

ELIGIO ESTANISLAO, JR., PETITIONER, VS. THE HONORABLE COURT OF APPEALS, REMEDIOS ESTANISLAO, EMILIO, AND LEOCADIO SANTIAGO, RESPONDENTS.

G.R. No. L-49982. April 27, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

By this petition for certiorari the Court is asked to determine if a partnership exists between members of the same family arising from their joint ownership of certain properties.

Petitioner and private respondents are brothers and sisters who are co-owners of certain lots at the corner of Annapolis and Aurora Blvd., Quezon City which were then being leased to the Shell Company of the Philippines Limited (SHELL). They agreed to open and operate a gas station thereat to be known as Estanislao Shell Service Station with an initial investment of P15,000.00 to be taken from the advance rentals due to them from SHELL for the occupancy of the said lots owned in common by them. A joint affidavit was executed by them on April 11, 1966 which was prepared by Atty. Democrito Angeles.[1] They agreed to help their brother, petitioner herein, by allowing him to operate and manage the gasoline service station of the family. They negotiated with SHELL. For practical purposes and in order not to run counter to the company's policy of appointing only one dealer, it was agreed that petitioner would apply for the dealership. Respondent Remedios helped in co-managing the business with petitioner from May 3, 1966 up to February 16, 1967.

On May 26, 1966, the parties herein entered into an Additional Cash Pledge Agreement with SHELL wherein it was reiterated that the P15,000.00 advance rental shall be deposited with SHELL to cover advances of fuel to petitioner as dealer with a proviso that said agreement "cancels and supersedes the Joint Affidavit dated 11 April 1966 executed by the co-owners." [2]

For sometime, the petitioner submitted financial statements regarding the operation of the business to private respondents, but thereafter petitioner failed to render subsequent accounting. Hence through Atty. Angeles, a demand was made on petitioner to render an accounting of the profits.

The financial report of December 31, 1968 shows that the business was able to make a profit of P87,293.79 and that by the year ending 1969, a profit of P150,000.00 was realized.[3]

Thus, on August 25, 1970 private respondents filed a complaint in the Court of First Instance of Rizal against petitioner praying among others that the latter be ordered:

“1. to execute a public document embodying all the provisions of the partnership agreement entered into between plaintiffs and defendant as provided in Article 1771 of the New Civil Code;

“2. to render a formal accounting of the business operation covering the period from May 6, 1966 up to December 21, 1968 and from January 1, 1969 up to the time the order is issued and that the same be subject to proper audit;

“3. to pay the plaintiffs their lawful shares and participation in the net profits of the business in an amount of no less than P150,000.00 with interest at the rate of 1% per month from date of demand until full payment thereof for the entire duration of the business; and

“4. to pay the plaintiffs the amount of P10,000.00 as attorney's fees and costs of the suit.” (pp. 13-14 Record on Appeal.)”

After trial on the merits, on October 15, 1975, Hon. Lino Anover, who was then the temporary presiding judge of Branch IV of the trial court, rendered judgment dismissing the complaint and counterclaim and ordering private respondents to pay petitioner P3,000.00 attorney's fee and costs. Private respondents filed a motion for reconsideration of the decision. On December 10, 1975, Hon. Ricardo Tensuan who was the newly appointed presiding judge of the same branch, set aside the aforesaid decision and rendered another decision in favor of said respondents.

The dispositive part thereof reads as follows:

'WHEREFORE, the Decision of this Court dated October 14, 1975 is hereby reconsidered and a new judgment is hereby rendered in favor of the plaintiffs and as against the defendant;

(1) Ordering the defendant to execute a public instrument embodying all the provisions of the partnership agreement entered into between plaintiffs and defendant as provided for in Article 1771, Civil Code of the Philippines;

(2) Ordering the defendant to render a formal accounting of the business operation from April 1969 up to the time this order is issued, the same to be subject to examination and audit by the plaintiff;

(3) Ordering the defendant to pay plaintiffs their lawful shares and participation in the net profits of the business in the amount of P150,000.00, with interest thereon at the rate of One (1%) Per Cent per month from date of demand until full payment thereof;

(4) Ordering the defendant to pay the plaintiffs the sum of P5,000.00 by way of attorney's fees of plaintiffs' counsel; as well as the costs of suit.” (pp. 161-162, Record on Appeal).”

