

BURROUGHS, LIMITED, PETITIONER, VS. HON. JESUS P. MORFE, AS JUDGE OF FIRST INSTANCE OF MANILA, HON. CORNELIO BALMACEDA, AS SECRETARY OF COMMERCE AND INDUSTRY, AND EQUIPMENT MARK...

G.R. No. L-24053. February 27, 1976

Ponente: FERNANDO, J.

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FERNANDO, J.:

In a petition for certiorari distinguished for clarity and accuracy as far as the pertinent facts are concerned, the granting of the then respondent Judge, Honorable Jesus P. Morfe, now deceased, of a motion for intervention filed by private respondent Equipment Marketing Corporation,[1] is assailed as constituting a grave abuse of discretion. Petitioner must have been aware of the heavy burden of persuasion it has to bear. That could very well explain why in the discussion of the decisive legal issue, there are traces of forensic hyperbole, done with skill but yielding the impression that its appraisal of judicial pronouncements on the subject of intervention may be unduly tinged with the bias of zealous advocacy. Reference to our previous decisions and the significance of the nationalistic provisions of the Constitution of any decision that may be arrived at by the lower court on the case then pending, the matter in controversy being an interpretation of the Retail Trade Act,[2] in the light of the then Philippines-United States Executive Agreement, compel a conclusion adverse to petitioner. No grave abuse of discretion in allowing intervention had been shown. Far from it. Consequently, the petition must be dismissed.

As set forth in the petition: "This petition is directed at the orders of respondent Judge in Civil Case No. 57420 of the Court of First Instance of Manila granting respondent corporation leave to intervene and admitting its answer in intervention. The pleadings and events leading to the orders complained of are as follows: (a) On June 18, 1964, petitioner filed a petition for declaratory relief and injunction with the Court of First Instance of Manila, which petition was docketed as Civil Case No. 57420, against Honorable Teofilo Reyes, Sr. as Acting Secretary of Commerce and Industry. So far as pertinent to the instant proceeding, petitioner's petition alleges that petitioner, whose capital stock is wholly owned by Burroughs Corporation, a corporation duly organized and existing under the laws of the State of Michigan, United States of America, 99% of whose capital stock is owned by citizens of the United States, has been engaged in the Philippines since 1929 in the business of importing, selling and servicing office machines, equipment and systems. In the course of its business in the Philippines, petitioner sells office machines, equipment, and systems to an extremely limited clientele consisting of governmental, banking, commercial, industrial and service establishments. Petitioner further alleges that it desires to continue to sell office machines, equipment and systems to its extremely limited clientele, but in view of the rulings of the Secretary of Justice dated July 21, 1954 * * *, April 22, 1963 * * * and September 12, 1963 * * *, the rulings of the respondent Secretary of Commerce and Industry dated October 19, 1962 * * * and September 22, 1961 * * * and the rulings of the Undersecretary of Commerce dated April 30, 1962 * * * and August 6, 1963 * * *, petitioner is uncertain and in doubt as to its rights and obligations under Republic Act No. 1180, the Philippines-United States Executive Agreement signed on July 4, 1946 and the Revised Philippines-United States

