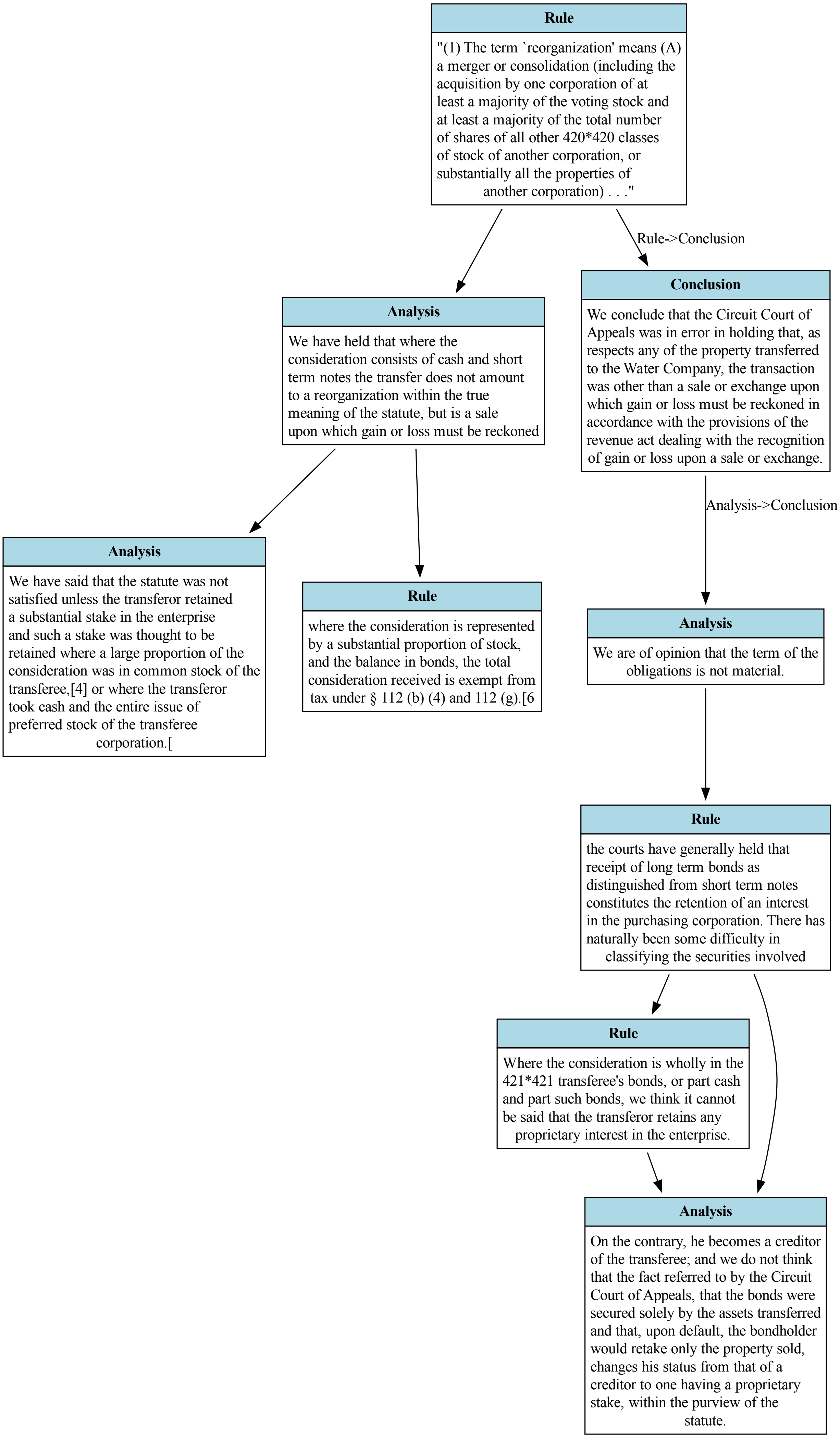
Rule
"(1) The term `reorganization' means (A) a merger or consolidation (including the acquisition by one corporation of at least a majority of the voting stock and at least a majority of the total number of shares of all other 420*420 classes of stock of another corporation, or substantially all the properties of another corporation) . . ."
Rule->Conclusion
Analysis
We have held that where the consideration consists of cash and short term notes the transfer does not amount to a reorganization within the true meaning of the statute, but is a sale upon which gain or loss must be reckoned
Conclusion
We conclude that the Circuit Court of Appeals was in error in holding that, as respects any of the property transferred to the Water Company, the transaction was other than a sale or exchange upon which gain or loss must be reckoned in accordance with the provisions of the revenue act dealing with the recognition of gain or loss upon a sale or exchange.
Analysis->Conclusion
Analysis
We have said that the statute was not satisfied unless the transferor retained a substantial stake in the enterprise and such a stake was thought to be retained where a large proportion of the consideration was in common stock of the transferee,[4] or where the transferor took cash and the entire issue of preferred stock of the transferee corporation.[
Rule
where the consideration is represented by a substantial proportion of stock, and the balance in bonds, the total consideration received is exempt from tax under § 112 (b) (4) and 112 (g).[6
Analysis
We are of opinion that the term of the obligations is not material.
Rule
the courts have generally held that receipt of long term bonds as distinguished from short term notes constitutes the retention of an interest in the purchasing corporation. There has naturally been some difficulty in classifying the securities involved
Rule
Where the consideration is wholly in the 421*421 transferee's bonds, or part cash and part such bonds, we think it cannot be said that the transferor retains any proprietary interest in the enterprise.
Analysis
On the contrary, he becomes a creditor of the transferee; and we do not think that the fact referred to by the Circuit Court of Appeals, that the bonds were secured solely by the assets transferred and that, upon default, the bondholder would retake only the property sold, changes his status from that of a creditor to one having a proprietary stake, within the purview of the statute.