Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

PERMANENT MISSION OF INDIA TO THE UNITED NATIONS ET AL. *v.* CITY OF NEW YORK

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

No. 06–134. Argued April 24, 2007—Decided June 14, 2007

Under New York law, real property owned by a foreign government is exempt from taxation when used exclusively for diplomatic offices or quarters for ambassadors or ministers plenipotentiary to the United Nations. For years, respondent (City) has levied property taxes against petitioner foreign governments for that portion of their diplomatic office buildings used to house lower level employees and their families. Petitioners have refused to pay the taxes. By operation of state law, the unpaid taxes converted into tax liens held by the City against the properties. The City filed a state-court suit seeking declaratory judgments to establish the liens' validity, but petitioners removed the cases to federal court, where they argued that they were immune under the Foreign Sovereign Immunities Act of 1976 (FSIA), which is "the sole basis for obtaining jurisdiction over a foreign state in federal court," *Argentine Republic* v. *Amerada Hess Shipping Corp.*, 488 U. S. 428, 439. The District Court disagreed, relying on an FSIA exception withdrawing a foreign state's immunity from jurisdiction where "rights in immovable property situated in the United States are in issue." 28 U. S. C. §1605(a)(4). The Second Circuit affirmed, holding that the "immovable property" exception applied, and thus the District Court had jurisdiction over the City's suits.

Held: The FSIA does not immunize a foreign government from a lawsuit to declare the validity of tax liens on property held by the sovereign for the purpose of housing its employees. Pp. 3–8.

(a) Under the FSIA, a foreign state is presumptively immune from suit unless a specific exception applies. In determining the immovable property exception's scope, the Court begins, as always, with the statute's text. Contrary to petitioners' position, §1605(a)(4) does not

expressly limit itself to cases in which the specific right at issue is title, ownership, or possession, or specifically exclude cases in which a lien's validity is at issue. Rather, it focuses more broadly on "rights in" property. At the time of the FSIA's adoption, "lien" was defined as a "charge or security or incumbrance upon property," Black's Law Dictionary 1072, and "incumbrance" was defined as "[a]ny right to, or interest in, land which may subsist in another to the diminution of its value," *id.,* at 908. New York law defines "tax lien" in accordance with these general definitions. A lien's practical effects bear out the definitions of liens as interests in property. Because a lien on real property runs with the land and is enforceable against subsequent purchasers, a tax lien inhibits a quintessential property ownership right—the right to convey. It is thus plain that a suit to establish a tax lien's validity implicates "rights in immovable property." Pp. 3–5.

(b) This Court's reading is supported by two of the FSIA's related purposes. First, Congress intended the FSIA to adopt the restrictive theory of sovereign immunity, which recognizes immunity "with regard to sovereign or public acts *(jure imperii)* of a state, but not . . . private acts *(jure gestionis).*" *Alfred Dunhill of London, Inc.* v. *Republic of Cuba*, 425 U. S. 682, 711. Property ownership is not an inherently sovereign function. The FSIA was also meant to codify the real property exception recognized by international practice at the time of its enactment. That practice supports the City's view that petitioners are not immune, as does the contemporaneous restatement of foreign relations law. The Vienna Convention on Diplomatic Relations, on which both parties rely, does not unambiguously support either party, and, in any event, does nothing to deter this Court from its interpretation. Pp. 5–8.

446 F. 3d 365, affirmed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, SOUTER, GINSBURG, and ALITO, JJ., joined. STEVENS, J., filed a dissenting opinion, in which BREYER, J., joined.