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## SUPREME COURT OF THE UNITED STATES

### Syllabus

UNITED STATES *v.* A PARCEL OF LAND, BUILDING,  
APPURTENANCES, AND IMPROVEMENTS, KNOWN AS  
92 BUENA VISTA AVENUE, RUMSON, NEW JERSEY, ET  
AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE  
THIRD CIRCUIT

No. 91-781. Argued October 13, 1992—Decided February 24,  
1993

The Government filed an *in rem* action against the parcel of land on which respondent's home is located, alleging that she had purchased the property with funds given her by Joseph Brenna that were "the proceeds traceable" to illegal drug trafficking, and that the property was therefore subject to seizure and forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U. S. C. §881(a)(6). The District Court ruled, among other things, that respondent, who claims that she had no knowledge of the origins of the funds used to buy her house, could not invoke the "innocent owner" defense in §881(a)(6), which provides that "no property shall be forfeited . . . , to the extent of the interest of an owner, by reason of any act . . . established by that owner to have been committed . . . without the knowledge or consent of that owner." The Court of Appeals remanded on interlocutory appeal, rejecting the District Court's reasoning that the innocent owner defense may be invoked only by persons who are bona fide purchasers for value and by those who acquired their property interests before the acts giving rise to the forfeiture took place.

*Held:* The judgment is affirmed.  
937 F. 2d 98, affirmed.

JUSTICE STEVENS, joined by JUSTICE BLACKMUN, JUSTICE O'CONNOR, and JUSTICE SOUTER, concluded that an owner's lack of knowledge of the fact that her home had been purchased with the proceeds of illegal drug transactions constitutes a defense to a forfeiture proceeding under the statute. Pp. 5-18.

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(a) The task of construing the statute must be approached with caution. Although customs, piracy, and revenue laws have long provided for the official seizure and forfeiture of tangible property used in the commission of criminal activity, the statute marked an important expansion of governmental power by authorizing the forfeiture of proceeds from the sale of illegal goods and by creating an express and novel protection for innocent owners. Pp. 5-10.

(b) The statute's use of the unqualified term "owner" in three places is sufficiently unambiguous to foreclose any contention that the protection afforded to innocent owners is limited to bona fide purchasers. That the funds respondent used to purchase her home were a gift does not, therefore, disqualify her from claiming that she is such an owner. Pp. 10-11.

(c) Contrary to the Government's contention, the statute did not vest ownership in the United States at the moment when the proceeds of the illegal drug transaction were used to pay the purchase price of the property at issue, thereby preventing respondent from ever becoming an "owner." Neither of the "relation back" doctrines relied on by the Government—the doctrine embodied in §881(h), which provides that "[a]ll right, title and interest in property described in subsection (a) . . . shall vest in the United States upon commission of the act giving rise to forfeiture under this section," or the common-law doctrine, under which a forfeiture decree effectively vests title to the offending res in the Government as of the date of the offending conduct—makes the Government an owner of property before forfeiture has been decreed. Assuming that the common-law doctrine applies, it is clear that the fictional and retroactive vesting of title thereunder is not self-executing, but occurs only when the Government wins a judgment of forfeiture. Until then, someone else owns the property and may invoke any available defense, including the assertion that she is an innocent owner. A reading of §881(h) demonstrates that it did not dispense with, but merely codified, the common-law doctrine and leads to the same result. The legislative history reveals that §881(h) applies only to property that is subject to civil forfeiture under §881(a). Although proceeds traceable to illegal drug transactions are, in §881(h)'s words, "property described in subsection" (a)(6), the latter subsection exempts from civil forfeiture proceeds owned by one unaware of their criminal source and therefore must allow an assertion of the innocent owner defense *before* §881(h) applies. Pp. 11-17.

(d) This Court need not resolve, *inter alia*, the parties' dispute as to the point at which guilty knowledge of the tainted

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character of property will deprive a party of an innocent owner defense, because respondent has assumed the burden of convincing the trier of fact that she had no knowledge of the alleged source of Brenna's gift when she received it. Pp. 17-18.

JUSTICE SCALIA, joined by JUSTICE THOMAS, concluded:

1. While it is true that §881(a)(6)'s "innocent owner" exception produces the same result as would an "innocent owner" exception to traditional common-law forfeiture (with its relation-back principle), that conclusion cannot be based upon the plurality's implausible reading of the phrase "property described in subsection (a)." Rather, the result reached in this case is correct because §881(h) is best read as an expression of the traditional relation-back doctrine, which is a doctrine of *retroactive* vesting of title that takes effect only upon entry of the judicial order of forfeiture or condemnation. Under the alternative reading—that §881(h) provides for immediate, undecreed, secret vesting of title in the United States at the time of the illegal transaction—either the plain language of §881(a)(6)'s innocent-owner provision must be slighted or the provision must be deprived of all effect. Additionally, the traditional relation-back principle is the only interpretation of §881(h) that makes sense within the structure of the applicable customs forfeiture procedures, under which the Government does not gain title until there is a forfeiture decree, and provides the only explanation for the textual distinction between §881(a)(6)'s innocent "owner" and §853's innocent "transferee" provisions. Pp. 1-8.

2. There is no proper basis for the plurality's conclusion that respondent has assumed the burden of proving that she had no knowledge of the alleged source of Brenna's gift when she received it, as opposed to when the illegal acts giving rise to forfeiture occurred. The issue of what is the relevant time for purposes of determining lack of knowledge is not fairly included in the question on which the Court granted certiorari, and the Court need not resolve it. Pp. 8-10.

STEVENS, J., announced the judgment of the Court and delivered an opinion, in which BLACKMUN, O'CONNOR, and SOUTER, JJ., joined. SCALIA, J., filed an opinion concurring in the judgment, in which THOMAS, J., joined. KENNEDY, J., filed a dissenting opinion, in which REHNQUIST, C. J., and WHITE, J., joined.