

CONSOLIDATED MINES, INC., PETITIONER, VS. HON. EMIGDIO V. NIETES, IN HIS CAPACITY AS ACTING PRESIDING JUDGE OF BRANCH IV, COURT OF FIRST INSTANCE OF MANILA: THE SHERIFF OF THE P...

G.R. No. L-27417. June 30, 1970

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Petition for certiorari against an order of the Court of First Instance of Manila, in its Civil Case No. 34222, ordering execution of the final decision of the Court of Appeals in Case CA-G.R. No. 34387-R, promulgated on 28 January 1966, and requiring petitioner Consolidated Mines, Inc., to deliver to the respondent Credit Corporation of the Philippines -

"the 280,000 shares of stock, together with all the cash and stock dividends mentioned in and attached to the motion of March 25, 1966 as Annex A thereto."

Consolidated Mines, Inc., a Philippine corporation, had originally filed in the court below (Civil Case No. 34222) a complaint in inter-pleader against Manuel L. Limsico and the Credit Corporation of the Philippines, averring that according to the petitioner's pre-war ledger, the Credit Corporation (hereinafter designated as Credit) appeared as owner of certain pre-war stock certificates covering 280,000 shares of plaintiff Consolidated; that when no claim thereto was filed on or prior to 18 October 1951, said shares reverted to the issuer as treasury stock, pursuant to Republic Act No. 62, as amended by Republic Act Nos. 148 and 408; that in March, 1956, Manuel Limsico filed an affidavit claiming ownership of the 280,000 shares allegedly purchased by him from Credit, through one Benito Lim; that on May, 1957 Credit filed its own claim to the same shares of stock, denying having sold or transferred the same, and that the certificates had been destroyed on occasion of the liberation; that plaintiff Consolidated advised both claimants that the shares had reverted to it as treasury stock, but that its Board of Directors had been authorized to recognize belated claims to the shares on the merits of the individual claims provided the ownership were established by final Judgment of the courts. Hence, Consolidated prayed the court a quo to require both claimants to interplead pursuant to Rule 14 of the original Rules of Court and determine, after trial, who was entitled to recognition as owner of the shares.

In due course, defendants below, Credit and Limsico, interposed their respective answers in interpleader, each demanding recognition of title to the shares and denying the other's title thereto. Credit also laid claim to the "corresponding stock and/or cash dividends declared and issued or paid by plaintiff" Consolidated on the shares in dispute (Court of Appeals Decision, Annex E, petition for certiorari), but plaintiff opposed the demand.

After trial, the Court of First Instance declared Credit to be the true and lawful owner of the 280,000 shares, but awarded it no dividends; and both claimants appealed to the Court of Appeals. The latter decided affirming the ownership of Credit against Limsico, but also found that Credit's failure to submit proof of ownership of the shares was not its fault and that -

"We do not believe it to be proper to hold that the shares lawfully owned by the Credit Corporation are unclaimed shares and have become part of plaintiff's treasury stock. And since the shares remain to be the property of the Credit Corporation, it is entitled to the dividends which are the civil fruits thereof" (Decision, Annex E, page 6).

The Court of Appeals further found that there was no waiver of the claim to the dividends. The dispositive part of the decision was in the following terms:

"WHEREFORE, the Credit Corporation is hereby declared the owner of the 280,000 shares of stock of the Consolidated Mines, Inc. covered by stock certificates Nos. 40019, 40484 and 47129 and is entitled to receive what-ever dividends had been declared and issued or paid corresponding thereto, and the latter is ordered to account for and deliver such dividends to the former. Costs in this instance to be taxed against the Consolidated Mines, Inc. and Manuel L. Limsico."

This judgment became final and executory.

After the records were remanded to the court of origin, Credit moved for execution of the judgment averring that its 280,000 shares had earned another 616,000 shares as stock dividends and P66,934.00 as cash dividends. Consolidated opposed, declaring itself ready to issue and deliver to the defendant Credit the 280,000 shares referred to in the judgment of the Court of Appeals, and to pay P1,540.00 representing the total amount of dividends earned by the shares as of 5 September 1951, as no dividends were earned by said shares after October, 1951. This point Credit contested, and by order of 26 April 1966 (Annex H, petition) the Court of First Instance declared itself without power to change or modify the decision of the Court of Appeals, stating:

"..... This Court, therefore, cannot do otherwise than to order the execution of the the judgment rendered by the Court of Appeals, which is to order the plaintiff Consolidated Mines, Incorporated to deliver to the defendant The Credit Corporation of the Philippines the 280,000 shares of stock and 'whatever dividends had been declared and issued or paid corresponding thereto, that is, those that pertain to the said shares whether or not they have been actually paid or issued to the company itself. It would be absurd to admit that the Credit Corporation of the Philippines is entitled to those dividends and yet it cannot receive them simply because the Consolidated Mines, Incorporated, has manipulated its own books in such a manner as to deprive the Credit Corporation of the Philippines of its own property.

