

**EVANGELISTA & CO., DOMINGO C. EVANGELISTA, JR.,
CONCHITA B. NAVARRO AND LEONARDA ATIENZA ABAD SANTOS,
PETITIONERS, VS. ESTRELLA ABAD SANTOS, RESPONDENT.**

G.R. No. L-31684. June 28, 1973

Ponente: MAKALINTAL, ACTING CJ.

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MAKALINTAL, ACTING CJ.:

On October 9, 1954 a co-partnership was formed under the name of "Evangelista & Co." On June 7, 1955 the Articles of Co-partnership were amended so as to include herein respondent, Estrella Abad Santos, as industrial partner, with herein petitioners Domingo C. Evangelista, Jr., Leonardo Atienza Abad Santos and Conchita P. Navarro, the original capitalist partners, remaining in that capacity, with a contribution of P17,500 each. The amended Articles provided, inter alia, that "the contribution of Estrella Abad Santos consists of her industry being an industrial partner"; and that the profits and losses "shall be divided and distributed among the partners . . . in the proportion of 70% for the first three partners, Domingo C. Evangelista, Jr., Conchita P. Navarro and Leonardo Atienza Abad Santos to be divided among them equally; and 30% for the fourth partner, Estrella Abad Santos."

On December 17, 1963 herein respondent filed suit against the three other partners in the Court of First Instance of Manila, alleging that the partnership, which was also made a party-defendant, had been paying dividends to the partners except to her; and that notwithstanding her demands the defendants had refused and continued to refuse and let her examine the partnership books or to give her information regarding the partnership affairs to pay her any share in the dividends declared by the partnership. She therefore prayed that the defendants be ordered to render an accounting to her of the partnership business and to pay her corresponding share in the partnership profits after such accounting, plus attorney's fees and costs.

The defendants, in their answer, denied ever having declared dividends or distributed profits of the partnership; denied likewise that the plaintiff ever demanded that she be allowed to examine the partnership books; and by way of affirmative defense alleged that the amended Articles of Co-partnership did not express the true agreement of the parties, which was that the plaintiff was not an industrial partner; that she did not in fact contribute industry to the partnership; and that her share of 30% was to be based on the profits which might be realized by the partnership only until full payment of the loan which it had obtained in December, 1955 from the Rehabilitation Finance Corporation in the sum of P30,000, for which the plaintiff had signed a promisory note as co-maker and mortgaged her property as security.

The parties are in agreement that the main issue in this case is "whether the plaintiff-appellee (respondent here) is an industrial partner as claimed by her or merely a profit sharer entitled to 30% of the net profits that may be realized by the partnership from June 7, 1955 until the mortgage loan from the Rehabilitation Finance Corporation shall be fully paid, as claimed by appellants (herein petitioners)." On that issue the Court of First Instance found for the plaintiff and rendered judgment "declaring her an industrial partner of Evangelista & Co.; ordering the defendants to render an accounting of the business operations of the (said) partnership . . . from June 7, 1955; to

pay the plaintiff such amounts as may be due as her share in the partnership profits and/or dividends after such an accounting has been properly made; to pay plaintiff attorney's fees in the sum of P2,000.00 and the costs of this suit."

The defendants appealed to the Court of Appeals, which thereafter affirmed judgment of the court a quo.

In the petition before Us the petitioners have assigned the following errors:

"I. The Court of Appeals erred in finding that the respondent is an industrial partner of Evangelista & Co., notwithstanding the admitted fact that since 1954 and until after promulgation of the decision of the appellate court the said respondent was one of the judges of the City Court of Manila, and despite its finding that respondent has been paid for services allegedly contributed by her to the partnership. In this connection the Court of Appeals erred:

(A)

In finding that the 'amended Articles of Co-partnership,' Exhibit 'A' is conclusive evidence that respondent was in fact made an industrial partner of Evangelista & Co.

(B)

In not finding that a portion of respondent's testimony quoted in the decision proves that said respondent did not bind herself to contribute her industry, and she could not, and in fact did not, because she was one of the judges of the City Court of Manila since 1954.

