

WILLIAM G. PFLEIDER, PLAINTIFF AND APPELLEE, VS. SERVILLANA CORDOVA DE BRITANICO, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-19077. October 30, 1964

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

This is an appeal by C. N. Hodges from the denial on 6 July 1961 of his motion, filed on 30 May 1961, for leave to intervene in Civil Case No. 6161 of the Court of First Instance of Negros Occidental.

The said case is an action for rescission of a lease contract between the plaintiff-lessor, William Pfleider, and the defendant-lessee, Servillano Cordova de Britanico, covering certain parcels of land, located at sitios Alim and Manalimsim, municipality of Asis, Negros Occidental, known as Lots Nos. 1 & 3, Plan 11-13650, with Transfer Certificate of Title No. 10413, together with the buildings and improvements thereon, for a term of years, under certain conditions. The complaint includes a prayer for the ejectment of the defendant and for the restoration of the possession of the properties to the plaintiff, aside from the payment of accrued rentals, attorney's fees, and costs.

Appellant Hodges sought to intervene in the case, pleading that if the lower court orders the delivery of the possession of the properties, which are admittedly registered in Hodges' name under Transfer Certificate of Title No. 33345, then the order would destroy the decision of the same court in Civil Case No. 2860, Hodges vs. Pfleider, and the writ of execution thereon ordering the delivery or surrender of the possession of the two parcels of land in favor of Hodges and against Pfleider.

But the court a quo denied the motion to intervene because of the pendency in Branch I of the same court of another case, one for interpleader, instituted by Britanico against both Pfleider and Hodges, and docketed as Civil Case No. 6146, where the issues are practically the same, a fact which intervenor-appellant, in the case at bar, does not deny.

Hodges appealed to this Court, as aforesaid, the record on appeal having been certified on 9 October 1961.

The only issue raised in the lone assignment of error is whether or not the lower court erred in disallowing the intervention.

The rule on intervention allows to the trial court an exercise of discretion (Sec. 2, Rule 12, Revised Rules; Sec. 1, Rule 13, old Rules of Court), and no showing is made that such discretion was abused. At any rate, it was correctly held by the trial court, and the intervenor does not deny, that the rights of the intervenor-appellant Hodges are fully protected in Civil Case No. 6146, which is pending. This is a valid ground for denying intervention (Revised Rules, sec. 2(b), Rule 12; former Rules of Court, sec. 3, Rule 13; *Rizal Surety vs. Tan*, 83 Phil. 732).

"SEC. 2(b) Discretion of court.—In allowing or disallowing a motion for intervention, the court, in the exercise of discretion, shall consider whether or not the intervention will unduly delay or prejudice the adjudication of

the rights of the original parties and whether or not the intervenor's rights may be fully protected in a separate proceeding."

We find no reversible error committed by the trial court in the questioned order, considering that any judgment rendered will not prejudice appellant, who is not a party to this action in personam, and that, moreover, he does not contest the holding that his own rights may be fully protected in the interpleader action, Civil Case No. 6146, still pending in the court of first instance.

Wherefore, the order appealed from is affirmed. Costs against appellant C. N. Hodges.

Bengzon, C. J., Concepcion, Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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