

ROMEO D. MARIANO, PETITIONER, VS. PETRON CORPORATION, RESPONDENT.

G.R. No. 169438. January 21, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

For review[1] is the Decision[2] of the Court of Appeals upholding the lease contract between petitioner Romeo D. Mariano and respondent Petron Corporation.

The Facts

On 5 November 1968,[3] Pacita V. Aure, Nicomedes Aure Bundac, and Zeny Abundo (Aure Group), owners of a 2,064 square meter parcel of land in Tagaytay City[4] (Property), leased the Property to ESSO Standard Eastern, Inc., (ESSO Eastern), a foreign corporation doing business in the country through its subsidiary ESSO Standard Philippines, Inc. (ESSO Philippines). The lease period is 90 years[5] and the rent is payable monthly for the first 10 years, and annually for the remaining period.[6] The lease contract (Contract) contained an assignment veto clause barring the parties from assigning the lease without prior consent of the other.[7] Excluded from the prohibition were certain corporations to whom ESSO Eastern may unilaterally assign its leasehold right.[8]

On 23 December 1977, ESSO Eastern sold ESSO Philippines to the Philippine National Oil Corporation (PNOC).[9] Apparently, the Aure Group was not informed of the sale. ESSO Philippines, whose corporate name was successively changed to Petrophil Corporation then to Petron Corporation (Petron), took possession of the Property.

On 18 November 1993, petitioner Romeo D. Mariano (petitioner) bought the Property from the Aure Group and obtained title to the Property issued in his name bearing an annotation of ESSO Eastern's lease.[10]

On 17 December 1998, petitioner sent to Petron a notice to vacate the Property. Petitioner informed Petron that Presidential Decree No. 471 (PD 471),[11] dated 24 May 1974, reduced the Contract's duration from 90 to 25 years, ending on 13 November 1993.[12] Despite receiving the notice to vacate on 21 December 1998, Petron remained on the Property.

On 18 March 1999, petitioner sued Petron in the Regional Trial Court of Tagaytay City, Branch 18, (trial court) to rescind the Contract and recover possession of the Property. Aside from invoking PD 471, petitioner alternatively theorized that the Contract was terminated on 23 December 1977 when ESSO Eastern sold ESSO Philippines to PNOC, thus assigning to PNOC its lease on the Property, without seeking the Aure Group's prior consent.

In its Answer, Petron countered that the Contract was not breached because PNOC merely acquired ESSO Eastern's shares in ESSO Philippines, a separate corporate entity. Alternatively, Petron argued that petitioner's

suit, filed on 18 March 1999, was barred by prescription under Article 1389 and Article 1146(1) of the Civil Code as petitioner should have sought rescission within four years from PNOC's purchase of ESSO Philippines on 23 December 1977[13] or before 23 December 1981.[14]

To dispense with the presentation of evidence, the parties submitted a Joint Motion for Judgment (Joint Motion) containing the following stipulation:

5. On December 23, 1977, the Philippine National Oil Co. (PNOC), a corporation wholly owned by the Philippine Government, acquired ownership of ESSO Standard Philippines, Inc., including its leasehold right over the land in question, through the acquisition of its shares of stocks.[15] (Emphasis supplied)

The Ruling of the Trial Court

In its Decision dated 30 May 2000, the trial court ruled for petitioner, rescinded the Contract, ordered Petron to vacate the Property, and cancelled the annotation on petitioner's title of Petron's lease.[16] The trial court ruled that ESSO Eastern's sale to PNOC of its interest in ESSO Philippines included the assignment to PNOC of ESSO Eastern's lease over the Property, which, for lack of the Aure Group's consent, breached the Contract, resulting in its termination. However, because the Aure Group (and later petitioner) tolerated ESSO Philippines' continued use of the Property by receiving rental payments, the law on implied new lease governs the relationship of the Aure Group (and later petitioner) and Petron, creating for them an implied new lease terminating on 21 December 1998 upon Petron's receipt of petitioner's notice to vacate.[17]

Petron appealed to the Court of Appeals, distancing itself from its admission in the Joint Motion that in buying ESSO Philippines from ESSO Eastern, PNOC also acquired ESSO Eastern's leasehold right over the Property. Petron again invoked its separate corporate personality to distinguish itself from PNOC.

