

**MERRIAM SCHOOL AND OFFICE SUPPLIES CORPORATION AND
WEBSTER SCHOOL AND OFFICE SUPPLIES, INC.,
PETITIONER-APPELLANTS, VS. COURT OF APPEALS AND NATIONAL
BOOK STORE, INC., RESPONDEN...**

G.R. No. L-48413. June 30, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the jurisdiction of the Court of First Instance to entertain an action for injunction and damages involving an alleged infringement of the right to reprint a foreign book under Presidential Decree No. 285, as amended by Presidential Decree No. 400.

National Book Store, Inc., in its complaint filed on July 7, 1977 in the Court of First Instance of Manila, alleged that on April 30, 1975 and November 25, 1976 the Reprinting Committee awarded to it the right to reprint the book entitled *The Head Nurse: Her Leadership Role*, written by Barrett, Gessner and Phelps and published in the United States by Appleton-Century-Crofts.

National Book Store, Inc. further alleged that in May, 1975, Merriam School and Office Supplies Corporation violated National's reprinting right by printing two thousand copies of the said book, and, in concert with Webster School and Office Supplies, Inc., has sold and distributed the reprinted copies.

National Book Store, Inc. prayed that the Merriam and Webster firms be enjoined from printing and selling the said book and that they be ordered to pay National Book Store, Inc. damages totalling one hundred fifty-one thousand pesos (Civil Case No. 109414).

The Merriam and Webster firms filed a motion to dismiss the complaint on the ground that the jurisdiction to resolve a conflict or claim arising under Presidential Decrees Nos. 285 and 400 is vested exclusively in the Reprinting Committee, whose decision is appealable to the Office of the President of the Philippines, and that National Book Store, Inc. filed its action without having exhausted its administrative remedies.

The Reprinting Committee is composed of the Minister of Education and Culture, the Minister of Economic Planning, the Director of the National Library and the Chairman of the Textbook Board.

National Book Store, Inc. opposed the motion. The lower court denied it in its order of October 11, 1977. The Merriam and Webster firms assailed that order in their petition for certiorari in the Court of Appeals which in its decision of May 9, 1978 dismissed the petition on the ground that certiorari is not the proper remedy for the review of that order but ordinary appeal in due course after trial on the merits.

The Merriam and Webster firms appealed to this Court from that decision. We gave due course to the appeal because the jurisdictional question raised is of first impression.

Appellants invoke the following provisions of Presidential Decree No. 400 which took effect on March 1, 1974:

"SEC. 4. Any conflict or claim arising out of the provisions of this Decree shall be decided by the (Re-printing) Committee mentioned in Section 1 hereof. An order or decision of said Committee shall become final after fifteen (15) days following the receipt by the party concerned of such order or decision, unless in the meantime an appeal therefrom to the Office of the President has been taken by the aggrieved party.

"The Office of the President shall decide the appealed case within ten (10) days after the filing of the appeal."

It appears that National Book Store, Inc. had complained to the Reprinting Committee about the supposed violation of Pre-sidential Decree No. 285 by the Merriam and Webster firms.

Acting on that complaint, the Reprinting Committee, through its staff attorney, informed National Book Store, Inc. in a letter dated October 19, 1976 that its complaint about the printing and distribution of the book in question by the Merriam and Webster firms, which were not authorized by the Committee, is not the conflict or claim contemplated in section 4 and is, therefore, outside the Committee's jurisdiction. Said the Committee:

"In the opinion of the Committee, the cases contemplated in this section (4) are those involving conflicting claims or rights between parties which have to be resolved by the Committee in order to determine which has a better right.

"In the instant case between your firm and Merriam and Webster, however, the Committee finds no such conflict or claim which would require its decision inasmuch as per its records, National Book Store is the entity duly authorized to reprint the subject title under PD 285, as amended, and Merriam and Webster have not been granted any reprinting right over the said title. Under the decree, as amended, a single title may be reprinted by only one printer authorized by the government.

"Since the subject case involves an alleged violation of the decree, i.e., reprinting without authority, and considering that the decree provides for penal sanctions in case of violation of the provisions thereof, it is the considered view of the Committee that this case is within the exclusive jurisdiction of the courts to hear and decide. The Committee is not clothed with authority to impose the penalties provided for under Section 4 of the original PD 285 and neither can it assess or award damages.

"In the light of the foregoing, the subject complaint should therefore be filed directly with the City Fiscal's Office which shall conduct the preliminary investigation to determine if a prima facie case exists as to warrant prosecution of the officials of the above-named respondent-firms." (pp. 72-73, Record of Civil Case No. 109414).

The Merriam corporation averred that it filed sometime in March, 1975 an application to reprint the book in question and that its application was posted in April, 1975. However, the fact is that the Merriam firm was not awarded any authorization to reprint the book.

The Reprinting Committee opined that the Merriam firm, not being an awardee, did not have any claim or right which was in conflict with the right of National Book Store, Inc. and which should be adjudicated by the Committee under section 4.

Implicit in the Committee's ruling is the assumption that the Merriam and Webster firms are infringers of the right to reprint the book which was exclusively awarded to National Book Store, Inc. and are not awardees of any reprinting right. The cause of action of National Book Store, Inc. is predicated on the infringement of that right.

Without prejudging Civil Case No. 109414 for injunction and damages, we hold that the Court of First Instance has jurisdiction over the case and that there is no merit in petitioners' contention that National Book Store, Inc. did not exhaust its administrative remedies.

The ruling of the Reprinting Committee that it has no jurisdiction over the case should be respected. No

justification has been shown as to why the courts should substitute their opinion for that of the Committee.

WHEREFORE, the appeal is dismissed and the lower court's order, denying the motion to dismiss, and the decision of the Court of Appeals on that matter dated May 9, 1978 are affirmed. Costs against the petitioners.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., and De Castro,[*] JJ., concur.
Abad Santos, J., in the result.

[*] De Castro, J., was designated to sit in Second Division.

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