

ENRIQUE J.L. RUIZ AND JOSE V. HERRERA, IN THEIR BEHALF AND AS MINORITY STOCKHOLDERS OF THE ALLIED TECHNOLOGISTS, INC., PLAINTIFFS AND APPELLANTS, VS. THE SECRETARY OF NATIONAL D...*G.R. No. L-15526. December 28, 1963*

Ponente: PAREDES, J.

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Enrique J.L. Ruiz and Jose V. Herrera from an order of the Court of First Instance of Manila, in Civil Case No. 26601, dated February 25, 1959, dismissing plaintiffs' complaint.

On September 11, 1950, a contract was executed between the defendant Allied Technologists Inc., (corporation, for short), and the Republic of the Philippines, for the construction of the Veterans Memorial Hospital. Ruiz and Herrera were stockholders and officers of the corporation. The construction of the hospital was terminated in 1955. On August 20, 1954, and June 20, 1955, Civil Case Nos. 2S778 and 26601, respectively, were filed by same plaintiffs herein, making as parties-defendants in both cases, the same defendants herein, the Secretary of National Defense, Col. Nicolas Jimenez (Engineer), the Finance Officer, and the Auditor of the Dept. of National Defense, Pablo D. Panlilio and Allied Technologists, Inc. Civil Case No. 23778 was dismissed by the CFI on October 12, 1954 and the dismissal was affirmed by this Court on July 7, 1955, in G.R. No. L-8638. Civil Case No. 26601 was also dismissed on September 13, 1955. On appeal, this Court reversed the order of dismissal, under the impression that the real controversy was confined merely between defendant Panlilio and plaintiffs Ruiz and Herrera over the 15 percent of the contract price, which was retained by the Department of National Defense. The retention of the 15 percent of the contract price in the sum of P34,740.000 was made to answer for any claim or lien that might arise, in the course of the construction. The last case, however, was remanded to the court of origin, for further proceedings. Panlilio and the corporation filed their amended answers, stating that the amount retained by the Department of National Defense was already paid to defendant corporation, as sought for by the plaintiffs in their complaint. In view of this development, the trial court invited the parties to a conference, in which the plaintiffs indicated their conformity, to the dismissal of the complaint with respect to the retention of the 15% of the contract price; but insisted upon the hearing of the second question, which sought the declaration and recognition of plaintiffs Ruiz and Herrera, as two of the three architects of the hospital. The trial court, nevertheless, dismissed the complaint, for being already academic and moot. Hence, this appeal by plaintiffs-appellants, who alleged in their lone assignment of error that "the lower court grievously erred in ordering the dismissal of the case, with costs against the plaintiffs."

Plaintiffs-appellants contend that the only ground relied upon by the lower court to dismissing the case, without any trial, is the allegation contained in pars. 4 and (e) of the answers of the appellees Panlilio and Allied Technologists, Inc., respectively, that the amount retained by the Department of National Defense had already been paid; that except for this bare allegation of the appellees, no evidence was adduced to prove the truth of the same; that even assuming for the sake of argument, that the same is true, nevertheless the first part of the first

cause of action still remains, for which they had insisted upon a hearing in order to establish their right to be recognized as two of the three architects of the hospital; that because the pleadings do not show any ground which might legally justify the action taken by the lower court, the latter should not have ordered the dismissal of the entire case but should have ordered only the striking out of the moot portion of appellants' first cause of action, citing *Pacal vs. Ramos*, 81 Phil. 30, 33; 27 C. J.S. 209-210; *Bush vs. Murray* 205 N.Y.S. 21, 26, 209 App. Div. 563; *Bearden vs. Longino*, 190 S.E. 12, 183, Ga. 819). Appellants further argue in their brief that they base their cause of action on article 21, New Civil Code.

The appeal has no merit. The order appealed from, states—

"Considering the manifestation of counsel for plaintiffs that the latter would insist on the hearing of the above entitled case for the purpose of establishing their right to be recognized as the architects of the Veterans Hospital together with defendant Pablo D. Panlilio, and it appearing that plaintiffs' Amended Complaint with Injunction prays, among others, 'That this Hon. Court order defendants Secretary of National Defense, Col. Nicolas Jimenez, and the Finance Officer and Auditor of the Department of National Defense to pay the Allied Technologists, Inc. the balance unpaid by virtue of the contract executed on Sept. 11, 1950 (Annex 'C' hereof) for services rendered under Title and to be rendered under Title II of said contract; that paragraph 4 of defendant Pablo Panlilio's Amended Answer to said complaint alleges 'That whatever amounts were retained by the Dept. of National Defense on the contract price which retention was authorized by the contract was paid by the Dept. of National Defense to the Allied Technologists, Inc., as sought by the plaintiffs; that paragraph (e) of the answer to the amended complaint of defendant Allied Technologists, Inc., also alleges 'That, whatever amounts were retained by the Department of National Defense, per the stipulations contained in the contract, have already been paid by the said Department of National Defense to the Allied Technologists, Inc. and, therefore, the present action seeking to compel the aforementioned Department of National Defense to pay to defendant Allied Technologists, Inc. the amounts retained by the Department of National Defense is academic, groundless, unfounded and malicious'; that the said allegations of the separate answers of defendants Pablo, Panlilio and Allied Technologists, Inc., are not and can not be denied by plaintiffs, and that it is this Court's understanding that defendant has no objection to the dismissal of this case—it is ordered that this case be, as it is hereby DISMISSED, with costs against plaintiffs."

