

CLARO RIVERA, RIZALINA S. RIVERA, LOPE K. SARREAL Y ASSOCIATED INSURANCE & SURETY CO., INC., RECURRENTES, CONTRA EL HON. FELICISIMO OCAMPO, CATHAY CERAMICS, INC. Y JESUS L. UY, ...

G. R. No. L-5968. August 05, 1953

Ponente: PABLO, J.

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PABLO, J.:

En la causa civil No. 17111, titulada Atkins, Kroll & Co., Inc., Lope Sarreal, Associated Insurance & Surety Co., Inc., Rizalina S. Rivera, Claro Rivera y Jesus L. Uy, demandados, presentada en 29 de julio de 1952 en el Juzgado de Primera Instancia de Manila, la demandante pidio que el Juzgado decidiese quien o quienes, entre los demandados, tienen derecho a la suma de P21, 792.49 que dicha demandante deposito en la escribania del juzgado. Esta suma representa el valor de la segunda remesa de rieles de acero vendida a la demandante Atkins, Kroll & Co., Inc. por la Cathay Ceramics, Inc., en virtud de un contrato habido entre ambas en 25 abril de 1952; y de acuerdo con dicho contrato, la primera remesa se envio a la demandante por la Ceramics Inc. en 20 de junio de 1952, con un costo total de P25,789.45 y la segunda remesa que monta a P21,792.49, se envio en 17 de julio del mismo año.

Segun la demanda, Jesus L. Uy, por medio de su abogado Jose L. Uy, reclamo derecho preferente sobre el importe de la segunda remesa con exclusion de Rizalina S. Rivera y la Associated Insurance & Surety Co., Inc.; que estos dos recurrentes, a su vez, reclamaron derecho preferente, admitiendo, sin embargo, la Associated Insurance & Surety Co., Inc.. que de los P21,792.49 debe pagarse antes la reclamacion de Rizalina S. Rivera y que el saldo se la pague a ella.

Estas reclamaciones contrarias son las que dieron lugar a que Atkins, Kroll & Co., Inc. se viera obligada a presentar la demanda de interpleader y a depositar la suma de P21,792.49 en la escribania del juzgado.

En 30 de julio de 1952, un dia despues de presentada la demanda, la Cathay Ceramics, Inc. presento una mocion urgente pidiendo que se la permitiera retirar el deposito de P21,792.49 para sustituirla con una fianza, señalando el 31 de julio para la vista de la mocion, a la que se opusieron Rizalina S. Rivera y la Associated Insurance & Surety Co., Inc. La mocion fue vista ante el Hon. Juez Zulueta que entonces presidia temporalmente la Sala 7.^a del Juzgado de Primera Instancia de Manila; pero, en vez de resolverla, endoso el expediente al Hon. Juez Ocampo que entonces presidia la Sala 5.^a. Oidas las partes en 4 de agosto, al siguiente dia o sea, 5 de agosto, el Hon. Juez Ocampo dicto una orden cuya parte dispositiva es la siguiente:

"Wherefore, Court hereby authorizes the Clerk of Court to deliver, out of the sum of P21,792.49 deposited in his Office, the sum of P19,800.00 to defendant Jesus L. Uy and the balance of P1,992.49 to defendant Cathay Ceramics, Inc., of a surety bond in the sum of P25,000.00, one of the conditions of which shall be that the surety shall pay to the claimants herein upon the adjudication of their several claims by this Court immediately and without the necessity of any further suit in court to enforce collection upon such bond.

"The authority herein granted shall take effect upon the approval of the above-mentioned bond."

Al enterarse de dicha orden, Rizalina S. Rivera y la Associated Insurance & Surety Co., Inc. presentaron una mocion urgente de reconsideracion, con una peticion adicional de que, en el caso de que se denegase su mocion de reconsideracion, no se efectuara la retirada de la cantidad consignada mientras estuviera pendiente en el Tribunal Supremo una peticion de certiorari; que el Juez recurrido significo que denegaria la mocion de reconsideracion y que ordenaria la ejecucion de la orden de 5 de agosto a menos que el recibiera una orden de interdicto.

