

PHILIPPINE NATIONAL BANK, PLAINTIFF-APPELANT, VS. BITULOK SAWMILL, INC., DINGALAN LUMBER CO., INC., SIERRA MADRE LUMBER CO., INC., NASIPIT LUMBER CO., INC., WOODWORKS, INC., GON...*G.R. Nos. L-24177-85. June 29, 1968*

Ponente: FERNANDO, J.

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In the face of a statutory norm, which, as interpreted in a uniform Line of decisions by this Court, speaks unequivocally and is free from doubt, the lower court with full recognition that the case for the plaintiff creditor, Philippine National Bank, "is meritorious strictly from the legal standpoint"[1] but apparently unable to "close its eyes to the equity of the case"[2] dismissed nine (9) cases filed by it, seeking "to recover from the defendant lumber producers [Bitulok Sawmill, Inc.; Dingalan Lumber Co., Inc.; Sierra Madre Lumber Co., Inc.; Nasipit Lumber Co., Inc.; Woodworks, Inc.; Gonzalo Puyat; Tomas B. Morato; Findlay Millar Lumber Co., Inc.; Insular Lumber Co. Inc.; Anakan Lumber Co., Inc., and Cantilan Lumber Co., Inc.] the balance of their stock subscriptions to the Philippine Lumber Distributing Agency, Inc." [3] In essence then, the crucial question posed by this appeal from such a decision of the lower court is adherence to the rule of law. Otherwise stated, would non-compliance with a plain statutory command, considering the persuasiveness of the plea that defendants-appellees would "not have subscribed to [the] capital stock" of the Philippine Lumber Distributing Agency "were it not for the assurance of the [then] President of the Republic of the Philippines that the Government would back [it] up by investing P9.00 for every peso"[4] subscribed, a condition which was not fulfilled, such commitment not having been complied with, be justified? The answer must be in the negative.

It cannot be otherwise even if an element of unfairness and injustice could be predicated, as the lower court, in a rather sympathetic mood, did find in the plaintiff bank as creditor, compelling defendant lumber producers under the above circumstances to pay the balance of their subscriptions. For a plain and statutory command, if applicable, must be respected. The rule of law cannot be satisfied with anything Less. The appeal must be sustained.

In these various suits decided jointly, the Philippine National Bank, as creditor, and therefore the real party in interest, was allowed by the lower court to substitute the receiver of the Philippine Lumber Distributing Agency in these respective actions for the recovery from defendant lumber producers the balance of their stock subscriptions. The amount sought to be collected from defendants-appellees Bitulok Sawmill, Inc., Dingalan Lumber Co., Inc., and Sierra Madre Lumber Co., Inc., is P5,000.00, defendants-appellees having made a partial payment of P15,000.00 of their total subscription worth P20,000.00; from defendant-appellee Nasipit Lumber Co., Inc., the sum of P10,000.00, defendant-appellee having made a partial payment of P10,000.00 of its total subscription worth P20,000.00; from defendant-appellee Woodworks, Inc., the sum of P10,886.00, defendant-appellee having made a partial payment of P9,114.00 of its total subscription worth P20,000.00; from defendant-appellee Gonzalo Puyat the sum of P10,000.00, defendant-appellee having made a partial payment of P10,000.00 of his total

subscription worth. P20,000.00; from defendant-appellee Tomas Morato the sum of P10,000.00, defendant-appellee having made a partial payment of P10,000.00, of his total subscription worth P20,000.00; from defendant-appellee Findlay Millar Lumber Co., Inc., the sum of P10,000.00, defendant-appellee having made a partial payment of P10,000.00 of its total subscription worth P20,000.00; from defendant-appellee Insular Lumber Co., Inc., the sum of P5,000.00, defendant-appellee having made a partial payment of P15,000.00 of its total subscription worth P20,000.00; from defendant-appellee Anakan Lumber Co., Inc., the sum of P15,000.00, defendant-appellee having made a partial payment of P5,000.00 of its total subscription worth P20,000.00; and from defendant-appellee Cantilan Lumber Co., Inc., the sum of P7,500.00, defendant-appellee having made a partial payment of P2,500.00 of its total subscription worth P10,000.00, plus interest at the legal rate from the filing of the suits and the costs of the suits in all the nine (9) cases.

