

ELTON W. CHASE, AS MINORITY STOCKHOLDER AND ON BEHALF OF OTHER STOCKHOLDERS SIMILARLY SITUATED AND FOR THE BENEFIT OF AMERICAN MACHINERY AND PARTS MANUFACTURING, INC., PETITIONER...

G. R. No. 20457. October 29, 1966

Ponente: DIZON, J.

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DIZON, J.:

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This is an action for certiorari filed by Elton Chase to review and annul the orders of the Court of First Instance of Manila, Branch XIV, in Civil Case No. 43946 entitled "Elton W. Chase, etc. vs. Dr. Victor Buencamino, Sr. et al." denying his application for receivership of American Machinery & Parts Manufacturing, Inc., a domestic corporation hereinafter referred to as AMPARTS.

On August 20, 1960, petitioner, a minority stockholder of AMPARTS, filed a derivative suit in the Court of First Instance of Manila against Dr. Victor Buencamino Sr., Victor Buencamino, Jr., Dolores A. Buencamino and Julio B. Francis, Jr., majority stockholders and corporate directors of AMPARTS charging them with breach of trust; praying for their removal as directors and, if necessary, for the dissolution and liquidation of said corporation. Attached to the complaint was an application for the appointment of a receiver of AMPARTS.

Respondents opposed the application for receivership and subsequently filed their answer to the complaint. After a hearing on the application the court, then presided by the Hon. Magno S. Gatmaitan, issued an order dated June 10, 1961 denying the same, but requiring respondents to file a bond in the amount of P100,000.00 to answer for whatever damages petitioner might suffer by reason of the denial. Petitioner's motion for reconsideration was likewise denied.

After trial on the merits, the court rendered judgment finding Dr. Buencamino guilty of mismanagement and condemning him "to pay Amparts the sum of P1,970,200 with legal interest from date of the filing of the complaint; he is also prohibited from collecting any interest on the sum of P300,000.00 paid by him on the 15th July, 1955 on the initial subscription, and such interest as has already been paid to him is ordered refunded with legal Interest from the date of the filing of the complaint; x x x".

On May 8, 1962, petitioner filed a motion for the appointment of Lawrence Moran as receiver of AMPARTS until the full amount of the above judgment against respondent Buencamino is fully satisfied or until the dissolution or liquidation of said corporation.

On May 12, 1962, the Court issued the following order:

"After hearing the parties and with a view to protect the interests of both and to prevent a possibility of abuse, the Court resolves that until further orders, the hereinafter while the case is pending,

"(1) Me. Chase shall have free access to AMPARTS and its records personally and/or through representative duly authorized;

"(2) Decisions of Dr. Buencamino and/at management of AMPARTS shall be made known to Chase who shall have the right to object and if so, the matter shall be notified to the Court which shall resolve the difficulties; in the Interim, pending the objection, the decision shall not be enforced or made operative;

"With this resolution, the Court disposes for the present of the issue of receivership."

Supplementing the above-quoted order, the respondent court, now presided by the Hon. Jesus de Veyra, issued the following order of August 27, 1962:

"As for the appointment of a receiver, Judge Gatmaitan decided on the temporary measure of giving plaintiff (petitioner herein) a veto right, appealable to this Court, on all decisions of management. Considering that up to the present, the Buencaminos own 2/3 of the stock of the corporation, the solution is equitable and must be allowed to continue subject to the condition that once a decision of management is made known to plaintiff, he must make known his objection thereto to the Court within five (5) days from receipt of said decision, otherwise he shall be deemed to have waived any objection to the decision."

The only Issue to be resolved, considering the above facts, is whether or not the respondent court committed a grave abuse of discretion in issuing its orders of June 10, 1961, June 21, 1961, May 12, 1962, and August 27 of the same year mentioned heretofore.

It is well settled in this jurisdiction that where corporate directors are guilty of a breach of trust and intracorporate remedy is futile, the minority stockholders may resort to the courts for appropriate relief and, incidentally, ask for the appointment of a receiver for the protection of their rights. In such case, however, the appointment of a receiver is a matter addressed to the sound discretion of the court, and it has been frequently held that such discretion to appoint a receiver who would take over the administration of the corporate business should be exercised with great caution and only when the necessity therefor is clear.

The facts of the present case show that, in connection with the order of June 10, 1961, which denied petitioner's application for the appointment of a receiver, the court required respondents herein to file a bond in the amount of P100,000.00 to answer for whatever damages petitioner might suffer by reason of the denial. Again, perhaps by reason of the judgment rendered against Dr. Buencamino finding him guilty of mismanagement etc., the respondent court, through the Hon. Jesus de Veyra, issued the order of August 27, 1962 whose pertinent portion is quoted above.

Upon the facts of the case, and considering the precautionary measures adopted by the respondent court for the protection of petitioner's rights and interest in AMPARTS, We can not find our way clear to ruling that said court had committed a grave abuse of discretion in issuing the orders complained of.

WHEREFORE, the petition for certiorari is dismissed, with costs.

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

Barrera, J., on leave.

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