

**WACK WACK GOLF & COUNTRY CLUB, INC.,
PLAINTIFFS-APPELLANT, VS. LEE E. WON ALIAS RAMON LEE AND
BIENVENIDO A. TAN, DEFENDANTS-APPELLEES.**

G.R. No. L-23851. March 26, 1976

Ponente: CASTRO, C.J.

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CASTRO, C.J.:

This is an appeal from the order of the Court of First Instance of Rizal, in civil case 7656, dismissing the plaintiff-appellant's complaint of interpleader upon the grounds of failure to state a cause of action and res judicata.

In its amended and supplemental complaint of October 23, 1963, the Wack Wack Golf & Country Club, Inc., a non-stock, civic and athletic corporation duly organized under the laws of the Philippines, with principal office in Mandaluyong, Rizal (hereinafter referred to as the Corporation), alleged, for its first cause of action, that the defendant Lee E. Won claims ownership of its membership fee certificate 201, by virtue of the decision rendered in civil case 26044 of the CFI of Manila, entitled "Lee E. Won alias Ramon Lee vs. Wack Wack Golf & Country Club, Inc." and also by virtue of membership fee certificate 201-serial no. 1478 issued on October 17, 1963 by Ponciano B. Jacinto, deputy clerk of court of the said CFI of Manila, for and in behalf of the president and the secretary of the Corporation and of the People's Bank & Trust Company as transfer agent of the said Corporation, pursuant to the order of September 23, 1963 in the said case; that the defendant Bienvenido A. Tan, on the other hand, claims to be lawful owner of its aforesaid membership fee certificate 201 by virtue of membership fee certificate 201-serial no. 1199 issued to him on July 24, 1950 pursuant to an assignment made in his favor by "Swan, Culbertson and Fritz," the original owner and holder of membership fee certificate 201; that under its articles of incorporation and by-laws the Corporation is authorized to issue a maximum of 400 membership fee certificates to persons duly elected or admitted to proprietary membership, all of which have been issued as early as December 30, 1939; that it claims no interest whatsoever in the said membership fee certificate 201; that it has no means of determining who of the two defendants is the lawful owner thereof; that it is without power to issue two separate certificates for the same membership fee certificate 201, or to issue another membership fee certificate to the defendant Lee, without violating its articles of incorporation and by-laws; and that the membership fee certificate 201-serial no. 1199 held by the defendant Tan and the membership fee certificate 201-serial no. 1478 issued to the defendant Lee proceed from the same membership fee certificate 201, originally issued in the name of "Swan, Culbertson and Fritz".

For its second cause of action, it alleged that the membership fee certificate 201-serial no. 1478 issued by the deputy clerk of court of the CFI of Manila in behalf of the Corporation is null and void because issued in violation of its by-laws, which require the surrender and cancellation of the outstanding membership fee certificate 201 before issuance may be made to the transferee of a new certificate duly signed by its president and secretary, aside from the fact that the decision of the CFI of Manila in civil case 26044 is not binding upon the defendant Tan, holder of membership fee certificate 201-serial no. 1199; that Tan is made a party because of his refusal to join it

in this action or bring a separate action to protect his rights despite the fact that he has a legal and beneficial interest in the subject-matter of this litigation; and that he is made a party so that complete relief may be accorded herein.

The Corporation prayed that (a) an order be issued requiring Lee and Tan to interplead and litigate their conflicting claims; and (b) judgment be rendered, after hearing, declaring who of the two is the lawful owner of membership fee certificate 201, and ordering the surrender and cancellation of membership fee certificate 201-serial no. 1478 issued in the name of Lee.

In separate motions the defendants moved to dismiss the complaint upon the grounds of res judicata, failure of the complaint to state a cause of action, and bar by prescription.[1] These motions were duly opposed by the Corporation. Finding the grounds of bar by prior judgment and failure to state a cause of action well taken, the trial court dismissed the complaint, with costs against the Corporation.

In this appeal, the Corporation contends that the court a quo erred (1) in finding that the allegations in its amended and supplemental complaint do not constitute a valid ground for an action of interpleader, and in holding that "the principal motive for the present action is to reopen the Manila Case and collaterally attack the decision of the said Court"; (2) in finding that the decision in civil case 26044 of the CFI of Manila constitutes res judicata and bars its present action; and (3) in dismissing its action instead of compelling the appellees to interplead and litigate between themselves their respective claims.