Petitioner then interposed an appeal to the Court of Appeals enumerating seven (7) errors allegedly committed by the trial court. In due course, a decision was rendered by the Court of Appeals on November 28, 1978 affirming in toto the decision of the lower court with costs against petitioner.*

A motion for reconsideration of said decision filed by petitioner was denied on January 30, 1979. Not satisfied therewith, the petitioner now comes to this court by way of this petition for certiorari alleging that the respondent court erred:

"1. In interpreting the legal import of the Joint Affidavit (Exh, "A") vis-a-vis the Additional Cash Pledge Agreement (Exhs. "B-2", "6", and "L"); and

2. In declaring that a partnership was established by and among the petitioner and the private respondents as regards the ownership and/or operation of the gasoline service station business."

Petitioner relies heavily on the provisions of the Joint Affidavit of April 11, 1966 (Exhibit A) and the Additional Cash Pledge Agreement of May 20, 1966 (Exhibit 6) which are herein reproduced?

(a) The Joint Affidavit of April 11, 1966, Exhibit A reads:

"(1) That we are the Lessors of two parcels of land fully described in Transfer Certificates of Title Nos. 45071 and 71244 of the Register of Deeds of Quezon City, in favor of the LESSEE - SHELL COMPANY OF THE PHILIPPINES LIMITED, a corporation duly licensed to do business in the Philippines;

“(2) That we have requested the said SHELL COMPANY OF THE PHILIPPINES LIMITED, advanced rentals in the total amount of FIFTEEN THOUSAND PESOS (P15,000.00) Philippine Currency, so that we can use the said amount to augment our capital investment in the operation of that gasoline station constructed by the said company on our two lots aforesaid by virtue of an outstanding Lease Agreement we have entered into with the said company;

“(3) That the said SHELL COMPANY OF THE PHILIPPINES LIMITED out of its benevolence and desire to help us in augmenting our capital investment in the operation of the said gasoline station, has agreed to give us the said amount of P15,000.00, which amount will partake the nature of ADVANCED RENTALS;

“(4) That we have freely and voluntarily agreed that upon receipt of the said amount of FIFTEEN THOUSAND PESOS (P15,000.00) from the SHELL COMPANY OF THE PHILIPPINES LIMITED, the said sum as ADVANCED RENTALS to us be applied as monthly rentals for the said two lots under our Lease Agreement starting on the 25th of May, 1966 until such time that the said amount of P15,000.00 be applicable, which time to our estimate will cover at four and one-half months from May 25, 1966 or until the 10th of October, 1966 more or less;

“(5) That we have likewise agreed among ourselves that the SHELL COMPANY OF THE PHILIPPINES LIMITED execute an instrument for us to sign embodying our conformity that the said amount that it will generously grant us as requested be applied as ADVANCED RENTALS; and

“(6) FURTHER AFFIANTS SAYETH NOT.”

(b) The Additional Cash Pledge Agreement of May 20, 1966, Exhibit 6, is as follows:

"WHEREAS, under the lease Agreement dated 13th November, 1963 (identified as doc. Nos. 491 & 1407, Page Nos. 99 & 66, Book Nos. V & III, Series of 1963 in the Notarial Registers of Notaries Public Rosauro Marquez and R.D. Liwanag, respectively) executed in favour of SHELL by the herein CO-OWNERS and another Lease Agreement dated 19th March 1964 x x x also executed in favour of SHELL by CO-OWNERS Remedios and MARIA ESTANISLAO for the lease of adjoining portions of two parcels of land at Aurora Blvd./Annapolis, Quezon City, the CO-OWNERS RECEIVE a total monthly rental of PESOS THREE THOUSAND THREE HUNDRED EIGHTY TWO AND 29/100 (P3,382.29), Philippine Currency;

"WHEREAS, CO-OWNER Eligio Estanislao, Jr. is the Dealer of the Shell Station constructed on the leased land, and as Dealer under the Cash Pledge Agreement dated 11th May 1966, he deposited to SHELL in cash the amount of PESOS TEN THOUSAND (P10,000), Philippine Currency, to secure his purchases on credit of Shell petroleum products; x x x

"WHEREAS, said DEALER, in his desire to be granted an increased credit limit up to P25,000, has secured the conformity of his CO-OWNERS to waive and assign to SHELL the total monthly rentals due to all of them to accumulate the equivalent amount of P15,000, commencing 24th May 1966, this P15,000 shall be treated as additional cash deposit to SHELL under the same terms and conditions of the aforementioned Cash Pledge Agreement dated 11th May 1966.

