

ANG PUE & COMPANY, ET AL., PLAINTIFFS AND APPELLANTS VS. SECRETARY OF COMMERCE AND INDUSTRY, DEFENDANT AND APPELLEE.

G. R. No. L-17295. July 30, 1962

Ponente: DIZON, J.

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DIZON, J.:

Action for declaratory relief filed in the Court of First Instance of Iloilo by Ang Pue & Company, Ang Pue and Tan Siong against the Secretary of Commerce and Industry to secure judgment "declaring that plaintiffs could extend for five years the term of the partnership pursuant to the provisions of plaintiffs' Amendment to the Articles of Copartnership."

The answer filed by the defendant alleged, in substance, that the extension for another five years of the term of the plaintiffs' partnership would be in violation of the provisions of Republic Act No. 1180.

It appears that on May 1, 1953, Ang Pue and Tan Siong, both Chinese citizens, organized the partnership Ang Pue & Company for a term of five years from May 1, 1953, extendible by their mutual consent. The purpose of the partnership was "to maintain the business, of general merchandising, buying and selling at whole-sale and retail, particularly of lumber, hardware and other construction materials for commerce, either native or foreign." The corresponding articles of partnership (Exhibit B) were registered in the Office of the Securities & Exchange Commission on June 16, 1953.

On June 19, 1954 Republic Act No. 1180 was enacted to regulate the retail business. It provided, among other things, that, after its enactment, a partnership not wholly formed by Filipinos could continue to engage in the retail business until the expiration of its term.

On April 15, 1958—prior to the expiration of the five-year term of the partnership Ang Pue & Company, but after the enactment of Republic Act 1180—the partners already mentioned amended the original articles of partnership Exhibit B so as to extend the term of life of the partnership to another five years. When the amended articles were presented for registration in the Office of the Securities & Exchange Commission on April 16, 1958, registration was refused upon the ground that the extension was in violation of the aforesaid Act.

From the decision of the lower court dismissing the action, with costs, the plaintiffs interposed this appeal.

The question before us is too clear to require an extended discussion. To organize a corporation or a partnership that could claim a juridical personality of its own and transact business as such, is not a matter of absolute right but a privilege which may be enjoyed only under such terms as the State may deem necessary to impose. That the State, through Congress, and in the manner provided by law, had the right to enact Republic Act No. 1180 and to provide therein that only Filipinos and concerns wholly owned by Filipinos may engage in the retail business can not be seriously disputed. That this provision was clearly intended to apply to partnerships already existing at the time of the enactment of the law is clearly shown by its provision giving them the right to continue engaging in

their retail business until the expiration of their term of life. To argue that because the original articles of partnership provided that the partners could extend the term of the partnership, the provisions of Republic Act 1180 cannot adversely affect appellants herein, is to erroneously assume that the aforesaid provision constitute a property right of which the partners can not be deprived without due process or without their consent. The agreement contained therein must be deemed subject to the law existing at the time when the partners come to agree regarding the extension. In the present case, as already stated, when the partners amended the articles of partnership, the provisions of Republic Act 1180 were already in force, and there can be not the slightest doubt that the right claimed by appellants to extend the original term of their partnership to another five years would be in violation of the clear intent and purpose of the law aforesaid.

Wherefore, the judgment appealed from is affirmed, with costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Barrera, Paredes, Regala, and Makalintal, JJ., concur.

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