INTERNATIONAL PIPES, INC. AND ITALIT CONSTRUCTION AND DEVELOPMENT CORPORATION, PETITIONERS, VS. F.F. CRUZ & CO., INC., RESPONDENT.

G.R. No. 127543. August 16, 2001

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal via certiorari from the decision[1] of the Court of Appeals that denied petitioners International Pipes, Inc. (IPI) and Italit Construction and Development Corporation's (ITALIT) motion to intervene in the case of respondent F.F. Cruz and Co., Inc.'s (FF Cruz) petition for certiorari, prohibition and mandamus assailing the resolution of MWSS board of trustees rejecting all bids, including the winning bid of FF Cruz for the supply, delivery and installation of water pipes for project APM-01 of the Angat Water Supply Optimization Program (ASOP) and to undertake the project by administration.[2]

On February 29, 1996, the Court of Appeals promulgated its decision that nullified and set aside the resolution of Metropolitan Waterworks and Sewerage System (MWSS) that had rejected all bids and opted to pursue the project by administration.[3]

On November 19, 1996, petitioners filed with the Court of Appeals a motion for leave to intervene and to admit their comment-in-intervention.[4]

On December 23, 1996, the Court of Appeals denied petitioners' motion to intervene,[5] ruling that petitioners "have not demonstrated that they have a legal interest in the matter in litigation, or in the success of either of the parties or an interest against both, or that they are so situated as to be adversely affected by a distribution or disposition of property in the custody of the court or an officer thereof, in the contemplation of the rules of court and the precedents thereunder."[6]

Hence, this petition.[7]

It may be mentioned, at this juncture, that another controversy between FF Cruz and the MWSS arose in connection with companion project APM-02 of AWSOP. As a result, on April 10, 1996, FF Cruz filed with the Court of Appeals a petition for certiorari, prohibition and mandamus against MWSS.[8] On October 29, 1996, the Court of Appeals promulgated a decision in favor of the MWSS.[9] On May 13, 1997, FF Cruz filed with the Supreme Court a petition for review on certiorari.[10]

Subsequently, FF Cruz and MWSS commenced negotiations to amicably settle the controversies on projects/contracts APM-01 and APM-02 of AWSOP. On May 19, 1998, FF Cruz and MWSS filed with the Supreme Court a "joint Motion for Judgment on Compromise Agreement."[11]

Notwithstanding the objections of IPI and ITALIT, on September 16, 1998, the Supreme Court approved the Compromise Agreement not only as to G.R. NO. 128634 (CA-G.R. SP No. 40308, APM-02) but also as to G.R. No. 127653 (CA-G.R. SP No. 38797, APM-01), and considered these cases "CLOSED and TERMINATED."

With the termination of the main case due to the compromise agreement of the parties,[12] there is no more case in which petitioners may intervene. Intervention cannot exist as an independent action; it is merely ancillary and supplemental to an existing litigation.[13]

Consequently, we need not rule on the issue of whether petitioners may intervene in CA-G.R. SP No. 38797 and whether such intervention may be filed nine (9) months after judgment on the case in which petitioners manifested interest.

WHEREFORE, the Court hereby DISMISSES the petition having become functus officio.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] In CA-G.R. SP No. 38797, promulgated on February 29, 1996. Torres, Jr., J., ponente, Verzola and Agcaoili, JJ., concurring.

[2] Petition, Rollo, pp. 3-31.

[3] Petition, Annex "C", Rollo, pp. 45-64.

[4] Petition, Annex "O", Rollo, pp. 83-103.

[5] Petition, Annex "A", Rollo, pp. 33-42, Verzola, J., ponente, Agcaoili and Martin, Jr., JJ., concurring.

[6] Ibid., p. 41.

[7] Filed on January 13, 1997, Petition, Rollo, pp. 3-31. On September 1, 1999, we gave due course to the petition, Rollo, pp. 306-307.

[8] In CA-G.R. SP No. 40308.

[9] Rollo, pp. 239-250.

[10] G.R. No. 128634.

[11] In G.R. Nos. 127653 and 128634.

[12] In G.R. No. 127653, the appeal involving CA-G.R. SP No. 38797 and G.R. 128634, involving CA-G.R. SP No. 40308.

[13] Republic v. Sandiganbayan, 182 SCRA 911, 918 1990]; Chavez v. Ongpin, 186 SCRA 331, 338 [1990]; Saw v. Court of Appeals, 195 SCRA 740, 746 [1991]; Islamic Directorate of the Philippines v. Court of Appeals, 338 Phil. 970, 980-981 [1997]; Clareza v. Rosales, 2 SCRA 455, 457-458 [1961]; Barangay Matictic v. Elbinias, 148 SCRA 83, 89 [1987]; Ordonez v. Gustilo, 192 SCRA 469, 475 [1990].

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