

PHILIPPINE PRODUCTS CO., AND LUIS B. REYES, JUDGE, CFI, MANILA, PETITIONERS, VS. COURT OF APPEALS AND PACIFIC COPRA EXPORT CO., INC., RESPONDENTS.

G.R. No. 20308. November 15, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Philippine Products Co., herein petitioner, filed Civil Case No. 27913 on October 19, 1955, before the Court of First Instance of Manila to recover the sum of P33,009.71 from the Primateria S.A. Zurich, assertedly an unlicensed foreign corporation doing business in the Philippines, the Primateria (Phil.) Inc., Alexander Baylin, and Jose Crame. Summons was served on Primateria S.A. Zurich thru the co-defendants as its alleged agents. For its failure to answer, Primateria S.A. Zurich was declared in default.

The lower court, on March 26, 1960, rendered judgment holding Primateria S.A. Zurich liable to petitioner Philippine Products Co.; however, the three other defendants were absolved from liability. Not satisfied with this decision, petitioner, on June 11, 1960, appealed the case directly to this Court[1] on purely legal questions.

Subsequently, or on July 29, 1960, petitioner filed a motion before the lower court for execution pending appeal. The court granted the motion. On October 4, 1960, petitioner moved for an order requiring herein respondent Pacific Copra Export Co., to appear before the lower court and be examined concerning its alleged indebtedness to Primateria S.A. Zurich.[2] The lower court granted the examination prayed for in an order dated October 21, 1960, and subsequently, denied respondent Export Company's motion for reconsideration.

On April 21, 1961, respondent Export Company filed a petition for certiorari and prohibition with preliminary injunction with this Court.[3] The petition was dismissed on May 3, 1961, for lack of merit.

On June 15, 1961, respondent Export Company came back to Us with an amended petition for certiorari and prohibition with preliminary injunction.[4] In support of the petition, respondent Export Company advanced the following grounds,[5] to wit:

“A. THE ORDER OF OCTOBER 21, 1960 IS NULL AND VOID BECAUSE THE JUDGMENT UPON WHICH IT IS BASED IS A PATENT NULLITY AS AGAINST THE JUDGMENT DEBTOR, 'PRIMATERIA S.A. ZURICH', SINCE IT APPEARS FROM THE FACE OF THE JUDGMENT ITSELF THAT THE COURT A QUO DID NOT VALIDLY ACQUIRE JURISDICTION OVER THE PERSON OF SAID JUDGMENT DEBTOR, BY REASON OF THE EXPRESS FINDING THAT SAID JUDGMENT DEBTOR IS A FOREIGN JURIDICAL ENTITY WHICH DID NOT TRANSACT BUSINESS IN THE PHILIPPINES.

“B. THE ORDER OF 21 OCTOBER 1960 IS LIKEWISE NULL AND VOID BECAUSE THE ESSENTIAL REQUISITES PRESCRIBED BY LAW FOR ITS ISSUANCE HAVE NOT BEEN COMPLIED WITH.

“C. THE RESPONDENT JUDGE HAD NO AUTHORITY TO DECIDE PETITIONER'S MOTION FOR

RECONSIDERATION (ANNEX 'D' HEREOF) BEFORE THE DATE SET BY THE PETITIONER FOR THE HEARING, AND AS A CONSEQUENCE THEREOF, PETITIONER WAS DEPRIVED OF ITS RIGHT TO BE HEARD CONTRARY TO THE DUE PROCESS CLAUSE OF THE CONSTITUTION.

"D. NO EXECUTION CAN ISSUE UNDER SECTION 1, RULE 39 OF THE RULES OF COURT UPON THE DISPUTED DECISION, BECAUSE AN APPEAL THEREFROM HAS BEEN SEASONABLY PERFECTED BY THE PREVAILING PARTY; CONSEQUENTLY, THE APPEAL TAKEN BY THE PREVAILING PARTY AUTOMATICALLY OPERATES TO DIVEST THE COURT A QUO OF ANY FURTHER CONTROL AND JURISDICTION OVER SAID DECISION - PARTICULARLY IN THE MATTER OF ORDERING THE EXECUTION OF SAID DECISION.

"E. ASSUMING THAT THE COURT A QUO HAD ACQUIRED JURISDICTION OVER THE PERSON OF THE DEFENDANT PRIMATERIA S.A. ZURICH, SAID COURT WOULD, NEVERTHELESS, HAVE NO JURISDICTION TO SENTENCE SAID DEFENDANT AS A CORPORATION OR IN ITS CORPORATE CAPACITY, BECAUSE THE COURT ITSELF HAD FOUND SAID DEFENDANT TO BE NOT A CORPORATION."