Executive Agreement. The petition prays for judgment (a) declaring that it is exempt from the prohibitory provisions of Republic Act No. 1180 and is entitled to engage in the retail business after June 19, 1964; or, in the alternative (b) declaring that in any event petitioner's sales of office machines, equipment and systems to an extremely limited clientele consisting of banks and other financial institutions, government offices and entities, educational institutions, commercial, industrial, and service establishments for use in the manufacture, production, processing, or sale of goods or the provision of services are not sales at retail, or otherwise declaring petitioner is not engaged in the retail business * * *. (b) On July 27, 1964, the respondent Secretary of Commerce and Industry answered the petition * * *. (c) On August 6, 1964, petitioner replied to the answer of the Secretary of Commerce and Industry. * * * (d) On September 30, 1964, respondent Equipment Marketing Corporation moved for leave to intervene and for admission of its answer in intervention. In the motion, respondent corporation alleges that it is 'engaged in the business, among others, of the distribution and sale at wholesale or retail of automotive, electrical, general machinery, construction equipment supplies, and other goods, wares and merchandise of every class and description.' * * * Respondent Corporation further alleges that the 'issues involved in the petition affect the public interest and the presence of movant is necessary in order that the court may completely adjudicate upon and settle all questions involved in the petition.' * * * (e) On October 13, 1964, petitioner opposed respondent corporation's motion for intervention and for admission of its answer in intervention. Petitioner stressed that respondent corporation has no legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both. Petitioner points out, in its opposition, that movant is not engaged in the same business as petitioner's and the fact that the issues involved in the petition affect public interest does not confer upon it a legal interest in the matter in litigation. * * * (f) On November 11, 1964, the respondent Judge granted respondent corporation leave to intervene and admitted its answer in intervention. 'For the reasons given in pars. 5 and 6 of the motion (for leave to intervene,)' the respondent Judge concluded, 'the said movant has legal and substantial interest in the matter of litigation, namely, the correct interpretation and application of the Retail Trade Nationalization Law' * * * (g) On December 17, 1964, petitioner moved for reconsideration of the order of the respondent Judge dated November 11, 1964 * * *." [3] It was denied. Hence this petition.

This Court required respondents to answer the petition. The then Solicitor General, Arturo A. Alafritz, joined petitioner in having the order of intervention annulled and set aside. As would have been expected, the stand taken by respondent Equipment Marketing Corporation in its answer was the exact opposite of that of government counsel. It advanced the following considerations for the dismissal of the petition: "1. The proper interpretation and application of the National Retail Trade Act involves the highest interests of the State, the law in question having been enacted in the exercise of the police power as being necessary for the protection of substantial national interests involving national security and national survival. * * * 2. The vital importance of and the widespread concern over the proper interpretation and application of the National Retail Trade Act is emphasized by the fact that no less than 22 other similar cases involving the same questions have been filed in the Court of First Instance of Manila alone (other similar cases have been filed in other judicial districts) and in each of the 23 cases pending before the Court of First Instance of Manila, two distinguished members of the Bar, Attys. Jose W. Diokno and Lorenzo M. Tañada, were allowed to appear as amici curiae without objection on the part of any of the parties in Civil Case No. 57420, from which the instant petition originated. 3. For the foregoing reason alone, the technical objection to the intervention of respondent EMC should be summarily rejected. It is respectfully submitted that procedural technicalities must bend in the face of the vital importance to the public of Civil Case 57420 and its companion cases. * * * 4. Other circumstances operating in Civil Case No. 57420 and its 22 companion cases makes it imperative for respondent EMC to stay in the case as intervenor in order that those whose rights and interests will be prejudiced by the construction that the petitioner and the respondent Secretary are jointly asking the courts to place upon the National Retail Trade Act, and that those views of the national interests as expressed in that Act are directly opposite to that shared by the petitioners and the respondent

