

VICENTE B. CHUIDIAN, PETITIONER, VS. THE HONORABLE RICARDO C. PUNO, ENRIQUE RAZON, E. RAZON, INC., GERONIMO VELASCO, FRANCIS DE BORJA, JOSE FRANCISCO, ALFREDO DE LEON, JR., GABR...

G.R. No. L-37884. November 14, 1975

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BARREDO, J., Acting Chairman:

Petition for certiorari praying for the setting aside of the orders of respondent court dated May 9, June 18 and September 10, 1973 which denied petitioner's original and amended motions for inspection, photographing and copying of various documents in the possession of private respondents who are defendants in a civil action, Civil Case No. 83593 of the Court of First Instance of Manila, filed by petitioner against said respondents, seeking the "turn over (of) 1,500 shares of stock in E. Razon, Inc. to plaintiff (petitioner), including the certificates evidencing said shares, and to recognize the estate represented by plaintiff as the lawful owner of said shares," the payment of moral damages, attorney's fees and exemplary damages by defendant (herein respondent) Enrique Razon and that defendants (herein respondents) be "ordered to account for the management of the affairs of the corporation, etc."

In the aforementioned civil case, petitioner filed under date of March 31, 1973, a motion for inspection, photographing and copying, allegedly pursuant to Sec. 1 of Rule 27 of the Rules of Court, alleging inter alia as follows:

"1. He has received indubitable information that Mr. Enrique Razon has undeclared his income to the Bureau of Customs in the amount of P4,772,589.17 for the period 1966 to 1972. Said information is supported by documents which are, however, not the best evidence presentable to this Court;

2. Likewise, he has received indubitable information that Mr. Enrique Razon has failed to declare to the Bureau of Internal Revenue as well as to the stockholders of the company, his reimbursement income for the fiscal years 1967-1972. The amount not declared is reported to be over fifteen (15) million pesos. Plaintiff has documentation from which this may be inferred, but, again, this does not constitute the best evidence presentable to this Court;

3. Such matters which have come to plaintiff's attention and which are treated in Paragraphs 1 and 2 are essentially related to the management of E. Razon, Inc.; these, therefore, affect the substantial interests of the stockholders. Such matters are relevant and indispensable to the issues of this litigation;

4. In order that plaintiff may exactly determine such information, in accordance with the provisions of Rule 27, Section 1, of the Rules of Court, plaintiff petitions this Court to authorize his inspection, photographing and copying of the following documents in the possession and custody of defendant E. Razon, Inc.:

- a. All of defendant company's Financial Statements from 1966 to 1972, and for the first quarter of 1973;
- b. The original books of accounts which are the basis of such financial statements;
- c. Any bills, invoices, vouchers, receipts, or other similar documents which were entered in the books of

account or which are the basis of such books of account;

d. Any secondary books of account, indexes and index cards which may have been used by the corporation for accounting purposes of the above matters;

e. The regular monthly statements submitted by defendant E. Razon, Inc. to the Bureau of Customs for liquidation of the government share in the arrastre contract from 1966 to current;

f. Any summary of such monthly reports to the Bureau of Customs;

g. All books of account which are the basis of items (E) and (F);

h. All books of account maintained by defendant E. Razon, Inc. from 1966 to current relative to overtime work or what is known as reimbursable income;

i. All billings sent to shipping companies relative to such reimbursable income, and any and all receipts relative to payments thereto;

j. All receipts and vouchers relative to overtime work done by employees in reference to reimbursable income;

k. The job records, of number and names of employees and their hours spent in the performance of overtime work constituting reimbursable income.

4. The enumerated items are in the exclusive possession of defendant E. Razon, Inc., and a consideration of such documents will indubitably manifest to plaintiff the information he is seeking under Paragraphs 1 and 2 of this Motion (i.e., underdeclaration of income to the Bureau of Customs and failure to declare reimbursable income);” (Pp. 34-36, Record).

which, after being opposed by private respondents and denied by respondent judge, upon the ground that the inquiry into the facts sought to be obtained from the enumerated documents is prohibited and said documents are deemed absolutely privileged by Presidential Decree No. 23, as amended by Presidential Decree No. 161, on Tax Amnesty, herein respondents E. Razon, Inc. and Enrique Razon having filed tax amnesty declarations and paid the corresponding taxes under the provisions of said decrees, was pertinently amended on May 24, 1973 as follows:

"1. He has received indubitable information that E. Razon, Inc. has submitted two different statements to two different government agencies namely, the Bureau of Customs and the Securities and Exchange Commission regarding the financial condition as well as the annual income of the corporation from 1966 to 1972. Said information is supported by documents which are, however, not the best evidence presentable to this Honorable Court. If this information be true, plaintiff, as a stockholder of the corporation and in accordance with one of the causes of action in his complaint to the effect that defendants had mismanaged the affairs of the corporation and that they are duty bound to account for all corporate properties, assets or income, it would be relevant and material to inspect, photograph, and copy the documents hereinafter enumerated in order to ascertain which of the two statements reflect the true financial condition and status as well as the correct annual income of the corporation from 1966 to 1972;

