

EXTRACTS OF THE JUDGMENT OF THE SUPREME COURT

W.L. Oltmans v. the Republic of Surinam

By petition Oltmans, who lived in the United States, requested that the Republic of Surinam be declared bankrupt on the ground that it was in the position of having ceased to pay its debts, as it had not paid a debt to Oltmans.

The Supreme Court held:

[...] The ground of appeal raises the question whether the Dutch courts have jurisdiction to declare a foreign State bankrupt. This question must be answered in the negative for the following reason.

Bankruptcy is a general seizure of the assets of a debtor and comprises his entire assets at the time of the bankruptcy petition (Art. 20 of the Bankruptcy Act), deprives a debtor of the right to dispose of and administer the assets belonging to the bankruptcy (Art. 23) and confers the power on one or more trustees in bankruptcy to administer and wind up the assets of the bankrupt (Arts. 68 and 70) under the supervision of a delegated judge (Art. 64), whereby the trustee has far-reaching powers such as the power to open all letters and telegrams addressed to the bankrupt (Art. 99).

The nature of the bankruptcy and the consequences attached to a declaration of bankruptcy prevent the Dutch courts from having jurisdiction to take a measure of this kind in relation to a foreign power. Acceptance of this jurisdiction would imply that a trustee in bankruptcy with far-reaching powers could take over the administration and winding up of the assets of a foreign power under the supervision of a Dutch public official. This would constitute an unacceptable infringement under international law of the sovereignty of the foreign State concerned. [...]