The Ruling of the Court of Appeals

In its Decision dated 29 October 2004, the Court of Appeals found merit in Petron's appeal, set aside the trial court's ruling, declared the Contract subsisting until 13 November 2058[18] and ordered petitioner to pay Petron P300,000 as attorney's fees. The Court of Appeals found no reason to pierce ESSO Philippines' corporate veil, treating PNOC's buy-out of ESSO Philippines as mere change in ESSO Philippines' stockholding. Hence, the Court of Appeals rejected the trial court's conclusion that PNOC acquired the leasehold right over the Property. Alternatively, the Court of Appeals found petitioner's suit barred by the four-year prescriptive period under Article 1389 and Article 1146 (1) of the Civil Code, reckoned from PNOC's buy-out of ESSO Philippines on 23 December 1977 (for Article 1389) or the execution of the Contract on 13 November 1968[19] (for Article 1146 [1]).[20]

Petitioner sought reconsideration but the Court of Appeals denied his motion in its Resolution of 26 August 2005.

Hence, this petition.

The Issue

The question is whether the Contract subsists between petitioner and Petron.

The Ruling of the Court

We hold in the affirmative and thus sustain the ruling of the Court of Appeals.

ESSO Eastern Assigned to PNOC its

Leasehold Right over the Property, Breaching the Contract

PNOC's buy-out of ESSO Philippines was total and unconditional, leaving no residual rights to ESSO Eastern. Logically, this change of ownership carried with it the transfer to PNOC of any proprietary interest ESSO Eastern may hold through ESSO Philippines, including ESSO Eastern's lease over the Property. This is the import of Petron's admission in the Joint Motion that by PNOC's buy-out of ESSO Philippines "[PNOC], x x x acquired ownership of ESSO Standard Philippines, Inc., including its leasehold right over the land in question, through the acquisition of its shares of stocks." As the Aure Group gave no prior consent to the transaction between ESSO Eastern and PNOC, ESSO Eastern violated the Contract's assignment veto clause.

Petron's objection to this conclusion, sustained by the Court of Appeals, is rooted on its reliance on its separate corporate personality and on the unstated assumption that ESSO Philippines (not ESSO Eastern) initially held the leasehold right over the Property. Petron is wrong on both counts.

Courts are loathe to pierce the fictive veil of corporate personality, cognizant of the core doctrine in corporation law vesting on corporations legal personality distinct from their shareholders (individual or corporate) thus facilitating the conduct of corporate business. However, fiction gives way to reality when the corporate personality is foisted to justify wrong, protect fraud, or defend crime, thwarting the ends of justice.[21] The fiction even holds lesser sway for subsidiary corporations whose shares are wholly if not almost wholly owned by its parent company. The structural and systems overlap inherent in parent and subsidiary relations often render the subsidiary as mere local branch, agency or adjunct of the foreign parent corporation.[22]

Here, the facts compel the conclusion that ESSO Philippines was a mere branch of ESSO Eastern in the execution and breach of the Contract. First, by ESSO Eastern's admission in the Contract, it is "a foreign corporation organized under the laws of the State of Delaware, U.S.A., duly licensed to transact business in the Philippines, and doing business therein under the business name and style of 'Esso Standard Philippines' x x x". In effect, ESSO Eastern was ESSO Philippines for all of ESSO Eastern's Philippine business.

Second, the Contract was executed by ESSO Eastern, not ESSO Philippines, as lessee, with the Aure Group as lessor. ESSO Eastern leased the Property for the use of ESSO Philippines, acting as ESSO Eastern's Philippine branch. Consistent with such status, ESSO Philippines took possession of the Property after the execution of the Contract. Thus, for purposes of the Contract, ESSO Philippines was a mere alter ego of ESSO Eastern.

The Lessor's Continued Acceptance of Lease Payments

Despite Breach of Contract Amounted to Waiver

The breach of contract notwithstanding, we hold that the Contract subsists. Contrary to the trial court's conclusion that ESSO Eastern's violation of the assignment veto clause extinguished the Contract, replaced by a new implied lease with a monthly term,[23] we hold that the breach merely gave rise to a cause of action for the Aure Group to seek the lessee's ejectment as provided under Article 1673, paragraph 3 of the Civil Code.[24] Although the records do not show that the Aure Group was formally notified of ESSO Philippines' sale to PNOC, the successive changes in the lessee's name (from ESSO Philippines to Petrophil Corporation then to Petron) suffice to alert the Aure Group of a likely change in the personality of the lessee, which, for lack of the Aure Group's prior consent, was in obvious breach of the Contract. Thus, the continued receipt of lease payments by the Aure Group (and later by petitioner) despite the contractual breach amounted to a waiver of their option to eject the lessee.

