

GENERAL CORPORATION OF THE PHILIPPINES AND MAYON INVESTMENT CO., PLAINTIFF AND APPELLANTS VS. UNION INSURANCE SOCIETY OF CANTON, LTD., AND/OR FIREMAN'S FUND INSURANCE CO., DEFEN...

G.R. No. L-2303. December 29, 1951

Ponente: REYES, J.

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REYES, J.:

This is an action on marine insurance policies covering shipments of goods from the United States to the Philippines.

It appears that during the period from September 5, 1945, to December 31, 1945, the defendant Fireman's Fund Insurance Co., a California corporation doing business in the United States, issued to Western Canvas Products Co. and/or Rovon Trading Co., firms doing business in Seattle, Washington, United States, twelve marine insurance policies for the aggregate sum of \$28,568.80 upon merchandise shipped by said firm from the United States to the Philippines. The original bills of lading and the original insurance policies covering the merchandise, all indorsed in blank, were sent by the insured to the Hongkong and Shanghai Banking Corporation in Manila with the express instruction that the said documents were to be surrendered and title to the merchandise passed only upon payment in full of the invoice price. As the prospective purchaser, a certain A. C. Poulin, failed to meet the terms of the sale when the merchandise arrived in Manila, other arrangements had to be made for the disposal of the merchandise, and to that end, the shippers entered into an understanding with the plaintiffs, General Corporation of the Philippines and Mayon Investment Co. ("two domestic corporations with principal offices in the City of Manila), and had the shipping documents and insurance policies surrendered to said corporation and the merchandise released to them. The amended complaint states that the insurance policies "were duly indorsed, assigned and transferred by the assured Western Canvas Products and/ or Rovon Trading Co. and delivered to the plaintiffs for collection of whatever losses which may be incurred on the shipments already aforementioned."

As some of the merchandise covered by the insurance was lost or damaged in transit, plaintiffs filed the corresponding claims with the insurer's settling agent in Manila, the defendant Union Insurance Society of Canton, Ltd., a foreign corporation licensed to do business in the Philippines with head office in Hongkong and branch office in Manila. After the necessary investigation, the claims, with the exception of those relating to policy No. 70448/6 for \$2,902.36, were forwarded by the settling agent to its principal in Seattle, the defendant Fireman's Fund Insurance Co., and the claims were approved by this company for the aggregate sum of \$25,666.54, which represents the full extent of its liability on the eleven policies forwarded to it, including surveyor's fee. That sum was, however, reduced to \$17,549.97 through deduction of \$8,116.47, for unpaid premiums. The claim under insurance policy No. 70448/6, which was filed later, was not forwarded to Seattle.

As the proceeds of the eleven policies were not turned over to the General Corporation of the Philippines and Mayon Investment Co., who claims to be entitled thereto as indorsees of the policies, these two companies

instituted the present action in the Court of First Instance of Manila against the insurer, Fireman's Fund Insurance Co., and/or its settling agent in Manila, the Union Insurance Society of Canton, Ltd., to collect indemnity for the loss or damage suffered by the goods covered by the said eleven policies and by policy No. 70448/6, which, as above stated, was not forwarded to Seattle. It appears, however, that the reason-why the proceeds of the eleven policies were not paid to herein plaintiffs was because the insurer (Fireman's Fund Insurance Co.), in order not to incur liability for erroneous payment, had brought an action in the Superior Court of the State of Washington for King County against Clyde Philp, Hugh C. Van Valkenburg and Mendel Rose (individually and as co-partners doing business under the firm names of Western Canvas Products Co. and Rovon Trading Co.), the Seattle First National Bank, and the General Corporation of the Philippines and Mayon Investment Co., to compel them to interplead and litigate among themselves their several claims to the said proceeds, and had the money deposited in the registry of that court. In that action the Seattle First National Bank claimed ownership of said sum by virtue of an assignment made in its favor by Clyde Philp, Hugh C. Van Valkenburg and Mendel Rose, individually and as copartners, of all monies that might become due and payable under the policies in question in consideration of the sum of \$30,000 advanced by the said bank to Mendel Rose and evidenced by a promissory note which became due on September 25, 1946. The General Corporation of the Philippines and Mayon Investment Co. on their part entered a general appearance and filed a crosscomplaint, but did not appear in the trial notwithstanding due notice. Instead, they filed a memorandum in lieu of evidence. After trial, the Washington court rendered judgment, adjudicating the sum of money in litigation to.. the Seattle First National Bank and discharging the Fireman's Fund Insurance Co. from all liability to the other parties to the action, including the General Corporation of the Philippines and the Mayon Investment Co. This judgment has not been appealed and is already final.

