAVID I.D. FONG

Clerk

or that any of these conclusions of law should properly be deemed findings of fact, the court so concludes on those legal issues or finds as to those facts.

Findings of Fact

1. The court adopts the Stipulation of Facts, Exhibits "1" to "7", filed in this case on February 15, 1990, and hereby incorporates same by reference.

2. This case presents the issue of whether a conveyance of real property from a partner to a partnership (as a contribution to capital) is subject to the conveyance tax under H.R.S. Chapter 247.

3. Taxpayer is a Hawaii corporation having its principal office in Honolulu, Hawaii. Thomas H. Gentry, an individual, is the sole shareholder of Taxpayer.

4. Taxpayer is the general partner of Gentry Properties ("Partnership"), a Hawaii limited partnership having its principal place of business in Waipahu, Hawaii.

5. Partnership's limited partner is Thomas H. Gentry.

6. Taxpayer and Thomas H. Gentry are Partnership's only partners.

7. Partnership was formed to manage and develop rental income properties.

8. Before April 25, 1989, Taxpayer was the fee owner of real property identified as lots 7833 and 7834 as

shown on Map 510 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1000 of John Ii Estate, Limited, being a portion of the land described in Transfer Certificate of Title No. 270,633 (the "Real Property").

10. On April 25, 1989, Taxpayer conveyed all of its interest in the Real Property by warranty deed to Partnership.

11. Taxpayer's April 25, 1989, conveyance of the Real Property to Partnership was part of Taxpayer's initial capital contribution to Partnership.

12. Taxpayer's total initial capital contribution consisted of real property (including the Real Property), whose aggregate net fair market value equalled \$7,978,000.00.

13. Thomas H. Gentry's total initial capital contribution consisted of real property whose aggregate net fair market value equalled \$67,346,000.00.

14. In return for Taxpayer's initial capital contribution, Taxpayer received a 10 per cent interest in Partnership.

15. Thomas H. Gentry received a 90 per cent interest in Partnership in return for his initial capital contribution.

16. Taxpayer did not receive any additional partnership interest in Partnership, nor any cash, tangible property, negotiable instruments, or goods in return for Taxpayer's conveyance of the Real Property to Partnership.

17. By stipulation, the value of the partnership interest Taxpayer received in exchange for the conveyance of the Real Property is not an issue in this case.

Conclusions of Law

1. Section 247-1, H.R.S., imposes a tax on all conveyances of interests in real property from one person to another.

2. H.R.S. § 247-2 provides that the tax is to be based on the actual and full consideration paid or to be paid for the conveyance.

3. Taxpayer and Partnership are separate legal persons for purposes of the conveyance tax.

4. Taxpayer conveyed an interest in real property to Partnership by the April 25, 1989, warranty deed.

5. The partnership interest Taxpayer received in return for the conveyance of the Real Property to Partnership is consideration for the conveyance within the meaning of the conveyance tax law.

6. Chapter 247, Hawaii Revised Statutes, does not provide any exemption for conveyances from a partner to a partnership.

7. The amount of conveyance tax paid by Taxpayer, \$1,138.50, is legally due the State of Hawaii and judgment should be entered in favor of the Director for the total amount in dispute.

DATED: Honolulu, Hawaii, MAY 10 1990.

Robert G. Klein
JUDGE OF THE ABOVE-ENTITLED COURT



APPROVED AS TO FORM:

Dawn Suyenaga Candon

DAWN SUYENAGA CANDON
Attorney for Gentry-Pacific,
Ltd.