

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF FIRST INSTANCE OF MANILA, BRANCH XIII, HON. JESUS P. MORFE, PRESIDING JUDGE, AND PRES. ROXAS RURAL BANK, INC., RESPONDENTS.

G.R. No. L-30381. August 30, 1988

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

The instant appeal by certiorari seeks (1) to annul and set aside the Orders dated October 26, 1968 and March 1, 1969 of the then Court of First Instance (CFI) of Manila, Branch XIII in Civil Case No. 73707 entitled "Republic of the Philippines, Plaintiff, versus Bank of America, et al., Defendants", which orders respectively dismissed herein petitioner's complaint for escheat as against private respondent Pres. Roxas Rural Bank for improper venue and denied petitioner's motion for reconsideration of such dismissal order; and (2) the reinstatement of the aforesaid complaint against private respondent.

The antecedents are as follows:

Pursuant to Section 2 of Act No. 3936, otherwise known as the Unclaimed Balance Law, some 31 banks including herein private respondent Pres. Roxas Rural Bank forwarded to the Treasurer of the Philippines in January of 1968 separate statements under oath by their respective managing officers of all deposits and credits held by them in favor, or in the names of such depositors or creditors known to be dead, or who have not been heard from, or who have not made further deposits or withdrawals during the preceding ten years or more. In the sworn statement submitted by private respondent Bank, only two (2) names appeared: Jesus Ydirin with a balance of P126.54 and Leonora Trumpeta with a deposit of P62.91.

Upon receipt of these sworn statements, the Treasurer of the Philippines caused the same to be published in the February 25, March 3 and March 10, 1968 issues of the "Philippines Herald", an English newspaper, and the "El Debate", a Spanish newspaper, both of general circulation in the Philippines.

Thereafter, or on July 25, 1968, the Republic of the Philippines instituted before the CFI of Manila a complaint for escheat against the aforesaid 31 banks, including herein private respondent. Likewise named defendants therein were the individual depositors and/or creditors reported in the sworn statements and listed in Annex "A" of the complaint. Summonses were accordingly issued to defendant banks and the creditors/depositors requiring them to file severally their answers to the complaint within 60 days after the first publication of the summons with notice that should they fail to file their answers, plaintiff would take judgment against them by default. The aforesaid complaint, list of depositors-creditors (Annex "A" of the complaint), summons and notice were duly published in the August 25, September 1, and September 8, 1968 issues of the "Philippines Herald" and "El Debate".

On October 5, 1968, private respondent Bank filed before the CFI a motion to dismiss the complaint as against it

on the ground of improper venue. Opposed by the petitioner, the motion to dismiss was granted in the first assailed Order. Its motion for reconsideration of said dismissal order having been denied in the second assailed order, petitioner interposed the instant appeal on pure questions of law, to wit:

- Whether or not Pres. Roxas Rural Bank is a real party in interest in the escheat proceedings or in Civil Case No. 73707 of the Court of First Instance of Manila.
- Whether or not venue of action in Civil Case No. 73707 has been properly laid in the City of Manila, since all defendant banks, wherever they may be found, could be included in one single action, pursuant to the provisions of Act No. 3936.
- Whether or not Section 2(b), Rule 4 of the Revised Rules of Court on venue, likewise, governs escheat proceedings instituted by the Republic in the Court of First Instance of Manila.

It is petitioner's contention that private respondent bank, being a mere nominal party, could not file a motion to dismiss on the ground of improper venue, the real party in interest being the depositors themselves; that the avowed purpose of Act No. 3936 is to benefit the government by escheating unto itself dormant bank deposits and that this purpose will be defeated if escheat proceedings will have to be instituted in each and every province or city where a bank is located because of the publication expense; that the convenience or inconvenience of the depositors is not the determining factor as to venue of action, but that in view of Rule 144 of the Revised Rules of Court, which provides that all cases brought after the effectivity of the Rules on January 1, 1964 shall be governed by the provisions of the Rules of Court, Section 2(b) of Rule 4 on venue is made applicable and available to the Republic in the instant case.