Petitioner's Suit Barred by Prescription

Petitioner's waiver of Petron's contractual breach was compounded by his long inaction to seek judicial redress. Petitioner filed his complaint nearly 22 years after PNOC acquired the leasehold rights to the Property and almost six years after petitioner bought the Property from the Aure Group. The more than two decades lapse puts this

case well within the territory of the 10 year prescriptive bar to suits based upon a written contract under Article 1144 (1) of the Civil Code.[25]

WHEREFORE, we DENY the petition. The Decision dated 29 October 2004 and the Resolution dated 26 August 2005 of the Court of Appeals are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Peralta,[*] Del Castillo, and Perez, JJ., concur.

[*] Designated additional member per Raffle dated 18 January 2010.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Eloy R. Bello, Jr., with Associate Justices Regalado E. Maambong and Lucenito N. Tagle, concurring.

[3] 13 November 1968 is the date the lower courts used to place the execution of the lease contract. However, the contract shows that it was signed on 5 November 1968 but notarized on 13 November 1968 (see Records, p. 14).

[4] Covered by Transfer Certificate of Title No. T-6190.

[5] Ending on 5 November 2058.

[6] P740 monthly rent for the first 10 years and P1 annual rent for the succeeding years (Records, p. 13-A).

[7] This is a modification of the statutory ban on unconsented assignment of lease under Article 1649 of the Civil Code which provides: "The lessee cannot assign the lease without the consent of the lessor, unless there is a stipulation to the contrary."

[8] The stipulation provides (Records, p. 13-A):

This contract may not be assigned or transferred by either party without the prior written consent of the other, provided, however, that the Lessee may assign and transfer its rights and obligations under this contract to Standard Oil Company (a New Jersey corporation) or any company 50% or more of whose capital stock is owned or controlled directly or indirectly by Standard Oil Company, without need of obtaining the consent of the Lessor.

[9] Other parts of the record show the following alternative dates: 23 December 1979 (Records, p. 91); 23 December 1978 (id. at 92); and 23 December 1979 (Rollo, p. 27).

[10] Transfer Certificate of Title No. T-29178.

[11] Fixing a maximum period of 25 years for the lease of private lands to aliens.

[12] This should be 5 November 1993, the 25[th] year after the Contract's signing.

[13] Petron erroneously indicated this date as 23 December 1973 (see Records, p. 36).

[14] Petron also argued that PD 471, which carried penal clauses, cannot be retroactively applied to shorten the term of the Contract without violating the constitutional ban on ex post facto laws and on impairment of contracts.

[15] Records, p. 91.

[16] The dispositive portion of the trial court's ruling provides (id. at 94):

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered declaring the lease contract, subject matter of this case, be rescinded and ordering the defendant to vacate and surrender possession of the leased premises to plaintiff.

It is likewise ordered that the annotation of said lease agreement at the back of TCT No. T-29178 be cancelled. Defendant is also ordered to pay the cost of the suit.

[17] Id. at 86-94.

[18] See note 3.

[19] But see note 3.

[20] Rollo, pp. 19-33.

[21] Koppel (Phils.), Inc. v. Yatco, 77 Phil. 496 (1946).

[22] Id.

[23] Records, pp. 91-93. The trial court gave no reason for its conclusion but deducing from its finding that the Contract was replaced by an implied lease with a monthly term, it could have only treated the unconsented assignment of lease as resulting in the Contract's novation. However, novation takes place only in two instances (1) by express agreement or (2) when the old and the new obligations are incompatible on every point (Lim Tay v. Court of Appeals, 355 Phil. 381 [1998]). None of these obtain here as the parties to the contract did not expressly novate it and except for the term of lease and the personality of the lessee, all the other contractual stipulations remained unchanged.

[24] This provides: "The lessor may judicially eject the lessee for any of the following causes:

x x x

(3) Violation of any of the conditions agreed upon in the contract;"

[25] This provides: "The following actions must be brought within ten years from the time the right of action accrues:

(1) Upon a written contract;"

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