The Corporation's position may be stated elsewhere as follows: The trial court erred in dismissing the complaint, instead of compelling the appellees to interplead because there actually are conflicting claims between the latter with respect to the ownership of membership fee certificate 201, and, as there is no identity of parties, of subject-matter, and of cause of action, between civil case 26044 of the CFI of Manila and the present action, the complaint should not have been dismissed upon the ground of res judicata.

On the other hand, the appellees argue that the trial court properly dismissed the complaint, because, having the effect of reopening civil case 26044, the present action is barred by res judicata.

Although res judicata or bar by a prior judgment was the principal ground availed of by the appellees in moving for the dismissal of the complaint and upon which the trial court actually dismissed the complaint, the determinative issue, as can be gleaned from the pleadings of the parties, relates to the propriety and timeliness of the remedy of the interpleader.

The action of interpleader, under section 120 of the Code of Civil Procedure,[2] 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 to either, 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 to protect a person not against double liability but against double vexation in respect of one liability.[3] The procedure under the Rules of Court[4] is the same as that under the Code of Civil Procedure,[5] except that under the former the remedy of interpleader is available regardless of the nature of the subject-matter of the controversy, whereas under the late, an interpleader suit is proper only if the subject-matter of the controversy is personal property or relates to the performance of an obligation.

There is no question that the subject-matter of the present controversy, i.e., the membership fee certificate 201, is proper for an interpleader suit. What is here disputed is the propriety and timeliness of the remedy in the light of the facts and circumstances obtaining.

A stakeholder[6] should use reasonable diligence to hale the contending claimants to court.[7] He need not await actual institution of independent suits against him before filing a bill of interpleader.[8] He should file an action of interpleader within a reasonable time after a dispute has arisen without waiting to be sued by either of the contending claimants.[9] Otherwise, he may be barred by laches[10] or undue delay.[11] But where he acts with reasonable diligence in view of the environmental circumstances, the remedy is not barred.[12]

Has the Corporation in this case acted with diligence, in view of all the circumstances, such that it may properly invoke the remedy of interpleader? We do not think so. It was aware of the conflicting claims of the appellees with respect to the membership fee certificate 201 long before it filed the present interpleader suit. It had been recognizing Tan as the lawful owner thereof. It was sued by Lee who also claimed the same membership fee certificate. Yet it did not interplead Tan. It preferred to proceed with the litigation (civil case 26044) and to defend itself therein. As a matter of fact, final judgment was rendered against it and said judgment has already been executed. It is now therefore too late for it to invoke the remedy of interpleader.

It has been held that a stakeholder's action of interpleader is too late when filed after judgment has been rendered against him in favor of one of the contending claimants,[13] especially where he had notice of the conflicting claims prior to the rendition of the judgment and neglected the opportunity to implead the adverse claimants in the suit where judgment was entered. This must be so, because once judgment is obtained against him by one claimant he becomes liable to the latter.[14] In one case,[15] it was declared:

"The record here discloses that long before the rendition of the judgment in favor of relators against the Hanover Fire Insurance Company the latter had notice of the adverse claim of South to the proceeds of the policy. No reason is shown why the Insurance Company did not implead South in the former suit and have the conflicting claims there determined. The Insurance Company elected not to do so and that suit proceeded to a final judgment in favor of relators. The Company thereby became independently liable to relators. It was then too late for such company to invoke the remedy of interpleader."

The Corporation has not shown any justifiable reason why it did not file an application for interpleader in civil case 26044 to compel the appellees herein to litigate between themselves their conflicting claims of ownership. It was only after adverse final judgment was rendered against it that the remedy of interpleader was invoked by it. By then it was too late, because to be entitled to this remedy the applicant must be able to show that he has not been made independently liable to any of the claimants. And since the Corporation is already liable to Lee under a final judgment, the present interpleader suit is clearly improper and unavailing.