The Philippine Lumber Distributing Agency, Inc., according to the lower court, "was organized sometime in the early part of 1947 upon the initiative and insistence of the late President Manuel Roxas of the Republic of the Philippines who for the purpose, had called several conferences between him and the subscribers and organizers of the Philippine Lumber Distributing Agency, Inc." [5] The purpose was praiseworthy, to insure a steady supply of lumber, which could be sold at reasonable prices to enable the war sufferers to rehabilitate their devastated homes. The decision continues: "He convinced the lumber producers to form a lumber cooperative and to pool their resources together in order to wrest, particularly, the retail trade from aliens who were acting as middle men in the distribution of lumber. At the beginning, the lumber producers were reluctant to organize the cooperative agency as they believed that it would not be easy to eliminate from the retail trade the alien middlemen who had been in this business from time immemorial, but because the late President Roxas made it clear that such a cooperative agency would not be successful without a substantial working capital which the lumber producers could not entirely shoulder, and as an inducement he promised and agreed to finance the agency by making the Government invest P9.00 by way of counterpart for every peso that the members would invest therein, * * *." [6]

This was the assurance relied upon according to the decision, which stated that the amount thus contributed by such lumber producers was not enough for the operation of its business especially having in mind the primary purpose of putting an end to alien domination in the retail trade of lumber products. Nor was there any appropriation by the legislature of the counterpart fund to be put up by the Government, namely, P9.00 for every peso invested by defendant lumber producers. Accordingly, "the Late President Roxas instructed the Hon. Emilio Abello, then Executive Secretary and Chairman of the Board of Directors of the Philippine National Bank, for the latter to grant said agency an overdraft in the original sum of P250,000.00 which was later increased to P350,000.00, which was approved by said Board of Directors of the Philippine National Bank on July 28, 1947, payable on or before April 30, 1958, with interest at the rate of 6% per annum, and secured by the chattel mortgages on the stock of lumber of said agency." [7] The Philippine Government did not invest the P9.00 for every peso coming from defendant lumber producers. The loan extended to the Philippine Lumber Distributing Agency by the Philippine National Bank was not paid. Hence these suits.

For the lower courts the above facts sufficed for their dismissal. To its mind it is grossly unfair and unjust for the plaintiff bank now to compel the lumber producers to pay the balance of their subscriptions* * *. Indeed, when the late President Roxas made representations to the plaintiff bank, thru the Hon. Emilio Abello who was then the Executive Secretary and Chairman of its Board of Directors, to grant said overdraft to the agency, it was the only way by which President Roxas could make good his commitment that the Government would invest in said agency to the extent already mentioned because, according to said late President Roxas, the legislature had not appropriated any amount for such Counter-part. Consequently, viewing from all considerations of equity in the case, the Court finds that plaintiff bank should not collect any more from the defendants the balance of their subscriptions to the capital stock of the Philippine Lumber Distributing Agency, Inc." [8]

Even with the case for defendant lumber producers being put forth in its strongest possible light in the appealed decision, the plaintiff creditor, the Philippine National Bank, should have been the prevailing party. On the law as it stands, the judgment reached by the lower court cannot be sustained. The appeal as earlier made clear, possesses merit.

In *Philippine Trust Co. v. Rivera*,^[9] citing the lead-ing case of *Velasco v. Poizat*,^[10] this Court: held: "It is established doctrine that subscriptions to the capital of a corporation constitute a fund to which creditors have a right to look for satisfaction of their claims and that the assignee in insolvency can maintain an action upon any unpaid stock subscription in order to realize assets for the payment of its debts. * * * A corporation has no power to release an original subscriber to its capital stock from the obligation of paying for his shares, without a valuable consideration for such release; and as against creditors a reduction of the capital stock can take place only in the manner and under the conditions prescribed by the statute or the charter or the articles of incorporation. Moreover, strict compliance with the statutory regulations is necessary * * *" The Poizat doctrine found acceptance in later cases.^[11] One of the latest cases, *Lingayen Gulf Electric Power v. Baltazar*,^[12] speaks to this effect: "In the case of *Velasco v. Poizat*,^[13] the corporation involved was insolvent, in which case all unpaid stock subscriptions become payable on demand and are immediately recoverable in an action instituted by the assignee."