NOW, THEREFORE, for and in consideration of the foregoing premises, and the mutual covenants among the CO-OWNERS herein and SHELL, said parties have agreed and hereby agree as follows:

"1. The CO-OWNERS do hereby waive in favour of DEALER the monthly rentals due to all CO-OWNERS, collectively, under the above described two Lease Agreements, one dated 13th November 1963 and the other dated 19th March 1964 to enable DEALER to increase his existing cash deposit to SHELL, from P10,000 to P25,000 for such purpose, the SHELL CO-OWNERS and DEALER hereby irrevocably assign to SHELL the monthly rental of P3,382.29 payable to them respectively as they fall due, monthly, commencing 24th May 1966, until such time that the monthly rentals accumulated, shall be equal to P15,000.

"2. The above stated monthly rentals accumulated shall be treated as additional cash deposit by DEALER to SHELL, thereby increasing his credit limit from P10,000 to P25,000. This agreement, therefore, cancels and supersedes the Joint Affidavit dated 11 April 1966 executed by the CO-OWNERS.

"3. Effective upon the signing of this agreement, SHELL agrees to allow DEALER to purchase from SHELL petroleum products, on credit, up to the amount of P25,000.

"4. This increase in the credit limit shall also be subject to the same terms and conditions of the above-mentioned Cash Pledge Agreement dated 11th May 1966." (Exhs. "B-2", "L", and "6"; underscoring supplied)

In the aforesaid Joint Affidavit of April 11, 1966 (Exhibit A), it is clearly stipulated by the parties that the P15,000.00 advance rental due to them from SHELL shall augment their "capital investment" in the operation of the gasoline station, which advance rentals shall be credited as rentals from May 25, 1966 up to four and one-half months or until 10 October 1966, more or less covering said P15,000.00.

In the subsequent document entitled "Additional Cash Pledge Agreement" above reproduced (Exhibit 6), the private respondents and petitioners assigned to SHELL the monthly rentals due them commencing the 24th of May 1966 until such time that the monthly rentals accumulated equal P15,000.00 which private respondents agree to be a cash deposit of petitioner in favor of SHELL to increase his credit limit as dealer. As above-stated it provided therein that "This agreement, therefore, cancels and supersedes the Joint Affidavit dated 11 April 1966 executed by the CO-OWNERS."

Petitioner contends that because of the said stipulation canceling and superseding that previous Joint Affidavit, whatever partnership agreement there was in said previous agreement had thereby been abrogated. We find no merit in this argument. Said cancelling provision was necessary for the Joint Affidavit speaks of P15,000.00 advance rentals starting May 25, 1966 while the latter agreement also refers to advance rentals of the same amount starting May 24, 1966. There is, therefore, a duplication of reference to the P15,000.00 hence the need to provide in the subsequent document that it "cancels and supersedes" the previous one. True it is that in the latter document, it is silent as to the statement in the Joint Affidavit that the P15,000.00 represents the "capital investment" of the parties in the gasoline station business and it speaks of petitioner as the sole dealer, but this is as it should be for in the latter document SHELL was a signatory and it would be against its policy if in the agreement it should be stated that the business is a partnership with private respondents and not a sole proprietorship of petitioner.

Moreover other evidence in the record shows that there was in fact such partnership agreement between the parties. This is attested by the testimonies of private respondent Remedios Estanislao and Atty. Angeles. Petitioner submitted to private respondents periodic accounting of the business.[4] Petitioner gave a written authority to private respondent Remedios Estanislao, his sister, to examine and audit the books of their "common business" (aming negosyo).[5] Respondent Remedios assisted in the running of the business. There is no doubt that the parties hereto formed a partnership when they bound themselves to contribute money to a common fund with the intention of dividing the profits among themselves.[6] The sole dealership by the petitioner and the issuance of all government permits and licenses in the name of petitioner was in compliance with the afore-stated policy of SHELL and the understanding of the parties of having only one dealer of the SHELL products.

Further, the findings of facts of the respondent court are conclusive in this proceeding, and its conclusion based on the said facts are in accordance with the applicable law.

WHEREFORE, the judgment appealed from is **AFFIRMED** in toto with costs against petitioner. This decision is immediately executory and no motion for extension of time to file a motion for reconsideration shall be

entertained.

SO ORDERED.

Narvasa, Cruz, and Griño-Aquino, JJ., concur.

[1] Exhibit A.

[2] Exhibits 6 and 6-A.

[3] Exhibit D.

[**] Penned by then Justice Ramon G. Gaviola Jr., and concurred in by Justices B.S. de la Fuente and Edgardo Paras, Fourth Division, Court of Appeals.

[4] Exhibits D, D-1, D-2, D-3 and D-4.

[5] Exhibit E.

[6] Article 1767, New Civil Code.

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