(C)

In finding that respondent did in fact contribute her industry, despite the appellate court's own finding that she has been paid for the services allegedly rendered by her, as well as for the loans of money made by her to the partnership.

"II. The lower court erred in not finding that in any event the respondent was lawfully excluded from, and deprived of, her alleged share, interest and participation, as an alleged industrial partner, in the partnership Evangelista & Co., and in its profits or net income.

"III. The Court of Appeals erred in affirming in toto the decision of the trial court whereby respondent was declared an industrial partner of petitioner partnership, and petitioners were ordered to render an accounting of the business operation of the partnership from June 7, 1955, and to pay the respondent her alleged share in the net profits of the partnership plus the sum of P2,000.00 as attorney's fees and the costs of the suit, instead of dismissing respondent's complaint, with costs, against the respondent."

It is quite obvious that the questions raised in the first assigned error refer to the facts as found by the Court of Appeals. The evidence presented by the parties as the trial in support of their respective positions on the issue of whether or not the respondent was an industrial partner was thoroughly analyzed by the Court of Appeals on its decision, to the extent of reproducing verbatim therein the lengthy testimony of the witnesses.

It is not the function of the Supreme Court to analyze or weigh such evidence all over again, its jurisdiction being limited to reviewing errors of law that might have been committed by the lower court. It should be observed, in this regard, that the Court of Appeals did not hold that the Articles of Co-partnership, identified in the record as Exhibit "A", was conclusive evidence that the respondent was an industrial partner of the said company, but considered it together with other factors, consisting of both testimonial and documentary evidences, in arriving at

the factual conclusion expressed in the decision.

The findings of the Court of Appeals on the various points raised in the first assignment of error are hereunder reproduced if only to demonstrate that the same were made after a thorough analysis of the evidence, and hence are beyond this Court's power of review.

"The aforequoted findings of the lower Court are assailed under Appellants' first assigned error, wherein it is pointed out that 'Appellee's documentary evidence does not conclusively prove that appellee was in fact admitted by appellants as industrial partner of Evangelista & Co.' and that 'The grounds relied upon by the lower Court are untenable' (Pages 21 and 26, Appellant's Brief).

"The first point refers to Exhibits A, B, C, K, K-1, J, N, and S, appellants' complaint being that 'In finding that the appellee is an industrial partner of appellant Evangelista & Co., - herein referred to as the partnership — the lower court relied mainly on the appellee's documentary evidence, entirely disregarding facts and circumstances established by appellants' evidence which contradict the said finding' (Page 21, Appellants' Brief). The lower court could not have done otherwise but rely on the exhibits just mentioned, first, because appellants have admitted their genuineness and due execution, hence they were admitted without objection by the lower court when appellee rested her case and, secondly, the said exhibits indubitably show that appellee is an industrial partner of appellant company. Appellants are virtually estopped from attempting to detract from the probative force of the said exhibits because they all bear the imprint of their knowledge and consent, and there is no credible showing that they ever protested against or opposed their contents prior to the filing of their answer to appellee's complaint. As a matter of fact, all that appellant Evangelista, Jr., would have us believe - as against the cumulative force of appellee's aforesaid documentary evidence — is that appellee's Exhibit 'A', as confirmed and corroborated by the other exhibits already mentioned, does not express the true intent and agreement of the parties thereto, the real understanding between them being that appellee would be merely a profit sharer entitled to 30% of the net profits that may be realized between the partners from June 7, 1955 until the mortgage loan of P30,000.00 to be obtained from the RFC shall have been fully paid. This version, however, is discredited not only by the aforesaid documentary evidence brought forward by the appellee, but also by the fact that from June 7, 1955 up to the filing of their answer to the complaint on February 8, 1964 — or a period of over eight (8) years — appellants did nothing to correct the alleged false agreement of the parties contained in Exhibit 'A'. It is thus reasonable to suppose that, had appellee not filed the present action, appellants would not have advanced this obvious afterthought that Exhibit 'A' does not express the true intent and agreement of the parties thereto.