Los recurrentes acudieron a este Tribunal alegando en su solicitud que el Juez recurrido obro en exceso de su jurisdiccion o con grave abuso de su discrecion al expedir su orden del 5 de agosto; que no tienen otro remedio facil, sencillo y expedito en el curso ordinario de los procedimientos sino el presente recurso y pidieron que se revocase la orden impugnada y, mientras tanto, que se expidiese un interdicto prohibitorio preliminar. Se expidio la orden pedida.

Cathay Ceramics, Inc. contiene que no hay ninguna provision legal que prohiba al Juzgado permitir que una de las partes en una accion de interpleader retire el deposito que es el objeto de la accion siempre que los derechos de los otros interesados esten propiamente protegidos por medio de una fianza; y los otros recurridos contienen que dicha orden no es injusta a los recurrentes puesto que la orden discutida esta redactada en tal forma que protege ampliamente por medio de una fianza de P25,000 los derechos e intereses de los recurrentes, y que siendo Cathay Ceramics, Inc. la dueña y suministradora de los rieles de acero, ella tiene derecho de recibir el producto de dichos efectos suministrados. Este ultimo argumento no se ajusta a los hechos: de la cantidad depositada, P19,800 se entregarian, segun la orden, a Jesus L. Uy y solamente P1,992.49, a la Cathay Ceramics, Inc.

Hay mucha diferencia entre P21,792.49 depositados en la escribania, disponibles en cualquier momento por el escribano a la primera indicacion del juzgado, y una fianza de P25,000 prestada por una casa aseguradora. El importe de la fianza no es cantidad que puede distribuir el escribano en cualquier tiempo que el juzgado ordene, porque no esta en su poder. Para que el escribano pueda entregarlo o distribuirlo, tiene que ordenar antes el juzgado al fiador que lo deposite en la escribania. Si la casa aseguradora, por algun tecnicismo o ya porque no tenga fondos disponibles o por algun otro motivo, no cumple inmediatamente la orden del juzgado, los reclamantes que tienen derecho a cobrar quedan en la expectativa esperando la voluntad de la casa fiadora. ¡Cuantas causas se incoan en los juzgados porque los fiadores no han cumplido los terminos precisos de us fianzas.!

Parte de la orden impugnada dice asi: "It is obvious that if by delivering the deposit in the hands of the Clerk of Court to defendant Cathay Ceramics, Inc., and to its co-defendant Jesus L. Uy, said Cathay Ceramics, Inc. would be aided in a large measure in fulfilling its obligations to the plaintiff, it should likewise be obvious that its co-defendants would be benefited because, then, payments for subsequent shipments would be assured."

La demandante, que no tiene interes en la cantidad de P21,792.49, la deposito en la escribania con la suplica de que el Juzgado, despues de oir a todas las partes interesadas, determinase quien tiene derecho a dicha cantidad que ordenase su pago a la parte vencedora; no se deposito esa cantidad para que Cathay Ceramics, Inc. would be aided in a large measure in fulfilling its obligations to the plaintiff. Si la Cathay Ceramics, Inc. necesitaba dinero para poder cumplir debidamente sus obligaciones, que lo obtenga de otra fuente, de algun banco, y no de la escribania.

El depositario, dice elCodigo Civil, no puede servirse de la cosa depositada sin el permiso del depositante. (Art. 1766, Codigo Civil Español y Art. 1977, Civil Code of the Philippines); como corolario, tampoco puede disponer del mismo para que otro lo utilice. El fin por el cual se deposito la cantidad reclamada por los demandados queda frustrado si uno o dos de ellos la utilizan para su propio provecho.

