

ZOILA CO LIM, PETITIONER, VS. CONTINENTAL DEVELOPMENT CORPORATION, RESPONDENT.

G.R. No. L-41818. February 18, 1976

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

These two petitions seek a review of the order dated March 12, 1974 of the Judge presiding Branch XXVI of the Manila Court of First Instance, dismissing petitioner Continental Development Corporation's complaint.

The COURT resolved to treat these petitions as special civil actions, the petition to dismiss filed by the respondent Benito Gervasio Tan as answer and the cases as submitted for decision.

On November 26, 1973, herein petitioner Continental Development Corporation filed a complaint for interpleader against the defendants Benito Gervasio Tan and Zoila Co Lim, alleging among others:

"2. That in the books of the plaintiff, there appears the name of the defendant Benito Gervasio Tan as one of its stockholders initially accredited sometime in 1957 with fifty (50) common shares covered by certificates of stock Nos. 12 and 13, and subsequently credited with seventy five (75) shares by way of dividends covered by certificates of stock Nos. 20 and 25, or an outstanding total stockholding of one hundred twenty five (125) common shares of the par value of Two Hundred Fifty Pesos (P250.00) each.

"3. That said defendant Benito Gervasio Tan, personally or through his lawyer, has since December, 1972, been demanding from plaintiff company, by letters and telegrams, the release to him of the certificates of stock aforesaid but which the plaintiff has not done so far and is prevented from doing so because of the vehement and adverse claim thereto by the other defendant, Zoila Co Lim.

"4. That the defendant Zoila Co Lim, by letters sent to the plaintiff through her counsel, has laid claim and persists in claiming the very same shares of stock being demanded by the other defendant as aforesaid, alleging that said stocks really belonged to her mother So Bi (alias Tawa), now already deceased, and strongly denying her co-defendant's claim to the same.

"5. That both defendants, through their respective lawyers, threaten to take punitive measures against the plaintiff company should it take any steps that may prejudice their respective interests in so far as the stocks in question are concerned.

"6. That plaintiff is not sufficiently informed of the rights of the respective claimants and therefore not in a position to determine justly and correctly their conflicting claims.

"7. That the plaintiff company has no interest of any kind in said stocks and is ready and willing to deliver the corresponding certificates of ownership to whomsoever as this Honorable Court may direct." (pp. 22-23, rec.)

and praying that the defendants be directed to interplead and litigate their respective claims over the aforementioned shares of stock and to determine their respective rights thereto.

On January 7, 1974, herein respondent Benito Gervasio Tan, as defendant in the lower court, filed a motion to

dismiss the complaint, on the ground, inter alia, that paragraph 2 of the complaint itself states that the shares of stock in question are recorded in the books of petitioner in the name of defendant Benito Gervasio Tan, who should therefore be declared owner thereof pursuant to Section 52 of the Corporation Law (pp. 25-30, rec.).

On January 14, 1974, defendant Zoila Co Lim filed her answer expressly admitting paragraph 2 of the complaint, but alleging that the said shares of stock had previously been delivered in trust to the defendant Benito Gervasio Tan for her (Zoila's) mother, the late So Bi, alias Tawa, the actual owner of the shares of stock; that now Benito Gervasio Tan would want the re-issuance and release to him of new replacement certificates, which petitioner has not so far done; and that as the daughter and heir of said So Bi, alias Tawa, she is now the owner of the said shares of stock, which should be delivered to her (pp. 31-33, rec.).

On January 22, 1974, petitioner Continental Development Corporation filed its opposition to Benito's motion to dismiss (pp. 34-40, G.R. No. L-41831).

In the questioned order dated March 12, 1974, the trial judge dismissed the complaint for lack of cause of action, invoking Section 35 of Act No. 1459, as amended, otherwise known as the Corporation Law (pp. 41-42, G.R. No. L-41831).

Defendant Zoila Co Lim and herein petitioner as plaintiff, filed their respective motions for reconsideration of the aforesaid order (pp. 43-49, G.R. No. L-41831), to which the defendant Benito Gervasio Tan filed his rejoinder (pp. 50-61, G.R. No. L-41831). Said motions were denied in an order dated July 3, 1974.

Hence these petitions by Continental Development Corporation and Zoila Co Lim.