"At pages 32-33 of appellants' brief, they also make much of the argument that there is an overriding fact which proves that the parties to the Amended Articles of Partnership, Exhibit 'A', did not contemplate to make the appellee Estrella Abad Santos, an industrial partner of Evangelista & Co. It is an admitted fact that since before the execution of the amended articles of partnership, Exhibit 'A', the appellee Estrella Abad Santos has been, and up to the present time still is, one of the judges of the City Court of Manila, devoting all her time to the performance of the duties of her public office. This fact proves beyond peradventure that it was never contemplated between the parties, for she could not lawfully contribute her full time and industry which is the obligation of an industrial partner pursuant to Art. 1789 of the Civil Code."

The Court of Appeals then proceeded to consider appellee's testimony on this point, quoting it in the decision, and then concluded as follows:

"One cannot read appellee's testimony just quoted without gaining the very definite impression that, even as she was and still is a Judge of the City Court of Manila, she has rendered services for appellants without which they would not have had the wherewithal to operate the business for which appellant company was organized. Article 1767 of the New Civil Code which provides that 'By contract of partnership two or more persons bind themselves, to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves,' does not specify the kind of industry that a partner may thus contribute, hence the

said services may legitimately be considered as appellee's contribution to the common fund. Another article of the same Code relied upon by appellants reads:

'ART. 1789. An industrial partner cannot engage in business for himself, unless the partnership expressly permits him to do so; and if he should do so, the capitalist partners may either exclude him from the firm or avail themselves of the benefits which he may have obtained in violation of this provision, with a right to damages in either case.'

It is not disputed that the prohibition against an industrial partner engaging in business for himself seeks to prevent any conflict of interest between the industrial partner and the partnership, and to insure faithful compliance by said partner with his prestation. There is no pretense, however, even on the part of appellants that appellee is engaged in any business antagonistic to that of appellant company, since being a Judge of one of the branches of the City Court of Manila can hardly be characterized as a business. That appellee has faithfully complied with her prestation with respect to appellants is clearly shown by the fact that it was only after the filing of the complaint in this case and the answer thereto that appellants exercised their right of exclusion under the codal article just mentioned by alleging in their Supplemental Answer dated June 29, 1964 - or after around nine (9) years from June 7, 1955 - "That subsequent to the filing of defendants' answer to the complaint, the defendants reached an agreement whereby the herein plaintiff has been excluded from, and deprived of, her alleged share, interest or participation, as an alleged industrial partner, in the defendant partnership and/or in its net profits or income, on the ground that plaintiff has never contributed her industry to the partnership, and instead she has been and still is a judge of the City Court (formerly Municipal Court) of the City of Manila, devoting her time to the performance of her duties as such judge and enjoying the privileges and emoluments appertaining to the said office, aside from teaching in law school in Manila, without the express consent of the herein defendants' (Record On Appeal, pp. 24-25). Having always known appellee as a City Judge even before she joined appellant company on June 7, 1955 as an industrial partner, why did it take appellants so many years before excluding her from said company as per aforequoted allegations? And how can they reconcile such exclusion with their main theory that appellee has never been such a partner because 'The real agreement evidenced by Exhibit 'A' was to grant the appellee a share of 30% of the net profits which the appellant partnership may realize from June 7, 1955, until the mortgage loan of P30,000.00 obtained from the Rehabilitation Finance Corporation shall have been fully paid.' (Appellants Brief, p. 38).

"What has gone before persuades us to hold with the lower Court that appellee is an industrial partner of appellant company, with the right to demand for a formal accounting and to receive her share in the net profit that may result from such an accounting, to which right appellants take exception under their second assigned error. Our said holding is based on the following article of the New Civil Code:

'ART. 1899. Any partner shall have the right to a formal account as to partnership affairs:

- (1) If he is wrongfully excluded from the partnership business or possession of its property by his co-partners;
- (2) If the right exists under the terms of any agreement;
- (3) As provided by Article 1807;
- (4) Whenever other circumstances render it just and reasonable."

We find no reason in this case to depart from the rule which limits this Court's appellate jurisdiction to reviewing only errors of law, accepting as conclusive the factual findings of the lower court upon its own assessment of the evidence.

The judgment appealed from is affirmed, with costs.

Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

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