

PHILIPPINE RESOURCES DEVELOPMENT CORPORATION, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, MACARIO APOSTOL, AND EMPIRE INSURANCE COMPANY, RESPONDENTS.

G. R. No. L-20653. April 30, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

The Bureau of Prisons, in line with its duty to enforce prison discipline effectively, conserve the health of prisoners and train them for a useful trade, launched a project of exploiting our forest resources with the use of prison labor. The undertaking produced large quantities of resin and logs which said bureau sold to private parties.

In 1951, Macario Apostol contracted with the Bureau of Prisons for the purchase by the former from the latter of almaciga and 3,000,000 board feet of lauan logs at P88.00 per thousand board feet. To secure his obligation under the almaciga contract, Macario Apostol posted a performance bond in the sum of P10,000.00, with the Empire Insurance Company as surety.

Accordingly, the Bureau of Prisons delivered almaciga and lauan logs to Apostol. The latter, however, failed to pay in full for said almaciga and logs, and after proper accounting, the Bureau of Prisons found the amount of P34,015.06[1] still due from him. To settle his obligation, Apostol delivered to the Bureau of Prisons 892 pieces of GI sheets, 399 GI pipes and 2,793 pieces of black iron sheets valued at P4,638.40, P4,398.54 and P21,400.00, respectively, or aggregately valued at P30,436.94. For lack of supporting papers, the value of said properties was not credited against Apostol's indebtedness.

Subsequently, on May 6, 1955, the Republic of the Philippines filed a complaint in the Court of First Instance of Manila against Apostol and the Empire Insurance Company (as surety) for the collection of the afore-stated amount of P34,015.06.

Apostol, in his answer to the complaint, alleged payment of the account, as follows:

Per E.P.O. No. 3 077 (892 pieces of GI Sheets)

P4,638.40

Per E.P.O. No. 1549 (399 GI Pipes)

P4,398.54

Dec. 28, 1053 (2,793 pieces of black iron sheets)

21,400.00

Forest charges advanced in behalf of Bureau of Prisons

2,000.00

P32.436.94

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and admitted an unpaid balance of P758.12[2]

The Empire Insurance Company filed an answer with cross-claim and third-party complaint against Macario Apostol and Arsenio Afan, Apostol's co-maker in his indemnity agreement with Empire Insurance Company.

Prompted by Apostol's defense that he paid his outstanding account with the Bureau of Prisons in kind, the Philippine Resources Development Company, of which Apostol was the president, filed on July 19, 1955 a motion for leave to intervene claiming ownership over the properties delivered by Apostol to the Bureau of Prisons. The motion was denied, on the ground of lack of legal interest in the matter in litigation, and the Philippine Resources Development Company filed a petition for certiorari in the Court of Appeals. After hearing the parties, the Court of Appeals set aside the order of the trial court and directed the admission of the complaint in intervention. The Judgment of the Court of Appeals was affirmed by this court in 102 Phil. 960, promulgated on January-31, 1958.

Accordingly, the complaint in intervention was admitted by the Court of First Instance. The Republic of the Philippines filed an answer thereto interposing for the first time the defense of state immunity from suit. The court, after trial, rendered judgment, thus:

"IN VIEW WHEREOF, judgment is rendered':

"(1) Condemning defendant Macario Apostol to pay unto plaintiff the sum of P34,095.06 with legal interest from the date of the filing of the complaint;

"(2) Absolving the Empire Insurance & Surety company;

"(3) Condemning plaintiff to return unto Intervenor the value of the properties delivered to it by Macario Apostol as outlined in Exhibit 'Y' and in default thereof of the sum of P31.436.94 with legal interest from the date of the filing of the complaint in intervention. No pronouncement as to costs."

The Republic of the Philippines and Apostol appealed to the Court of Appeals but the latter's appeal was dismissed for abandonment. Thereafter, the Court of Appeals rendered judgment as follows:

"Wherefore, the decision of the trial court is hereby affirmed insofar as it condemns defendant, Macario Apostol, to pay the plaintiff the sum of P34,095.00, with legal interest from the date of the filing of the plaintiff's complaint, subject, however, to deductions of the value of the properties delivered by him to the Bureau of Prisons which it has credited to his account. In other respects it is hereby reversed by dismissing the complaint in intervention and ordering the Empire Insurance Company to pay jointly and severally with Macario Apostol, to the extent of P10,000.00, whatever balance the latter has not paid to the Bureau of Prisons

under two causes of action of the plaintiff's complaint, after crediting him with the value of the articles he delivered as aforesaid to said bureau.

The Philippine Resources Development Corporation appealed to this Court.

We agree with the proposition that a claim, no matter how meritorious, may not be maintained against the State without its consent.[3] Petitioner's complaint in intervention is, in effect, directed not at plaintiff Republic of the Philippines but against defendant Macario Apostol, who cannot avail of the defense of immunity from suit. As to him, the complaint in intervention should not have been dismissed.

The complaint in intervention asserted ownership of the properties that Apostol delivered to the Bureau of Prisons as payment for his outstanding personal account. The Republic of the Philippines, or specifically, the Bureau of Prisons, precisely refused to credit Apostol with the value of said properties and instead filed a complaint against him to collect the very indebtedness he had sought to pay with the properties. Nowhere in the record-be it from the complaint, the answer, the complaint in intervention or the answer to the complaint in intervention-does it appear that the Republic ever asserted any interest to the aforesaid properties adverse to that claimed by petitioner in its intervention. On the other hand, from the answer of defendant Apostol as well as from the complaint in intervention, it is clear that Apostol had adversely asserted ownership over the properties. Apostol, therefore, and not the Republic, is the party against whom petitioner's intervention has, in effect, proceeded.

