

Opinion of the Court.

KIMEN v. ATLAS EXCHANGE NATIONAL BANK
OF CHICAGO.

CERTIORARI TO THE APPELLATE COURT, FIRST DISTRICT, OF
ILLINOIS.

No. 662. Argued April 10, 1935.—Decided April 29, 1935.

Decided upon the authority of *Awotin v. Atlas Exchange National Bank*, ante, p. 209.

275 Ill. App. 638, affirmed.

CERTIORARI, 294 U. S. 703, to review the reversal of a judgment in an action for breach of the bank's contract to repurchase bonds and in general assumpsit to recover the purchase price.

Mr. Edward C. Higgins, with whom *Messrs. Samuel A. Ettelson* and *Herbert A. Salzman* were on the brief, for petitioner.

Mr. Daniel M. Healy filed a brief on behalf of respondent.

MR. JUSTICE STONE delivered the opinion of the Court.

This case, which comes here on certiorari to the Appellate Court of Illinois, First District, is a companion case to *Awotin v. Atlas Exchange National Bank of Chicago*, decided this day, ante, p. 209.

On November 2, 1929, petitioner purchased of respondent, a national banking association, four \$1,000 mortgage bonds of the First National Company Collateral Trust. As an inducement and consideration for the purchase, the respondent agreed to repurchase the bonds at their maturity, at par and accrued interest. In a suit brought by petitioner, to recover for breach of the contract and in general assumpsit to recover the purchase price of the

bonds, the trial court gave judgment for petitioner, which was reversed by the Appellate Court, 275 Ill. App. 638 (opinion not reported), following its decision in *Awotin v. Atlas Exchange National Bank*, *supra*. The Supreme Court of the State denied leave to appeal. The issues raised are the same as those in the *Awotin* case. For the reasons stated in our opinion in that case, the judgment is

Affirmed.

HARTLEY, EXECUTOR, *v.* COMMISSIONER OF
INTERNAL REVENUE.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE
EIGHTH CIRCUIT.

No. 602. Argued April 11, 12, 1935.—Decided April 29, 1935.

1. Under the Revenue Acts of 1921 and 1924, the basis for computing gain or loss on the sale of property of an estate, and its depletion or depreciation, for the purposes of taxing income returnable by an executor, is its value at the decedent's death, rather than its cost to the decedent or its value on March 1, 1913, if acquired before that date. Pp. 217-218.
 2. The reenactment, without material change, of the pertinent provisions of § 202 of the Revenue Act of 1921 was a congressional recognition and approval of the interpretation of the section by the treasury regulations, which gave them the force of law. P. 220.
 3. The incorporation into § 113 (a) (5), Revenue Act of 1928, of the substance of the Treasury Regulation prescribing that gains or losses of an estate should be computed on the basis of the value of the property at the date of the decedent's death, was intended to clarify the law, not to change it. *Id.*
- 72 F. (2d) 352, affirmed.

CERTIORARI, 294 U. S. 700, to review the affirmance of a decision of the Board of Tax Appeals, 27 B. T. A. 952, sustaining a determination of income taxes by the Commissioner of Internal Revenue.