

BRITISH-AMERICAN ENGINEERING CORPORATION, PLAINTIFF AND APPELLEE, VS. ALTO SURETY AND INSURANCE COMPANY, INCORPORATED, ANTONIO QUIRINO, ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 17009. September 13, 1966

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by the Alto Surety and Insurance Co., Inc. - hereinafter referred to merely as Alto, Antonio Quirino and Aleli R. Guzman-Quirino, in their respective capacity as President and Secretary-Treasurer of said company, from the final judgment of the Court of First Instance of Manila in Civil Case No. 32209 entitled "British-American Engineering Corporation vs. Alto Surety & Insurance Co., Inc., et al.,".

On April 1, 1957, British-American Engineering Corporation - hereinafter referred to as appellee - filed the present action in the Court of First Instance of Manila to compel appellants to issue in its favor certificates of stock corresponding to 2,500 shares of the capital stock of Alto, to refund the amount of P99,769.48 representing cash advances and payments which appellee had allegedly made, with legal interest from the respective dates they were advanced, plus 30% of the total amount involved therein as attorney's fees, and the costs of suit.

Appellee's claim was that on April 1, 1947, it paid Alto, through its Secretary-Treasurer, Mrs. Aleli R. Guzman-Quirino, the sum of P150,000.00 as purchase price of 1,500 shares of its capital stock at P100.00 per share (Exhibit A); that again on November 19, 1947 appellee paid Alto, through the same officer, the sum of P100,084.42 for 1,000 shares of its capital stock at the same par value (Exhibit B); that despite repeated demands made by appellee, appellants failed or otherwise refused to issue the corresponding certificates of stock in its favor.

On the other hand, besides contending that appellee's cause of action, if any, had prescribed, appellants claimed that the documents Exhibits A and B do not represent the true agreement of the parties; that the amounts mentioned therein were in fact paid for the account of Antonio Quirino chargeable to his share in the profits realized in his joint venture with appellee corporation and/or N. R. Lynevitche, its President and Managing Director, involving the importation and exportation of heavy equipment and other merchandise done in the name of appellee in 1946 and 1947.

As far as the record discloses, Alto was formally incorporated on April 8, 1947. One week prior to that date Mrs. Quirino, acting already as Secretary-Treasurer of Alto, issued the voucher Exhibit A acknowledging receipt of the sum of P150,000.00 ostensibly in payment of 1,500.00 shares of Alto subscribed or purchased by appellee. The amount, however, was actually credited as payment of the subscriptions of the original subscribers to the capital stock of Alto as follows:

Name

No. of Shares

Amount Subscribed

Amount Paid Up

Antonio Quirino

5,200

P520,000.00

P130,00.00

Aleli R. Guzman-Quirino

400

40,000.00

10,000.00

Petronila Syquia

200

20,000.00

5,000.00

Tomas Quirino

100

10,000.00

2,500.00

Angela A. Guzman

100

10,000.00

2,500.00

6,000

P600,000.00

P150,000.00

Again, on November 19, 1947, a similar voucher Exhibit B was issued by the Secretary-Treasurer of Alto acknowledging receipt of the sum of P100,000.00 in payment of 1,000 shares of the capital stock of the corporation, subscribed or purchased by appellee.

It is not disputed that the certificates of stock for the initial 1,500 shares mentioned above were issued in the names of the original subscribers to the capital stock of Alto, and that the certificates of stock corresponding to the additional 1,000 shares mentioned heretofore were issued in the name of the Quirino spouses, within a reasonable time after April 1, 1947 and November 19 of the same year, respectively.

It appears that Nicolas Lynevitche was not only the President but also the Managing Director of appellee corporation - virtually the corporation itself. It is not denied - in fact, it was admitted by Lynevitche - that appellee, through him, and Antonio Quirino had embarked upon a joint venture dealing in the importation and exportation of heavy equipment and other merchandise in which they realized profits. So closely they worked together that appellee and Alto - in other words, Lynevitche and Antonio Quirino - held offices in the same building and had other transactions with each other: Alto, on different occasions, loaned several amounts to appellee and/or Lynevitche.