We find these contentions unmeritorious.

A "real party in interest" has been defined as the party who would be benefitted or injured by the judgment of the suit or the party entitled to avail of the suit.[1] There can be no doubt that private respondent bank falls under this definition for the escheat of the dormant deposits in favor of the government would necessarily deprive said bank of the use of such deposits. It is in this sense that it stands to be "injured by the judgment of the suit"; and it is for this reason that Section 3 of Act No. 3936 specifically provides that the bank shall be joined as a party in the action for escheat, thus:

Section 3. Whenever the Attorney General shall be informed of such unclaimed balances, he shall commence an action or actions in the name of the People of the Philippines in the Court of First Instance of the province where the bank is located, in which shall be joined as parties the bank and such creditors or depositors. All or any member of such creditors or depositors or books, may be included in one action. (Underscoring supplied.)

Indeed, if the bank were not a real party in interest, the legislature would not have provided for its joining as a part in the escheat proceedings.

Besides, under Section 2, Rule 3 of the Rules of Court, private respondent bank is a real party in interest as its presence in the action is necessary for a complete determination and settlement of the questions involved therein. Private respondent bank being a real party in interest, it may and can file a motion to dismiss on the ground of improper venue.

In defense of the second issue raised, petitioner points to the last sentence Section of Act No. 3936 above-quoted as authority for saying that the venue of the escheat proceedings was properly laid in the City of Manila. Petitioner's reliance on said sentence is patently misplaced, the same having been obviously read out of context instead of in relation to the sentence preceding it.

The first sentence of Section 3 of Act No. 3936 directs the Attorney General, now Solicitor General, to commence

an action or actions in the name of the People of the Philippines in the Court of First Instance of the province where the bank is located. The phrase "or actions" in this section is very significant. It manifests awareness on the part of the legislators that a single action to cover all banks wherever located in the Philippines would not be legally feasible in view of the venue prescribed for such action under the same section, i.e., the province where the bank is located. Thus, the addition of the last sentence, which the lower court had correctly interpreted to mean "that for escheat of unclaimed bank balances all banks located in one and the same province where the Court of First Instance concerned is located may be made parties defendants in one action"[2] was clearly intended to save on litigation and publication expenses, but certainly not as authority for the lumping together of all banks wherever found in the Philippines in one single escheat proceedings.

Anent the third issue raised, suffice it to say that Section 2(b) of Rule 4 of the Revised Rules of Court cannot govern escheat proceedings principally because said section refers to personal actions. Escheat proceedings are actions in rem which must be brought in the province or city where the rem, in this case the dormant deposits, is located.

We note that while private respondent bank's motion to dismiss was granted, the trial court in a subsequent order dated November 16, 1968 declared private respondent bank's depositors and co-defendants Jose Ydirin and Leonora Trumpeta in default for failure to file their answers. Considering that the complaint in Civil Case No. 73707 states a common cause of action against private respondent bank and its depositors-co-defendants, and considering further that the motion to dismiss filed by private respondent bank alleged facts[3] that would warrant dismissal of the complaint against said co-defendants, we apply by analogy Section 4 of Rule 18 of the Rules of Court,[4] thereby decreeing the benefits of the dismissal of the complaint to extend to private respondent bank's co-defendants Jose Ydirin and Leonora Trumpeta and their successors-in-interest.

WHEREFORE, the instant appeal by certiorari is hereby denied. No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Salonga vs. Warner Barnes & Co., Ltd., 88 Phil. 125.

[2] p. 32, Rollo.

[3] Private respondent bank's motion to dismiss alleged that the case against Jose Ydirin and Leonora Trumpeta had become moot and academic as their respective deposits had been withdrawn and transferred to the accounts of their respective heirs. The delay in such withdrawal was due to the fact that said heirs did not know of the existence of said deposits until lately (p. 27, Rollo).

[4] Section 4, Rule 11 provides: "When a complaint states a common cause of action against several defendants, some of whom answer, and the others fail to do so, the court shall try the case against all upon the answers thus filed and render judgment upon the evidence presented. x x x"

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