Answering the complaint in the present action, the defendants denied that plaintiffs had become owners of the policies or their proceeds by virtue of the indorsement made in their favor and pleaded the judgment of the Washington court in the interpleader suit as a special defense. The Manila court sustained this plea and rendered judgment, absolving the defendants from the complaint with respect to the eleven policies, but condemning the Fireman's Insurance Co. to pay indemnity under policy No. 70448/6. Both judgments were appealed to this Court. But only the appeal from the absolutory judgment is now before us. The appeal from the judgment for indemnity, which, because of the amount involved, was taken to the Court of Appeals and docketed there as G. R. No. 2122-R but later transferred to this Court because of its relation to the appeal now under consideration, has already been disposed of in the decision rendered in G.R. No. L-2684.

The question for resolution is whether the plaintiffs-appellants in the present action are bound by the judgment rendered by the Superior Court of the State of Washington for King County.

Section 48 of Rule 39 provides that a foreign judgment "may be repelled by evidence of want of jurisdiction, want of notice to the party, collusion, fraud or clear mistake of law or fact." In the present case there can be no question as to the jurisdiction of the foreign court over the subject matter of the action, which was a sum of money in the custody of the court. Neither can there be question as to that court's jurisdiction over the General Corporation of the Philippines and Mayon Investment Co., it appearing that these parties had voluntarily appeared in the case and filed their answer setting up various special defenses and asking for an affirmative relief consisting of a prayer for judgment and one-half of the collectible insurance. The plea that being in the Philippines it was expensive for them to defend a suit in the United States can not deprive the court of its jurisdiction over them after they had voluntarily submitted themselves thereto.

It is, however, contended that the decision of the Washington court was rendered as a result of a clear mistake of law and fact, and in support of this contention they claim that the indorsement to them of the policies in question made them owners of the proceeds thereof. It, however, appears from the evidence as well as from these

appellants' own pleadings that the said policies were indorsed and delivered to them "for collection of whatever losses which may be incurred on the shipment heretofore mentioned," which goes to show that appellants became holders of the policies merely for collection, that is, in the capacity of mere agents of the insured, and not as purchasers as they would insinuate. As such agents they could have no better title than their principal and must hold the policies or the proceeds thereof subject to the assignment previously made by the principal in favor of the Seattle First National Bank.

There is nothing to the allegation that the interpleader suit was the result of collusion and fraud between the insured and the bank. The charge is not borne out by the evidence and is pure speculation.

On the whole we agree to the following conclusion arrived at by the lower court:

"Upon the facts of record, therefore, and the law applicable thereto, the judgment of the Superior Court of the State of Washington for King County in case No. 376266 of that Court, promulgated on the 25th day of February, 1947, which is now final and unappealable, is binding upon the rights of plaintiffs and defendant Fireman's Fund Insurance Co. There is no showing that there was collusion and fraud in the case before the Superior Court of the State of Washington for King County. Indeed the validity of said judgment has not been directly attacked by plaintiffs. It is true that four of the defendants in the case are not parties in this action, but this circumstance does not defeat the applicability of the doctrine of res judicata to the case at bar. There is identity of causes of action as it cannot be denied that the same evidence would support and establish both this action and that case. And, inasmuch as the amount therein involved which represents the approved claims on the eleven insurance policies involved in this action have been finally adjudicated to Seattle First National Bank, one of the defendants and crosscomplainants in that case, and the judgment of the Court discharged Fireman's Fund Insurance Co. from any liability of whatsoever nature to the defendants therein, which include the herein plaintiffs, the right of the latter to recover on said insurance policies is now barred."

Wherefore, the judgment of the lower court¹ in so far as it absolves the appellees from the complaint is affirmed, with costs.

Paras, C.J., Feria, Pablo, Bengzon, Padilla, Tuason, Jugo, and Bautista Angelo, JJ., concur.
Montemayor, J., took no part.

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