"It is the general rule that before a person will be deemed to be in a position to ask for an order of interpleader, he must be prepared to show, among other prerequisites, that he has not become independently liable to any of the claimants. 25 Tex. Jur. p. 52, Sec. 3; 30 Am. Jur. p. 218, Section 8.

"It is also the general rule that a bill of interpleader comes too late when it is filed after judgment has been rendered in favor of one of the claimants of the fund, this being especially true when the holder of the funds had notice of the conflicting claims prior to the rendition of the judgment and had an opportunity to implead the adverse claimants in the suit in which the judgment was rendered. *United Producers Pipe Line Co. v. Britton*, Tex. Civ. App. 264 S.W. 176; *Nash v. McCullum*, Tex. Civ. 74 S.W. 2d 1046; 30 Am. Jur. p. 223, Sec. 11; 25 Tex. Jur. p. 56, Sec. 5; 108 A.L.R., note 5, p. 275." [16]

Indeed, if a stakeholder defends a suit filed by one of the adverse claimants and allows said suit to proceed to final judgment against him, he cannot later on have that part of the litigation repeated in an interpleader suit. In the case at hand, the Corporation allowed civil case 26044 to proceed to final judgment. And it offered no satisfactory explanation for its failure to implead Tan in the same litigation. In this factual situation, it is clear that this interpleader suit cannot prosper because it was filed much too late.

"If a stakeholder defends a suit by one claimant and allows it to proceed so far as a judgment against him without filing a bill of interpleader, it then becomes too late for him to do so. *Union Bank v. Kerr*, 2 Md. Ch. 460; *Home Life Ins. Co. v. Gaulk*, 86 Md. 385, 390, 38 A. 901; *Gonia v. O'Brien*, 223 Mass. 177, 111 N.E. 787. It is one of the main offices of a bill of interpleader to restrain a separate proceeding at law by claimant so as to avoid the resulting partial judgment; and if the stakeholder acquiesces in one claimant's trying out his claim and establishing it at law, he cannot then have that part of the litigation repeated in an interpleader suit. 4 *Pomeroy's Eq. Juris.* 162; *Mitfor's Eq. Pleading* (Tyler's Ed.) 147 and 236; *Langdell's Summary of Eq. Pleading*, 162; *De Zouche v. Carrison*, 140 Pa. 430, 21 A. 450." [17]

"It is the general rule that a bill of interpleader comes too late when application therefor is delayed until after judgment has been rendered in favor of one of the claimants of the fund, and that this is especially true where the holder of the fund had notice of the conflicting claims prior to the rendition of such judgment and an opportunity to implead the adverse claimants in the suit in which such judgment was rendered. (See notes and cases cited 36 Am. Dec. 703, Am. St. Rep. 598; also 5 *Pomeroy's Eq. Juris.* Sec. 41.)

"The evidence in the opinion of the majority shows beyond dispute that the appellant permitted the Parker county suit to proceed to judgment in favor of Britton with full notice of the adverse claims of the defendants in the present suit other than the assignees of that judgment (the bank and Mrs. Pabb) and no excuse is shown why he did not implead them in that suit." [18]

To now permit the Corporation to bring Lee to court after the latter's successful establishment of his rights in civil case 26044 to the membership fee certificate 201, is to increase instead of to diminish the number of suits, which is one of the purposes of an action of interpleader, with the possibility that the latter would lose the benefits of the favorable judgment. This cannot be done because having elected to take its chances of success in said civil case 26044, with full knowledge of all the facts, the Corporation must submit to the consequences of defeat.

"The act providing for the proceeding has nothing to say touching the right of one, after contesting a claim of one of the claimants to final judgment unsuccessfully, to involve the successful litigant in litigation anew by bringing an interpleader action. The question seems to be one of first impression here, but, in other jurisdictions, from which the substance of the act was apparently taken, the rule prevails that the action cannot be resorted to after an unsuccessful trial against one of the claimants.