On June 21, 1961, We finally denied the petition. Final judgment in L-18361 was entered on July 22, 1961.

About three months later, or on October 18, 1961, respondent Export Company filed a petition for certiorari and prohibition with preliminary injunction with the Court of Appeals[6] against the same respondents in L-18361, invoking the same grounds alleged before the Supreme Court in said case, re-arranging only their order of presentation.[7]

The Court of Appeals gave due course to the petition for certiorari and prohibition. On November 3, 1961, petitioner Philippine Products Co., filed a manifestation calling the attention of that appellate court to the identity of the petition with those filed in this Court in L-18361 in which the Supreme Court's order of dismissal already became final. Petitioner, on January 13, 1962, followed up with its answer to the petition.

On June 29, 1962, the Court of Appeals rendered judgment granting the petition for certiorari and prohibition. When its motion for reconsideration was denied, petitioner Philippine Products Co., appealed to Us thru the instant petition for review.

Petitioner's submission that the Court of Appeals had no jurisdiction to entertain the petition for certiorari and prohibition filed before it is well taken. By statute[8] the Court of Appeals may only issue writs of certiorari and prohibition "in aid of its appellate jurisdiction." This phrase has been consistently interpreted to mean that should the main case be appealed and the appeal fall under the exclusive appellate jurisdiction of the Court of Appeals, then only can it act on said special civil actions concerning a matter incidental to the main case. Otherwise, i.e., if the main case is not properly appealable to the Court of Appeals, jurisdiction to act on the special civil actions would devolve on the Supreme Court exclusively.[9]

The main case here, Civil Case No. 27913, had been actually appealed to this Court on June 11, 1960. When the petition for certiorari and prohibition was filed on October 18, 1961, with the Court of Appeals, the main case was still pending determination by the Supreme Court. The petition concerned an incidental matter that arose from the main case. Clearly, the Court of Appeals had no jurisdiction to entertain the petition. If said Court can not issue the writs of certiorari and prohibition when the main case is only appealable to the Supreme Court, with more reason can it not do so when the main case is actually pending appeal in this Court already. And it should be evident that jurisdiction over the main case necessarily embraces all incidental matters arising therefrom and connected therewith.

Furthermore, a mere reading of the petitions in L-18361 and in CA-G.R. No. 30047-R will immediately show that

both are identical in all respects. Even the grounds relied upon are the same. As stated, the only difference is one of pure form - the re-arrangement of the order in which the grounds were alleged. Considering that the petition in L-18361 had been finally dismissed by the Supreme Court, the highest court of the land, for lack of merit, the filing of the very same petition before the Court of Appeals, a court of inferior stature, was actually an appeal from the former to the latter court. Unquestionably, this procedure taken by respondent's counsel is against the orderly set-up of judicial proceedings.

Lastly, respondent confuses the "merits" in the certiorari case and the "merits" in the main case. While the dismissal of the certiorari petition did not affect the merits of the main case, such dismissal, grounded on lack of merit, is necessarily binding on the merits of the certiorari petition itself such that an identical petition can no longer be entertained.

WHEREFORE, the petition is granted. The decision of the Court of Appeals appealed from is annulled and set aside in toto. With double costs against respondent Pacific Copra Export Co., one-half of which to be paid by its counsel.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Ruiz Castro, Angeles, and Fernando, JJ., concur.
Sanchez, J., did not take part.

[1] Philippine Products Co. v. Primateria Societe Anonyme Pour Le Commerce Extérieur, L-17160. The decision here, affirming the decision of the lower court, was promulgated on November 29, 1965.

[2] This is pursuant to sec. 39, Rule 39 of the Rules of Court.

[3] Pacific Copra Export Co., Inc. v. Hon. Reyes and Philippine Products Co., L-18361.

[4] The title and docket number were identical to the petition filed on April 21, 1961.

[5] See: Annex "F" of petition; Rollo, pp. 51-73.

[6] Pacific Copra Export Co., Inc. v. Hon. Reyes and Philippine Products Co., CA-G. R. No. 30047-R.

[7] See: Annex "A" of petition; Rollo, pp. 22-44.

[8] Section 30, Republic Act 296 (The Judiciary Act).

[9] Mialhe v. Halili, 103 Phil. 639; Albar v. Carandang, L-18003, Sept. 29, 1962; PNB v. C.A., L-18728, May 31, 1963; Tuason v. Jaramillo, L-18932-34, etc., Sept. 30, 1963.

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