Per the findings of the trial court, undisturbed by the Court of Appeals, upon petitioner's evidence as well as the subsequent of Apostol himself, the 892 pieces of GI sheets, 399 GI pipes and 2,793 pieces of black iron sheets claimed under the complaint in intervention belong to petitioner. The record bears no indication that petitioner conveyed ownership over them to Apostol and, instead, shows that the properties came into Apostol's possession as president of petitioner corporation. Apostol is therefore bound to account for and retribute them,[4] and if restitution is no longer possible, to pay petitioner their value.

Wherefore, the judgment appealed from is hereby modified. Defendants Macario Apostol and Empire Insurance Company, jointly and severally, are ordered to pay plaintiff the sum of P34,015.06, with legal interest from the date of the filing of plaintiff's complaint, provided that defendant Empire Insurance Company's liability shall not exceed P10,000.00. The dismissal of the complaint in intervention is set aside as against defendant Macario Apostol, who is hereby ordered to return to petitioner Philippine Resources Development Corporation the properties therein specified, or in default thereof, to pay petitioner the value of P30,436.94, with legal interest from the date of the filing of the complaint in intervention. No pronouncement as to costs. It is so ordered.

Bengzon, C. J., Bautista Angela, Conception, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Zaldivar, JJ., concur.

[1] P15,187.49 for almaciga and P18,827.57 for lauan logs.

[2] The correct amount is P1,578.12.

[3] Coinpania General de Tabaoos vs. Government of the Philippine Islands, 45 Phil. 663.

[4] Article 1891, Now Civil Code, Dormati vs. Crooks Slate Rank, 225 N. W. 6G1, W. E. Olsen & Co. vs. Olson, 48 Phil. 238.

RESOLUTION

April 30, 1965

BENGZON, J. P., J.:

Philippine Resources Development Corporation appealed by certiorari from a decision of the Court of Appeals which dismissed its complaint in intervention in the suit of the Republic of the Philippines against Apostol and Empire Insurance Co.

We promulgated, on March 31, 1965, our decision, recognizing¹ petitioner-intervenor's right to proceed against Apostol, thereby modifying, in petitioner's favor the Court of Appeals' decision.

The dispositive portion of our decision stated:

"Wherefore, the judgment appealed from is hereby modified. Defendants Macario Apostol and Empire Insurance Company, jointly and severally, are ordered to pay plaintiff the sum of P34,015.06, with legal interest from the date of the filing of plaintiff's complaint, provided that defendant Empire Insurance Company's liability shall not exceed P10,000.00. The dismissal of the complaint in intervention is set aside as against defendant Macario Apostol, who is hereby ordered to return to petitioner Philippine Resources Development Corporation the properties therein specified, or in default thereof, to pay petitioner the value of P30,436.94, with legal interest from the date of the filing of the complaint in intervention. No pronouncement as to costs."

Petitioner-intervenor, however, stating that said decision "complicated the matter", moves for its reconsideration.

Petitioner-intervenor obviously seeks now to be in a position to recover not only from Apostol but also, in case it is necessary, from the Republic of the Philippines thru the Bureau of Prisons.

So the first point movant raises is that the Republic is not, in this case, immune from petitioner's suit in intervention, because the Republic allegedly performed proprietary functions herein, entered into a contract, and filed a suit in court (National Airport Corporation vs. Teodoro, 91 Phil. 203; Santos vs. Santos, 92 Phil. 281).

As stated in the decision, petitioner's suit in intervention was directed not against the Republic but against Apostol. The Republic, in effect, was not sued. Petitioner's action was plainly directed against its corporate president who allegedly disposed of its materials without its consent.

Secondly, movant contends that its suit in intervention was directed against the Republic also, since the latter in fact asserted an adverse interest over petitioner's goods.

In support of this contention movant cites letters of the Director of Prisons and of the Undersecretary of Justice purportedly admitting that the Republic had appropriated the goods or some of them. The latter, however, form no part of the record in this case. The very motion states that said letters were quoted verbatim in the corporation's brief in another case, No. L-10141, the records of which had never been made a part of this case. Therefore, the fact still is, as correctly stated in the decision, that nowhere in the record herein did the Republic assert an interest over petitioner's goods and that, instead, Apostol is the one who clearly did assert such interest. A suit in intervention, therefore, filed in this case, claiming an interest over the goods, can only be deemed a suit against Apostol and not the Republic.

Petitioner refers to the special and affirmative defenses in the Republic's answer to its complaint in intervention. The same, however, do not admit that the Republic appropriated the goods, but merely state hypothetical[^] that "if there had goods delivered by the defendant Macario Apostol to the Bureau of Prisons, an agency of the plaintiff,

which had been disposed of one way or another by the said Bureau" the Bureau authorities "in any event" did not now that they were owned by petitioner and not by Apostol. (Record on Appeal, p. 83.) The special defenses, therefore, assume for the sake of argument, but do not admit, a disposal by the Republic of the goods.

Similarly, the fact that the Republic filed a suit against Apostol to collect the amount shown in Exhibit "Y" to which petitioner also refers-shows that the Republic refused to credit in Apostol's favor the goods claimed by petitioner. As far as can be gathered from the record of this case, therefore, the interest of petitioner in the subject-matter of the suit is opposed not by the Republic but by Apostol. Petitioner's suit in intervention, perforce and in effect, is a suit not against the Republic but against Apostol.

Wherefore, finding no plausible reason therein, the motion for reconsideration is hereby denied. So ordered.

Bengzon, C. J., Bautista Angelo, Conception, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Zaldivar, JJ., concur.

Motion denied.

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