"It is well settled, both by reasons and authority, that one who asks the interposition of a court of equity to compel others, claiming property in his hands, to interplead, must do so before putting them to the test of trials at law. *Yarborough v. Thompson*, 3 Smedes & M. 291 (41 Am. Dec. 626); *Gornish v. Tanner*, 1 You. & Jer. 333; *Haseltine v. Brickery*, 16 Grat. (Va.) 116. The remedy by interpleader is afforded to protect the party from the annoyance and hazard of two or more actions touching the same property or demand; but one who, with knowledge of all the facts, neglects to avail himself of the relief, or elects to take the chances for success in the actions at law, ought to submit to the consequences of defeat. To permit an unsuccessful defendant to compel the successful plaintiffs to interplead, is to increase instead of to diminish the number of suits; to put upon the shoulders of others the burden which he asks may be taken from his own. * * *'

"It is urged, however, that the American Surety Company of New York was not in position to file an interpleader until it had tested the claim of relatrix to final judgment, and that, failing to meet with success, it promptly filed the interpleader. The reason why, it urges, it was not in such position until then is that had it succeeded before this court in sustaining its construction of the bond and the law governing the bond, it would not have been called upon to file an interpleader, since there would have been sufficient funds in its hands to have satisfied all lawful claimants. It may be observed, however, that the surety company was acquainted with all of the facts, and hence that it simply took its chances of meeting with success by its own construction of the bond and the law. Having failed to sustain it, it cannot now force relatrix into litigation anew with others, involving most likely a repetition of what has been decided, or force her to accept a pro rata part of a fund, which is far from benefits of the judgment." [19]

Besides, a successful litigant cannot later be impleaded by his defeated adversary in an interpleader suit and compelled to prove his claim anew against other adverse claimants, as that would in effect be a collateral attack upon the judgment.

"The jurisprudence of this state and the common law states is well-settled that a claimant who has been put to test of a trial by a surety, and has established his claim, may not be impleaded later by the surety in an interpleader suit, and compelled to prove his claim again with other adverse claimants. *American Surety Company of New York v. Brim*, 175 La. 959, 144 So. 727; *American Surety Company of New York v. Brim (In Re Lyong Lumber Company)*, 176 La. 867, 147 So. 18; *Dugas v. N.Y. Casualty Co.*, 181 La. 322, 159 So. 572; 15 *Ruling Case Law*, 228; 33 *Corpus Juris*, 477; 4 *Pomeroy's Equity Jurisprudence* (4th Ed.) 3172; 2 *Lawrence on Equity Jurisprudence*, 1023; *Royal Neighbors of America v. Lowary* (D.C.) 46 F2d 565; *Brackett v. Graves*, 30 App. Div. 162, 51 N.Y.S. 895; *De Zouche v. Garrison*, 140 Pa. 430, 21 A. 450, 451; *Manufacturer's Finance Co. v. W.I. Jones Co.* 141 Ga., 519, 81 S.E. 1033; *Hancock Mutual Life Ins. Co. v. Lawder*, 22 R.I. 416, 84 A. 383.

"There can be no doubt that relator's claim has been finally and definitely established, because that matter was passed upon by three courts in definitive judgments. The only remaining item is the value of the use of the land during the time that relator occupied it. The case was remanded solely and only for the purpose of determining the amount of that credit. In all other respects the judgment is final." [20]

"It is generally held by the cases it is the office of interpleader to protect a party, not against double liability, but against double vexation on account of one liability. *Gonia v. O'Brien*, 223 Mass. 177, 111 N.E. 787. And so it is said that it is too late for the remedy of interpleader if the party seeking this relief has contested the claim of one of the parties and suffered judgment to be taken.

"In *United P.P.I. Co. v. Britton* (Tex. Civ. App.) 264 S.W. 576, 578, it was said: 'It is the general rule that a bill of interpleader comes too late when application therefor is delayed until after judgment has been rendered in favor of one of the claimants of the fund, and this is especially true where the holder of the fund had notice of the conflicting claims prior to the rendition of such judgment and an opportunity to implead the adverse claimants in the suit in which such judgment was rendered. See notes and cases cited 35 Am. Dec. 703; 91 An. St. Rep. 598; also 5 *Pomeroy's Equity Jurisprudence* # 41.'