It is patent from the pleadings in the lower court that both defendants Benito Gervasio Tan and Zoila Co Lim assert conflicting rights to the questioned shares of stock. Precisely in his motion to dismiss the complaint for inter-pleader, defendant Benito Gervasio Tan states that petitioner corporation, through its Vice-President, notified him on July 23, 1973 "that the shares of stock are in the possession of its treasurer Mr. Ty Lim, and urged defendant to directly obtain them from the former, who allegedly was on vacation at the time. Mr. Ty Lim, on August 30, 1973, through counsel, replied to the defendant Benito Gervasio Tan that said certificates were not in his possession but surmised, without reference to any record, that the same might have been delivered to the deceased So Bi. And, on October 29, 1973, same counsel of Mr. Ty Lim, wrote the corporation, in behalf of defendant Zoila Co Lim, alleged heir of So Bi, claiming ownership of the stocks" (pp. 26, 27, G.R. No. L-41831). Defendant Zoila Co Lim, on the other hand, as heretofore stated, claims sole ownership of said shares of stock as inheritance from her late mother So Bi, alias Tawa.

And petitioner Continental Development Corporation expressly stated in the complaint that both defendants, through their respective lawyers, threatened to take punitive measures against it should it adopt any steps that may prejudice their respective interests in the shares of stock in question; and that it is not sufficiently informed of the rights of the respective claimants and therefore not in a position to determine justly and correctly their conflicting claims (pars. 5, 6 and 7 of the complaint, p. 23, rec.).

And in its opposition to the motion to dismiss its complaint, petitioner Continental Development Corporation stressed that it might be liable to one defendant should it comply with the demands of the other with respect to the transfer or entry of the shares of stock in the books of the corporation.

Since there is an active conflict of interests between the two defendants, now herein respondent Benito Gervasio Tan and petitioner Zoila Co Lim, over the disputed shares of stock, the trial court gravely abused its discretion in dismissing the complaint for interpleader, which practically decided ownership of the shares of stock in favor of defendant Benito Gervasio Tan. The two defendants, now respondents in G.R. No. L-41831, should be given full

opportunity to litigate their respective claims.

Rule 63, Section 1 of the New Rules of Court tells us when a cause of action exists to support a complaint in interpleader:

"Whenever conflicting claims upon the same subject matter are or may be made against a person, who claims no interest whatever in the subject matter, or an interest which in whole or in part is not disputed by the claimants, he may bring an action against the conflicting claimants to compel them to interplead and litigate their several claims among themselves" (*Italics supplied*).

This provision only requires as an indispensable re-quisite:

"that conflicting claims upon the same subject matter are or may be made against the plaintiff-in-interpleader who claims no interest whatever in the subject matter or an interest which in whole or in part is not disputed by the claimants" (*Beltran vs. People's Homesite and Housing Corporation*, No. L-25138, 29 SCRA 145).

This ruling, penned by Mr. Justice Teehankee, reite-rated the principle in *Alvarez vs. Commonwealth* (65 Phil. 302), that

"The action of interpleader, under section 120, is a remedy whereby - a person who has personal property in his possession, or an obligation to render wholly or partially, without claiming any right in both comes to court and asks that the persons who claim the said personal property or who consider themselves entitled to demand compliance with the obligation, be required to litigate among themselves, in order to determine finally who is entitled to one or the other thing. The remedy is afforded not to protect a person against a double liability but to protect him against a double vexation in respect of one liability."

An interpleader merely demands as a sine qua non element

"* * * that there be two or more claimants to the fund or thing in dispute through separate and different interests. The claims must be adverse before relief can be granted and the parties sought to be interpleaded must be in a position to make effective claims" (33 C.J. 430).

Additionally, the fund, thing, or duty over which the parties assert adverse claims must be one and the same and derived from the same source (33 C.J., 328; *Martin*, Rules of Court, 1969 ed., Vol. 3, 133-134; *Moran*, Rules of Court, 1970 ed., Vol. 3, 134-136).

Indeed, petitioner corporation is placed in the same situation as a lessee who does not know the person to whom he will pay the rentals due to the conflicting claims over the property leased, or a sheriff who finds himself puzzled by conflicting claims to a property seized by him. In these examples, the lessee (*Pangkalinawan vs. Rodas*, 80 Phil. 28) and the sheriff (*Sy-Quia vs. Sheriff*, 46 Phil. 400) were each allowed to file a complaint in interpleader to determine the respective rights of the claimants.

WHEREFORE, THE PETITIONS ARE HEREBY GRANTED; THE ORDER DATED MARCH 12, 1974 DISMISSING THE COMPLAINT AND THE ORDER DATED JULY 3, 1974 DENYING THE MOTION FOR RECONSIDERATION OF THE PETITIONERS IN THESE TWO CASES ARE HEREBY SET ASIDE. WITH COSTS AGAINST RESPONDENT BENITO GERVASIO TAN.

Teehankee (Chairman), Esguerra, Muñoz Palma, and Martin, JJ., concur.

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