2. Likewise, he has received indubitable information that defendants who are in control of and who have been managing the corporation have failed to reflect in the books of the corporation, the reimbursement income of the corporation for the fiscal years 1967 to 1972, which reimbursement income may have been misappropriated by the said defendants for their own use and benefit to the prejudice of the corporation and the stockholders thereof. The amount undeclared in the books of the company is reported to be over P15 million. Plaintiff has documentation from which this may be inferred but, again, this does not constitute the best evidence presentable to this Honorable Court;

"3. Such matters which have come to plaintiff's attention and which are treated in Paragraphs 1 and 2 are

essentially related to the management of E. Razon, Inc., especially, in connection with the condition and status of its properties, assets and income; these therefore affect the substantial interests of the stockholders, especially, plaintiff. Such matters are relevant and indispensable to the issues of this litigation;

4. In order that plaintiff may exactly determine such information, in accordance with the provisions of Rule 27, Section 1, of the Rules of Court, plaintiff petitions this Court to authorize his inspection, photographing and copying of the following documents in the possession and custody of defendant E. Razon, Inc.;

- a. All of defendant company's Financial Statements from 1966 to 1972, and for the first quarter of 1973;
- b. The original books of account which are the basis of such financial statements;
- c. Any bills, invoices, vouchers, receipts, or other similar documents which were entered in the books of account or which are the basis of such books of account;
- d. Any secondary books of account, indexes and index cards which may have been used by the corporation for accounting purposes of the above matters;
- e. The regular monthly statements submitted by defendant E. Razon, Inc. to the Bureau of Customs for liquidation of the government share in the arrastre contract from 1966 to current;
- f. Any summary of such monthly reports to the Bureau of Customs;
- g. All books of account which are the basis of items (e) and (f);
- h. All books of account maintained by defendant E. Razon, Inc. from 1966 to current relative to overtime work or what is known as reimburse income;
- i. All billings sent to shipping companies relative to such reimbursable income, and any and all receipts relative to payments thereto;
- j. All receipts and vouchers relative to overtime work done by employees in reference to reimbursable income;
- k. The job records of numbers and names of employees and their hours spent in the performance of overtime work constituting reimbursable income;

5. The enumerated items are in the exclusive possession of defendant E. Razon, Inc., and a consideration of such documents will indubitably manifest to plaintiff the information he is seeking under Paragraphs 1 and 2 of this Motion;" (Pp. 74-78, Record.)

Considering that paragraph 3 of Presidential Decree 23 provides:

"3. After the tax imposed under this Decree shall have been paid, the taxpayer shall not be subject to any investigation, whether civil, criminal or administrative insofar as such previously untaxed wealth and/or income is concerned and shall not be used as evidence against, or to the prejudice of, the declarant in any proceeding before any court of law or body, whether judicial, quasi-judicial or administrative in which he is a defendant or respondent, and such declaration shall not be examined, inquired or looked into by any person, government official, bureau or employee having knowledge of such declaration to any person any information relative to such declaration and any violation hereof shall subject the offender to an imprisonment of not more than five (5) years.

"Any revenue official who would inquire, question or attempt to inquire into the tax amnesty return filed by any taxpayer shall be guilty of grave misconduct for which he will be summarily dismissed from the service."

and in Letter of Instructions No. 65, the President of the Philippines has set out guidelines for the implementation of the above provision, among them the following:

"I – After the tax imposed under Presidential Decree No. 23, as amended, shall have been paid, the following shall be observed:

1. The confidential nature of the taxpayer's declaration made pursuant to the said Decree and the payment made thereon, shall forever be held inviolate and no government official, bureau or office may thereafter require the declarant to disclose any information relative thereto in any form or manner whatsoever; x x x." (Italization ours.)

Considering further that at the hearing held on May 22, 1974, petitioner's counsel admitted that before filing his above motions for inspection, photographing and copying, he had written the Secretary of Finance charging private respondents with having defrauded the government from 1966 to 1972 by underpayment of taxes and short payment of the government's share in the arrastre income for the operation of Piers 3 and 5 of the Manila South Harbor;

And considering that in the light of the foregoing, the Court is of the considered view that the inspection, photographing and copying of the documents enumerated by him by petitioner would constitute an inquiry prohibited by the presidential decrees above-referred to and would destroy the absolute privilege and confidentiality of the said documents which are relevant to the income or part thereof covered by the tax amnesty declaration filed by respondents E. Razon, Inc. and Enrique Razon, and that the immunity extended by the said presidential decrees includes any inquiry that might give rise to a civil liability of the taxpayer not only to the government but even to another private individual, as otherwise, the objective desired of having parties concerned disclose their hidden income may not be achieved, since it is not only from the government but also from others that they might be concealing the same, and finally, that the mantle of privilege so extended does not deprive petitioner of the right to establish his alleged cause or causes of action against private respondents in the civil case above-mentioned he has against them with other competent evidence.

The Court resolved to DISMISS the petition, without costs.

Antonio, Aquino, Concepcion Jr., and Martin, JJ., concur.

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