"The principle thus stated has been recognized in many cases in other jurisdictions, among which may be cited *American Surety Co. v. O'Brien*, 223 Mass. 177, 111 N.E. 787; *Phillips v. Taylor*, 148 Md. 157, 129 A. 18; *Moore v. Hill*, 59 Ga. 760, 761; *Yarborough v. Thompson*, 3 Smedes & M. (11 Miss.) 291, 41 Am. Dec. 626. See, also 33 C.J. p. 447, # 30; *Nash v. McCullum*, (Tex. Civ. App.) 74 S.W. 2d 1042, 1047.

"It would seem that this rule should logically follow since, after the recovery of judgment, the interpleading of the judgment creditor is in effect a collateral attack upon the judgment." [21]

In fine, the instant interpleader suit cannot prosper because the Corporation had already been made independently liable in civil case 26044 and, therefore, its present application for interpleader would in effect be a collateral attack upon the final judgment in the said civil case; the appellee Lee had already established his rights to membership fee certificate 201 in the aforesaid civil case and, therefore, this interpleader suit would compel him to establish his rights anew, and thereby increase instead of diminish litigations, which is one of the purposes of an interpleader suit, with the possibility that the benefits of the final judgment in the said civil case might eventually be taken away from him; and because the Corporation allowed itself to be sued to final judgment in the said case, its action of interpleader was filed inexcusably late, for which reason it is barred by laches or unreasonable delay.

ACCORDINGLY, the order of May 28, 1964, dismissing the complaint, is affirmed, at appellant's cost.

Teehankee, Makasiar, Antonio, Esguerra, Muñoz Palma, Aquino, and Concepcion Jr., JJ., concur.

Barredo and Martin, JJ., took no part.

Fernando, J., on official leave.

[1] Only Tan interposed the ground of prescription.

[2] Now Section 1, Rule 63 and formerly Sec. 1, Rule 14, of the Rules of Court.

[3] Alvarez et al. v. Commonwealth of the Philippines, 65 Phil. 302, 311-312.

[4] Section 1 of Rule 63 of the Revised Rules of Court provides:

"Interpleader when proper. - Whenever conflicting claims upon the same subject-matter are or may be made against a person, who claims no interest whatsoever 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."

[5] Section 120 of the Code of Civil Procedure reads:

"Interpleading. - Whenever conflicting claims are or may be made upon a person for or relating to personal property, or the performance of an obligation or any portion thereof, so that he may be made subject to several actions by different persons, unless the court intervenes, such person may bring an action against the conflicting claimants, disclaiming personal interest in the controversy, to compel them to interplead and litigate their several claims among themselves, and the court may order the conflicting claimants to interplead with one another and thereupon proceed to determine the rights of the several parties to the interpleading to the personal property or the performance of the obligation in controversy and shall determine the rights of all parties in interest."

[6] As here used the term "stakeholder" means a person entrusted with the custody of property or money that is subject of litigation or of contention between rival claimants in which the holder claims no right or property interest.

[7] Royal Neighbors of America v. Lowary, 46 F. 2d 565.

[8] State of Texas v. State of Florida, 59 S. Ct. 563, 306 U.S. 398, 83 L. ed. 817, 121 A.L.R. 1179.

[9] Dennis v. Equitable Life Assurance Soc., 88 S.W. 2d 76.

[10] U.S. Land & Investment Co. v. Buessey, 7 N.Y.S. 495.

[11] Milton Warehouse Co. v. Basche Sage Hardware Co., 34 P 2d 338.

[12] Connecticut General Life Ins. Co. v. Yaw, 53 F. 2d 684.

[13] Troy v. Troy, 16 P. 2d 290.

[14] Yarborough v. Thompson, 41 Am. Dec. 626.

[15] Nash, et al. v. McCullum, etc., et al., 74 S.W. 2d 1046, 1047.

[16] Farmers State Bank of Meridian v. National Fire Ins. Co. of Hartford, Connecticut, et al., 169 S.W. 2d 545, 549.

[17] Phillips, et al. v. Taylor, et al., 129 A. 18, 20.

[18] United Producer's Pipe Line Company v. Britton, et al., 264 S.W. 576, 578.

[19] American Surety Co. of New York v. Brim, 144 So. 727, 729-730.

[20] Victor v. Lewis, et al., 161 So. 597, 598.

[21] Benjamin v. Ernst, 83 Wash 59, 79.

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