"FOR ALL THE FOREGOING, the Court hereby orders the execution of the judgment of the Court of Appeals, dated January 28, 1966, requiring the plaintiff to deliver to the defendant The Credit Corporation of the Philippines the 280,000 shares of stock, together with all the cash and stock dividends mentioned in and attached to the motion of March 25, 1966, as Annex A thereto."

Its motion for reconsideration having been denied, Consolidated resorted to this Court for certiorari, urging that the order complained of unduly enlarged the scope of the judgment of the Court of Appeals, without even requiring evidence on the averments of Credit as to the stock and cash dividends; that the order and the refusal to reconsider it were in violation of due process, and in abuse of discretion amounting to lack of jurisdiction.

Respondents answered, pointing out that Consolidated had not offered any evidence, nor requested a formal hearing for presentation of evidence; that petitioner never challenged the correctness of Credit's schedule of cash and stock dividends submitted with its motion for execution; and that petitioner's remedy was appeal and not certiorari.

We agree with petitioner that the orders complained of actually deviate from the final decision of the Court of Appeals, in so far as they equate "whatever dividends had been declared and issued or paid" (corresponding to the litigated 280,000 shares of capital stock), as adjudged by the appellate court, with "those (dividends) that pertain to the said shares whether or not they have been actually paid or issued to the company itself". The final decision

being executed did not require nor order the corporation to declare dividends on the litigated shares adjudicated to respondent Credit; it merely adjudged the latter entitled to dividends that had been "declared and issued or paid corresponding thereto". There is justification for such award, notwithstanding the declaration in the body of its decision that the shares were not treasury stock. For it stands to reason that whether corporate dividends "pertain" to any particular shares or shareholder primarily depends on the terms of the resolution declaring them. Even if the petitioner Consolidated had erroneously considered the disputed shares as not entitled to dividends because they had become treasury stock in 1951, if it had exhausted the surplus then available for dividends by distributing it among the other outstanding shares of stock, any dividends to be paid now upon the 280,000 shares would be in excess of the surplus, and in violation of law.[1] The results would be particularly serious in the case of stock dividends: for here any stock dividend in addition to that originally declared could dilute the other outstanding share holdings beyond what was contemplated by the stockholders in authorizing or ratifying the original stock dividend, and could result in extending the increase in the number of shares beyond what was authorized in the amended articles of incorporation or in the certificates of increase of capital recorded with the Securities and Exchange Commission.

It is plain from the foregoing that the opposing claims of the parties raise issues that should be threshed out in a formal hearing and upon competent evidence. To adjudicate said issues without evidence, as the court below has done, is arbitrary and constitutes a grave abuse of discretion.

The contention that the petitioner never challenged the correctness of respondent Credit's schedule of cash and stock dividends attached to its motion for execution is untenable, for there is a plain contradiction between that schedule and the amount of dividends recognized by Consolidated in its opposition to the motion for execution. As against 616,000 shares and P66,934.00 claimed as dividends by Credit, Consolidated attached to its opposition a certified statement showing that only P1,540.00 were earned as dividends. An issue was thus adequately posited, and the absence of a formal challenge becomes irrelevant.

Finally, under the circumstances of the present case herein adverted to and because the court below arbitrarily ordered that the petitioner turn over property to the private respondent not covered by the previous judgment, without any evidence in support of the order, we think that recourse to certiorari was proper, since appeal with its attendant delays was not an adequate remedy.

WHEREFORE, the writ prayed for is granted, and the orders of the Court of First Instance of Manila now complained of are set aside, and the preliminary writ of injunction issued is made permanent. The records are ordered returned to the Court a quo for further proceedings conformable to this opinion. Costs against private respondent Credit Corporation of the Philippines.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Castro, and Fernando, JJ., concur.

Teehankee, J., did not take part.

Barredo, J., in the result.

Villamor, J., on leave.

[1] Section 16, Corporation Law as amended by republic Act 3518.

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