Secretary in all the 23 cases pending before the Court of First Instance of Manila, may be duly and properly represented." [4] Moreover, it characterized the petitioner, as well as respondent Secretary of Commerce and Industry, as having taken "a narrow pedantic view in supposing that this case is a purely private conflict between them in which no one may intervene unless he can show that legal interest mentioned in Rule 12, section 2 of the Rules of Court and as strictly and restrictively interpreted by them. In the humble submission of respondent EMC, it is enough to show that its business opportunities would be widened, and the national interest, as contemplated by the National Retail Trade Act, would be promoted and protected, and thereby EMC's own legal interest, which is encompassed within the national interest, would also be promoted and protected, if the prohibitions of that Act, as interpreted by respondent EMC, were applied to petitioner." [5] It explained why: "If this were a case in which the petitioner asks for the interpretation of a contract between it and another private person or entity, or even of a contract with the government, petitioner would stand perhaps on firmer ground in opposing the intervention of any person who is not a party to the instrument. But what petitioner seeks an interpretation of, is the National Retail Trade Act which was enacted by the State as the guardian of all the people of this country for the protection of substantial national interests involving national security and national survival. Every individual citizen of this country, even if not engaged in a retail trade, has therefore been invested with sufficient legal interest, as against citizens and corporations of other countries, in obtaining a judicial interpretation of the National Retail Trade Act. It is a legal, material and direct interest equal, if indeed not superior, to the legal interest asserted by petitioner. Considering that respondent EMC is a corporation engaged in the retail trade, its legal interest to intervene is more immediate and direct than that of a Filipino citizen not so engaged." [6]

It is thus evident why, notwithstanding the extensive and scholarly discussion of the basic issue, admittedly not lacking in a certain degree of plausibility on the part of counsel for petitioner, Attorney Juan Luces Luna, the heavy burden of persuasion, referred to earlier, was not met. It would be difficult to locate an abuse of discretion, much less a grave abuse thereof, when due note is taken of the highly persuasive character of the arguments, equally set forth with scholarly skill and furthermore infused with an awareness of the implications of this litigation for the nationalistic policy embodied in the Constitution, as advanced by former Judge Francisco Carreon, counsel for intervenor. The petition, to repeat, cannot prosper.

1. This Court has consistently manifested fealty to the doctrine in a series of cases impressive for their number and unanimity that the discretion vested in courts to admit or deny a plea for intervention is to be exercised with liberality. Such a principle continues to hold sway from *Ahag vs. Cabiling*, [7] a 1911 decision. Thus: "Without discussing the merits, we are of the opinion that, while defendant's motion, consented to by Francisco Galos, asking leave to bring in said Francisco Galos under the provisions of section 121 of the Code of Civil Procedure, and which, for his full protection * * he ought to do, should have been granted. This motion was somewhat late; not enough, however, to prejudice the plaintiff. The proofs already presented by the plaintiff may stand as if taken on the retrial, he having the privilege of presenting such other proofs as he may deem advisable." [8] As set forth by Justice Street in *Otto Gmur, Inc. vs. Revilla*, [9] it would be "an abuse of judicial discretion to refuse to allow the intervention" [10] when interest on the part of the intervenor has been demonstrated. In this particular case, the motion to intervene was not presented until after the test case was conducted. Nonetheless, the ruling was for itself being granted. [11] Only recently, in *Jerez vs. Nietes*, [12] it was made clear that there is no question as to "the doctrine of liberality [in] pleas for intervention [being] consistently followed and adhered to by this Court." [13] One of the decisions referred to is *Balane vs. de Guzman*, [14] the then Justice, now retired Chief Justice, Makalintal, speaking for the Court. As emphatically stated by him: "Respondent Judge would have done well to brush aside narrow technicalities in this case, allow the intervention prayed for and thus avoid needless delay in the resolution of the conflicting interests of all the parties." [15] Chief Justice Concepcion, his predecessor in office, cited with approval the *Balane* decision in *Dizon vs. Romero*. [16] The vivid language of Justice Sanchez

in Cue vs. Dolla,[17] also made mention of in Jerez vs. Nietes, is equally relevant: "No one may quibble over the existence of the court's discretion on whether to admit or reject intervention. But such discretion is not unlimited. * * * [We] reach the conclusion that the discretion of the trial court had not been here prudently exercised." [18] In all of these three decisions, the lower court was reversed because it exercised its discretion against the would-be intervenor. If deference be paid to the compulsion asserted by the doctrine which for its soundness calls for continued application, it cannot be denied that the late Judge Morfe was in the right. He did act precisely according to authoritative precedents. His discretion was wisely exercised. There was no abuse, let alone one that could be characterized as grave. To do so is to manifest extreme partisan bias.