No puede, por tanto, el Juzgado disponer la retirada del deposito de la escribania para que la Cathay Ceramics, Inc. y Jesus L. Uy puedan usarlo en sus negocios.

Se concede el recurso pedido y los recurridos, excepto el Juez, pagaran las costas.

Paras, Pres., Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo y Labrador, MM., estan conformes.

CONCURRING AND DISSENTING

FERIA, J.,

The present case is not a mere action of interpleader filed by Atkins, Kroll & Co., Inc.. a debtor, against several persons claiming preferred right to an obligation or debt due from the plaintiff, in which the law does not require the subject matter of the interpleader to be deposited with the Clerk of Court, as contemplated in the dissenting opinion of Mr. Justice Tuason. Nor is it a case arising from a contract of depositum in which the bailee is obliged to keep the thing deposited and cannot use it without the authority of the bailor under Article 1766 of the Old Civil Code cited by the majority in their decision to show that the respondent Judge, as a bailee, had no authority or abused its discretion in issuing its order of August 5 herein complained of, for the simple reason that there was not and could not exist such a contract of depositum between the plaintiff and the respondent Judge.

This is a case of a deposited made by a debtor of the sum of P21,792.49 with the Clerk of Court claimed by several persons as creditors entitled to receive it, in order to relieve himself of any liability under Article 1176 of the Civil Code. Under the provisions of Articles 1176 to 1181 relating to tender of payment and deposit, which are the only provisions of law applicable to the case, the money deposited in court is in custodia legis (Manajero vs. Buyson Lampa, 61 Phil., 66) and cannot be disposed of by the court except in accordance with the provisions of Article 1180 and 1181 of said Code. Therefore, the respondent Judge acted without authority or in excess of the court's jurisdiction in issuing its order complained of.

Therefore, we concur in the result of the majority's decision, but we dissent from the reasons given in support thereof.

DISSENTING

TUASON, J.,

The law does not provide that the subject-matter of interpleader be deposited with the clerk of court. By section 2 of Rule 14 the bringing of the money or property into court is left to the sound judgment of the judge handling the case. In other jurisdictions it is held that it is not necessary to offer to bring money into court, but only to bring in before other proceedings are taken. (33 C.J. 455.) It has also been held that the stake-holder may be made the bailee of the fund pending the litigation. (33 C. J. 451; Wagoner vs. Buckley, 13 N.Y.S. 599.)

Finally section 6 of Rule 124 provides:

"SEC. 6. Means to carry jurisdiction into effect.—When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by these rules, any suitable process or mode of proceeding may be adopted which appears most conformable to the spirit of said rules."

The court's order of which petitioners complain has for its avowed purpose the promotion of the interest not only of Ceramics but of all the other defendants, and it contains adequate safeguards against any substantial injury to any of the interested parties.

The sole ground of objection to the questioned order by two of the defendants—to wit: "the surety bond can not be an adequate substitute for money"—is, I think, flimsy; and the fears expressed by this Court regarding the delays and difficulties of enforcing a bond could easily be overcome by the selection of a solvent surety of good standing and adequate provisions in the undertaking insuring prompt payment when the money was needed. If the court can allow the plaintiff to keep the fund in his possession during the pendency of the suit without obligation to give any security, why can it not make a responsible third party, with good and sufficient bond, the bailee of the money? It is of interest to note that the remedy by interpleader is an equitable one (33 C. J. 419), and that even in making the final award the court is not necessarily circumscribed by the legal rights of the parties. Thus, "where the court has properly acquired jurisdiction of the cause as between defendants, it is not bound to award the fund or other thing in dispute wholly to him who has the legal title, but may so shape its decree as to do complete equity between the parties." (33 C. J. 467.)

By the order under consideration the respondent Judge has not violated any positive legal provision, or abused its discretion, or jeopardized any substantial right of any of the defendants, and in interfering with that order this court has shown rigid paternalism not in accord with its powers of review and the spirit of a sound judicial system.

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