A cursory reading of pars. 18 and 19 of the amended complaint with injunction and prayers (1) and (2) thereof, reveals that appellants' first cause of action is composed of two parts, as follows:

- (a) A judicial declaration or recognition that appellants Ruiz and Herrera, together with appellee Panlilio, were the architects of the Veterans Hospital; and
- (b) An injunction restraining the appellee government officials from paying their co-appellee Panlilio the sum retained by the former, as per stipulation contained in the contract for the construction of the hospital because "they will not only be deprived of the monetary value of the services legally due them, but that their professional prestige and standing will be seriously impaired".

As appellants admitted, they no longer consider the Secretary and other officials of the Department of National Defense, as parties-defendants in the case, said officials can no longer be compelled to recognize the appellants, Ruiz and Herrera, as co-architects with appellee Panlilio of the Veterans Hospital. And, as the amount retained by the Department on the contract price, which retention was authorized by the contract, was, as sought by the appellants, already paid to the Allied Technologists, Inc., there is nothing more for the trial court to decide, even without first ruling on the special defenses of appellees Panlilio and the corporation.

Moreover, by discarding the Secretary and other officials of the Department of National Defense, as parties-defendants, appellants could not expect the trial court to order them to recognize and declare appellants as co-architects in the construction of the hospital. And this must be so, because the construction, agreement

expressly provides that the architect being contracted by the Government was appellee Pablo Panlilio. The said agreement states that the same was entered into by the government, party of the first part and "Allied Technologists, Inc. x x and Mr. Pablo D. Panlilio, architect, hereinafter called the party of the second part" and "The Allied Technologists, Inc. for rendering engineering' services and Mr. Pablo D. Panlilio, architect, for rendering architect services". And the contract was signed for the Government by "Ramon Magsaysay, Secretary of National Defense (party of the first part)," and "Allied Technologists, Inc. as to By Enrique J. L. Ruiz, President, Contractor, Pablo D. Panlilio, Architect."

Appellants maintain that their claim for recognition is divisible and separable from their allegations regarding the non-payment by the government of a portion of the architectural fees; thereby concluding that what the lower court should have done, should have been merely to order the striking out of the moot, portion of appellants cause of action, and should have proceeded with .hearing their claim for recognition. But the allegations in pars. 18 and 19 of the amended complaint, show otherwise. There is an indivisible and single cause of action which is primarily to prevent payment exclusively to defendant Panlilio of the amount of P34,740.00, which said appellants contend should be paid to appellee. Allied Technologists, Inc.; the matter of recognizing them together with Pablo Panlilio as architects of the hospital, being merely incidental thereto. The case of Pacal vs. Ramos, 81 Phil. 30, cited by appellants is not applicable. In this case, the grounds for quo warrant are separable from the grounds for election irregularities which are distinct and separate causes of action, entitling the petitioner to separate and unrelated reliefs. These two grounds were alleged under separate paragraphs and they were two independent actions improperly joined in one proceeding. In the case at bar, in one paragraph, (par. 19 of the amended complaint), as first cause of action, the claim for recognition is inseparably linked with their allegations regarding alleged threatened, payment of the P34,740.00 to Panlilio alone, because "they will not only be deprived of the monetary value of the services legally due them, but that their professional prestige and standing will be seriously impaired". When the very defendant Allied Technologists, Inc. itself asserted in its answer to the amended complaint, that the amount was paid to it, an assertion which was not at all denied, plaintiffs-appellants' cause of action under said par. 19 dissipated entirely.

There is a veiled insinuation that appellants' thesis would fall under the provisions of the Rules on declaratory relief, because appellants wanted merely a declaration of their rights in a contract in which they were interested. The trial court, however, was correct in refusing to make such declaration, because it was not necessary and proper under the circumstances (Sec. 6, Rule 66). Appellants were not parties to the construction agreement. The sole object of the appeal is only to secure for them a recognition, that they were allegedly the co-architects of Panlilio, in the construction of the hospital, so as to enhance their professional prestige and not to impair their standing. If this is the goal of appellants, a judicial declaration to that effect would seem unnecessary. Let us ponder over the thought that a brilliant professional enjoys the respect and esteem of his fellowmen, even without any court declaration of such fact, and that an incompetent one may summon all the tribunals in the world, to proclaim his genius in vain.

But appellants invoke Article 21 of the Civil Code, which states—

"Any person who wilfully cause loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damages."

contending that the word "injury" in the said article, refers not only to any indeterminate right or property, but also to honor or credit (I Tolentino Civ. Code, p. 67). It may be added, however, that this article also envisions a situation where a person has a legal right, and such right is violated by another in a manner contrary to morals, good customs or public policy; it presupposes losses or injuries, material or otherwise, which one may suffer as a result of said violation. The pleadings do not show that damages were ever asked or alleged in connection with

this case, predicted upon the article aforecited. And under the facts and circumstances obtaining in this case, one cannot plausibly sustain the contention that the failure or refusal to extend the recognition, was an act contrary to morals, good customs or public policy.

In view hereof, the Order appealed from, is affirmed, with costs against plaintiffs-appellants.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Dizon, Regala and Makalintal, JJ., concur.

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