2. Nor is this all. The assailed order is equally notable in another significant respect. It does not admit of doubt that the decision to be reached would possess an impact on the nationalistic principle enshrined both in the 1935 Charter and the present Constitution. The Retail Trade Act [19] has that basic objective in view. Its validity was sustained in Ichong vs. Hernandez.[20] That is not enough. It has to be faithfully implemented. If it were not thus, the statutory policy would be emasculated. There would be an obstacle to a desirable objective being fully attained. It does not matter that whatever the lower court does is susceptible to correction by this Tribunal. In this, as in other cases where a constitutional aspect may be discerned, *obsta principiis* should be the rule. It is conducive to fealty to constitutional mandates that at no time should there be the slightest doubt as to its scope. Until after a reversal is announced, assuming that the lower court decision reached would be objectionable, the political branches could conceivably be misled. The late Judge Morfe is therefore deserving of a commendation for allowing the intervention of a party that could take a stand opposed to that of petitioner especially so when, as in this case, the respondent public official was in agreement. Without the intervenor, therefore, only one side of the constitutional issue posed would be ventilated.

There is this further point to consider. Even on the question of standing to enable a party to assail the validity of a statute, there has been of late a considerably relaxed attitude.[21] There are times when to all intents and purposes, not a party's interest but a public right is sought to be vindicated. The public right dogma as a means of keeping public officials staying on the path of constitutionalism is no longer looked upon as an inhibition. As was so well put by Jaffe:[22] "The protection of private rights is an essential constituent of public interest and, conversely, without a well-ordered state there could be no enforcement of private rights. Private and public interests are, both in the substantive and procedural sense, aspects of the totality of the legal order." [23] The case for intervenor is much stronger. It has convincingly shown how it could be affected adversely by an erroneous appreciation of the controlling principle. If it could be deemed as possessed of standing on a direct challenge to an order of respondent official at war with the basic objective of the Retail Trade Act, how could its plea for intervention be denied? Even from the purely procedural standpoint of having all aspects of the question looked into, the answer cannot be in doubt. How much more meritorious then was its motion to intervene, considering the constitutional implications of the basic legal issue.

Wherefore, the petition for certiorari is dismissed for lack of merit. Costs against petitioner.

Barredo, Antonio, Aquino and Concepcion, Jr., JJ., concur.

[1] The other respondent named is Cornelio Balmaceda, then Secretary of Commerce and Industry.

[2] Republic Act No. 1180 (1954).

[3] Petition, pars. 2(a) to 2(g).

[4] Answer of respondent Equipment Marketing Corporation, par. 2 A-1 to 2 A-5.

[5] Ibid. par. 6.

[6] Ibid, par. 7.

[7] 18 Phil 415.

[8] Ibid, 416.

[9] 55 Phil 627 (1931).

[10] Ibid, 631.

[11] Ibid, 632. Cf. Santarromana and Ledesma vs. Barrios, 63 Phil. 456 (1936); Garcia vs. David, 67 Phil. 279 (1939).

[12] L-26876, December 27, 1969, 30 SCRA 904.

[13] Ibid, 909. Twenty-three cases were cited from Ahag vs. Cabiling to Roxas vs. Dinglasan, L-27234, May 30, 1969, 28 SCRA 430.

[14] L-21281, May 24, 1967, 20 SCRA 177.

[15] Ibid, 180.

[16] L-26252, December 24, 1968, 26 SCRA 452.

[17] L-27598, May 27, 1968, 23 SCRA 832.

[18] Ibid, 836.

[19] Republic Act No. 1180 (1954).

[20] 101 Phil. 1155 (1957).

[21] Cf. Tan vs. Macapagal, L-34161, February 29, 1972, 43 SCRA 677.

[22] Standing to Secure Judicial Review, 74 Harvard Law Review 1265 (1961).

[23] Ibid, 1266.

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