

HECTOR MORENO, ET AL., PLAINTIFFS-APPELLEES, VS. MARY A. MARSMAN, ET AL., DEFENDANTS, MARY A. MARSMAN, DEFENDANT-APPELLANT.

G.R. No. L-18880. March 18, 1967

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal by Mary A. Marsman - hereinafter referred to as Mrs. Marsman - from an order of the Court of First Instance of Rizal finding her guilty of contempt of court, and sentencing her to pay a fine of P100.00.

The pertinent facts are: On December 28, 1960, Hector Moreno and other 18 members of the Marsman Investments, Ltd., filed with the Court of First Instance of Rizal a com-plaint, - which was docketed as Civil Case No.6427 of said Court - against Mrs. Marsman, and Apolonio V. Santiago, Armando L. Velilla, Zoilo Alberto and Henry Doornbosch, alleging, inter alia, that Mrs. Marsman is the chairman, director, and one of the major stockholders of Marsman Investments, Ltd., a British Company, with offices at Buendia, Makati, Rizal; that the other defendants are directors of said British Company, holding their offices at the pleasure of Mrs. Marsman; that, since liberation and up to December 14, 1960, the British Com-pany had owned and held 76% of the capital of Marsman & Com-pany, a domestic corporation, hereinafter referred to as the Philippine Company; that on or about December 14, 1960, Mrs. Marsman caused to be approved, at a meeting of the Board of Directors of the British Company, a resolution confirming an alleged sale and transfer to her of its stockholdings in the Philippine Company; that the Annual General Meeting of the British Company is scheduled to be held on December 28, 1960, at 3:00 p.m.; that one of the matters to be taken up in said meeting is the aforementioned sale; that her presence at such meeting of stockholders or members, for the purpose of con-sidering a sale in her favor, is illegal; that Mrs. Marsman and the other defendant Directors under her domination and con-trol x x x threaten, propose and are determined to preside over the Annual General Meeting aforestated for the purpose, inter alia, of taking up the aforementioned sale in her favor; that Mrs. Marsman is disqualified, under the English law, from acting as director or chairman because she is over 70 years of age; that, unless the defendants are enjoined from presiding over the meeting and ruling on questions affecting the transaction above-stated, plaintiffs will suffer great and irre-parable injury; and that, to forestall the same, a writ of preliminary injunction should be issued.

On the same day, said court issued an order, read-ing:

"It is hereby ordered by the undersigned Judge of the Court of First Instance of Rizal that, until further orders, you, the said MARY A. MARSMAN, APOLONIO V. SANTIAGO, ARMANDO L. VE-LILLA, ZOILO ALBERTO and HENRY DOORNBOSCH, and all your attorneys, representatives, agents, and any other person assisting you, refrain from per-forming or executing the following acts: (1) MARY A. MARSMAN from presiding over the Annual General Meeting of December 28, 1960 and such other meetings as have been lawfully called; and (2) Defendants APOLONIO V. SANTIAGO, AR-MANDO L. VELILLA, ZOILO ALBERTO and HENRY DOORNBOSCH from presiding over the Annual General Meeting where the matter of the sale of 76% stockholding of Marsman Investments, Ltd., in Marsman and Company, is to be taken up or

discussed."

On motion of plaintiffs-appellees, the lower court issued another order, dated December 29, 1960, clarifying the above order, as follows:

"The defendants are hereby enjoined from circumventing the order of this Court by avoiding discussion of Items 5(a) and (b) of the Agenda or any matters that may be brought up by the members in connection with the disputed transfer of the 76% stockholding of Marsman Investments, Ltd. in Marsman and Company or by disqualifying at any time the body of members convened at the Annual General Meeting from taking up and discussing Items 5(a) and 5(b) of the Agenda or any matters in the Agenda that may relate thereto in the course of the meeting and at any stage and that when said items or matters relating thereto are to be discussed or taken up, said defendants are ordered to yield the position of Chairman or Presiding Officer to such person or member not disqualified by this order who shall have been duly elected by the general body of members this afternoon, at 3:00 p.m., or any adjournment thereof."

On January 21, 1961, the appellees moved that Mrs. Marsman be cited for contempt for alleged violation of or disobedience to the aforementioned orders, in that, on January 17, 1961, she allegedly called a meeting of stockholders which she presided, as chairman, and that, in said meeting, she and her co-defendants elected one Emilio G. Vito as member of the Board of Directors, in addition to themselves, as well as elected and/or allowed Mrs. Marsman to act as chairman of the meeting and chairman of the Board, and Mrs. Marsman caused to be published in the local newspapers the following advertisement:

"MARSMAN INVESTMENTS, LTD.

wishes to announce

that its true and lawful Board of Directors is

composed of

Mrs. Mary A. Marsman Chairman of the Board

Mr. Armando L. Velilla Managing Director

Mr. Apolonio V. Santiago . . . Director

Mr. Emilio G. Vito Director

Secretary to the Company . . . Miss G. L. Filler

and that it will not in any way recognize or be

bound by any person or persons other than those

mentioned above."

Mrs. Marsman objected to said motion, alleging that the aforementioned injunctions did not cover her chairmanship of the Board of Directors, said chairmanship not being the subject matter of the case; that the complaint merely challenged her right to act as chairman of the annual general meeting of stockholders and did not prohibit her and her co-defendants from holding a meeting, as directors of the British Company, which is entirely distinct and different from the meeting of its stockholders.

This notwithstanding, the trial court issued the appealed order, upon the theory that the writ issued prohibits Mrs. Marsman from presiding over all such meetings as have been lawfully called, including meetings of the board of directors. Hence this appeal, in which Mrs. Marsman maintains that said writ does not prohibit her from attending

and presiding meet-ings of said board, as distinguished from the stockholders meeting.

Appellant's contention is well taken. Indeed, the order of December 28, 1960 explicitly directed Mrs. Marsman and her co-defendants to refrain from "presiding over the annual general meeting." Similarly, the order of December 29, 1960 enjoined them "from circumventing" the previous order

"by avoiding discussion of Items 5(a) and 5(b) of the Agenda or any matters that may be brought up by the members in connection with the disputed transfer of the 76% stock-holding of Marsman Investments, Ltd. in Marsman and Company or by disqualifying at any time the body of members duly convened at the Annual General Meeting from taking up and discussing Items 5(a) and 5(b) of the Agenda or any matters in the Agenda that may relate thereto in the course of the meeting and at any stage and that when said items or any matters relating thereto are to be discussed or taken up, said defendants are ordered to yield the position of Chair-man or Presiding Officer to such person or member not disqualified by this order who shall have been duly elected by the general body of members in the Annual General Meet-ing to be held by the members x x x."

This order and that of November 28, 1960, as well as the complaint of plaintiffs-appellees, leave no room for doubt that the purpose of the complaint and of the injunction there-in prayed for was to prevent Mrs. Marsman and her co-defendants, from taking part in, or presiding the Annual General Meeting, insofar only as the ratification of the alleged sale of the holdings of the British Company in the Philippine Company is concerned, and no further.

WHEREFORE, the order appealed from is hereby reversed and another one shall be entered absolving appellant Mary A. Marsman from the charge of contempt of court, with costs against the plaintiffs-appellees.

IT IS SO ORDERED.

Reyes, Dizon, Regala, Makalintal, Bengzon, Zaldivar, Sanchez, and Castro, JJ., concur.

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