It would be unwarranted to ascribe to the late President Roxas the view that the payment of the stock subscriptions, as thus required by Law, could be condoned in the event that the counter part fund to be invested by the Government would not be available. Even if such were the case, however, and such a promise were in fact made, to further the Laudable purpose to which the proposed corporation would be devoted and the possibility that the lumber producers would lose money in the process, still the plain and specific wording of the applicable legal prevision as interpreted by this Court must be controlling. It is a well settled principle that with all the vast powers lodged in the Executive, he is still devoid of the prerogative of suspending the operations of any statute or any of its terms.

The emphatic and categorical language of an American decision cited by the late Justice Laurel, In *People v. Vera*,^[14] comes to mind: "By the twentieth article of the declaration of rights in the constitution of commonwealth, it is declared that the power of suspending the laws, or the execution of the Laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the Legislature shall expressly provide for." Nor could it be other-wise considering that the Constitution specifically enjoins the President to see to it that all Laws be faithfully executed.^[15] There may be a discretion as to what a particular legal provision requires; there can be none whatsoever as to the enforcement and application thereof once its meaning has been ascertained. What it decrees must be followed; what it commands must be obeyed. It must be respected, the wishes of the President, to the contrary notwithstanding, even if impelled by the most worthy of motives and the most persuasive equitable considerations. To repeat, such is not the case here. For at no time did President Roxas ever give defendant lumber producers to understand that the failure of the Govern-ment for any reason to put up the counterpart fund could terminate their statutory liability.

Such is not the law. Unfortunately, the lower court was of a different mind. Mat is not to pay homage to the rule of law. Its decision then, one it is to be repeated influenced by what it considered to be the "equity of the case", is not legally impeccable.

WHEREFORE, the decision of the lower court is reversed and the cases remanded to the lower court for judgment according to law, with full consideration of the legal defenses raised by defendants-appellees, Bitulok Sawmill, Inc.; Dingalan Lumber Co., Inc.; Sierra Madre Lumber Co., Inc.; Nasipit Lumber Co., Inc.; Woodworks, Inc.; Gonzalo Puyat; Tomas B. Morato; Findlay Millar Lumber Co., Inc.; Anakan Lumber Co., Inc.; and Cantilan Lumber Co., Inc. No pronouncement as to costs.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Sanchez, and Angeles, JJ., concur.
Castro, J., did not take part.

[1] Decision, Record on Appeal, p. 447.

[2] Ibid, p. 447.

[3] Ibid, p. 442.

[4] Ibid, p. 447.

[5] Ibid, p. 442.

[6] Ibid, p. 443.

[7] Ibid, pp. 444-445.

[8] Ibid, pp. 449-450.

[9] 44 Phil. 469, 470-471 (1923).

[10] 37 Phil. 802 (1918).

[11] National Exchange Co., Inc. v. Dexter, 51 Phil. 601 (1928); Miranda v. Tarlac Rice Mill Co., Inc., 57 Phil. 619 (1932); Lumanlan v. Cura, 59 Phil. 746 (1934); Garcia v. Suarez, 67 Phil. 441 (1939); and Baluyut v. Bank of P. I., 72 Phil. 17 (1941).

[12] 93 Phil. 404, 410 (1953). Cf. 13 Fletcher, Cyclopedia of Corporations, pp. 747-750 (1961). See also Lattin on The Law of Corporations, p. 113 (1959).

[13] 37 Phil. 805 (1918).

[14] 65 Phil. 56, 121 (1937), citing Holden v. James, 11 Mass., 396 (1814).

[15] Art. VII, Sec. 10, par. 1, Constitution of the Philippines.

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