On the other hand, it appears undisputed that appellee never received any certificate evidencing its alleged considerable and controlling interest in the capital stock of Alto. Moreover, its first alleged investment appears to be precisely the total amount subscribed and paid by the original subscribers to the capital stock of Alto, to whom, naturally, the corresponding certificates of stock were issued. And yet, the record discloses that, for a period of almost ten years, appellee made no inquiry as to why no certificate of stock had been issued in its name; much less did it demand issuance thereof in its name or an accounting in connection with the business of Alto and the profits derived therefrom. The record shows in this connection that it was only on October 25, 1956 when Lynevitche made a personal demand upon the Quirinos, while appellee corporation made a similar demand only on December 24, 1956. In fact, the present action was filed only on April 1, 1957 the very last day of the period of prescription.

The foregoing, We believe, affords more than sufficient ground for concluding that during that period of almost ten years, appellee knew that certificates corresponding to the shares of stock of Alto allegedly purchased by it had been issued in the name of the Quirino spouses and other parties. Whether or not its apparent acquiescence to this situation was due to the fact that the total sum of P250,000.00 covered by the vouchers mentioned heretofore really represented a partial payment of the share of Antonio Quirino in the profits realized by his joint venture with appellee - profits admitted unconditionally by Lynevitche himself - is a matter we do not here decide because the Quirinos are not parties in their personal capacity.

This appeal, therefore, must be decided upon another ground.

As stated heretofore, appellee commenced this action to compel Alto to issue in its favor certificates of stock corresponding to the 2,500 shares it had allegedly purchased. Its complaint said so (prayer for relief, paragraph A); its representation said so during the trial (transcript of September 1, 1959 pp. 16-17), and the trial court, in the opening paragraph of its decision quoted in appellee's brief submitted by Attys. David and Gunigundo, says exactly the same thing: that the action was for judgment against Alto ordering it to issue in favor of appellee certificates of stock corresponding to 2,500 shares of its capital stock. Finally, because the action was precisely for that purpose, the appealed judgment is as follows:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants ordering the defendant Alto Surety & Insurance Co., Inc. to issue in favor of the plaintiff the certificates of stock

corresponding to TWO THOUSAND FIVE HUNDRED (2,500) shares of its capital stock."

It is at once obvious that the judgment quoted above, if carried out, would result in a situation anomalous and illegal because it would give rise to a situation where 2,500 shares of Alto in the name of the Quirinos would remain outstanding - because said judgment did not provide for their nullification and cancellation -, and another 2,500 shares would be in the name of appellee, all of them of a total par value of P500,000.00 while what had been actually paid for them was only one-half of said amount.

Moreover, as Alto had actually issued certificates of stock corresponding to the P250,000.00 paid into its coffers, and the issuance of the corresponding certificates in the name of the Quirinos and other parties was, if not consented to by appellee, impliedly ratified by it, it is clear that Alto had no further obligation to perform in the premises, appellee's cause of action, if any, being exclusively against the parties in whose names the certificates of stock in question were issued. As a matter of fact, if no certificate had been issued at all by Alto and the right to the shares had been the subject of adverse claims on the part of appellee and the Quirinos, the matter could have been a proper subject of interpleading. But upon the facts before Us, appellee's right to relief could be only against the parties in whose names the certificates were issued. This relief could not have been granted by the lower court - as in fact it was not - because the Quirinos were made parties in this case in their capacity as officers of Alto, and other persons in whose names a few certificates of share were issued were not made parties at all.

WHEREFORE, the decision appealed from is reversed, with the result that the present case is dismissed, with costs.

Concepcion, C.J., Reyes, J.B.L., Barrera, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

Regala, J., no part.

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