ALFONSO DEL CASTILLO, PLAINTIFF AND APPELLANT, VS. SHANNON RICHMOND, DEFENDANT AND APPELLEE.

G.R. No. 21127. February 09, 1924

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was commenced in the Court of First Instance of the Province of Albay on the 18th day of October, 1922. Its purpose was to have declared null and of no effect the following contract executed and delivered on the 20th day of July, 1915:

"CONTRACT FOR RENDERING SERVICES

"Know oil men by these presents:

"That Shannon Richmond, of lawful age and a resident of the district of Legaspi, and Alfonso del Castillo, also of lawful age and a resident of the district of Daraga of the municipality and Province of Albay, Philippine Islands, have covenanted and agreed one with the other as follows:

"1. That Alfonso del Castillo, in consideration of a monthly remuneration of P125 to be paid to him by Shannon Richmond, agrees to enter the employ of said Shannon Richmond beginning this date, as pharmacist, and to take charge of the prescription department of the drugstore known as the Botica Americana situated in the district of Legaspi of the municipality and Province of Albay, Philippine Islands, and to perform all the duties and obligations as such pharmacist together with such other duties in connection with the same that by custom correspond to the pharmacist in a drugstore of this kind.

"2. That in consideration of the performance of the duties and obligations above indicated by the said Alfonso del Castillo, Shannon Richmond hereby agrees to pay the said Alfonso del Castillo the salary of P125 each month.

"3. That in consideration of the fact that the said Alfonso del Castillo has just graduated as a pharmacist and up to the present time has not been employed in the capacity of a pharmacist and in consideration of this employment and the monthly salary mentioned in this contract, the said Alfonso del Castillo also agrees not to open, nor own nor have any interest directly or indirectly in any other drugstore either in his own name or in the name of another; nor have any connection with or be employed by any other drugstore as pharmacist or in any capacity in any drugstore situated within a radius of four miles from the district of Legaspi, municipality and Province of Albay, while the said Shannon Richmond or his heirs may own or have open a drugstore, or have an interest in any other one within the limits of the districts of Legaspi, AJbay, and Daraga of the municipality of Albay, Province of Albay.

"4. That either of the parties to this contract may terminate his relations as employer and employee with or without reason, and upon thirty days' notice; remaining, nevertheless, in full force and effect all the other conditions and agreements stipulated in this contract.

"5. That the said Alfonso del Castillo furthermore agrees not to divulge or make use of any of the business secrets or private formulas of the said Shannon Richmond.

"In these terms, we execute this contract for the rendering of services on this 20th day of July, 1915, in the district of Legaspi, municipality and Province of Albay Philippine Islands.

(Sgd.) "SHANNON RICHMOND

"ALFONZO DEL CASTILLO

"Signed in the presence of:

(Sgd.) "M. GOYENA

"L. AZANA"

The said contract was acknowledged before a notary on the same day of its execution.

The plaintiff alleges that the provisions and conditions contained in the third paragraph of said contract constitute an illegal and unreasonable restriction upon his liberty to contract, are contrary to public policy, and are unnecessary in order to constitute a just and reasonable protection to the defendant; and asked that the same be declared null and void and of no effect. The defendant interposed a general and special defense. In his special defense he alleges "that during the time the plaintiff was in the defendant's employ he obtained knowledge of his trade and professional secrets and came to know and ber came acquainted and established friendly relations with his customers so that to now annul the contract and permit plaintiff to establish a competing drugstore in the town of Legaspi, as plaintiff has announced his intention to do, would be extremely prejudicial to defendant's interest." The defendant further, in an amended answer, alleges "that this action not having been brought within four years from the time the contract referred to in the complaint was executed, the same has prescribed."

During the trial of the cause an effort was made to sustain the allegations of the complaint that paragraph 3 of the said contract constituted an illegal and unreasonable restriction upon the right of the plaintiff to contract and was contrary to public policy. The lower court found that it was unnecessary to pass upon the question of prescription presented by the defendant.

Upon a consideration of the merits, the court a quo concluded "that the contract the annulment of which is sought by the plaintiff is neither oppressive to him, nor unreasonably necessary to protect the defendant's business, nor prejudicial to the public interests." From that judgment the plaintiff appealed to this court. In this court the appellant still insists that said contract is illegal, unreasonable, and contrary to public policy.

From a reading of paragraph 3 of the contract above quoted, it will be seen that the only restriction placed upon the right of the plaintiff is, that he shall "not open, nor own, nor have any interest directly or indirectly in any other drugstore either in his own name or in the name of another; nor have any connection with or be employed by any other drugstore as pharmacist or in any capacity in any drugstore situated within a radius of four miles from the district of Legaspi, municipality and Province of Albay, while the said Shannon Richmond or his heirs may own or have open a drugstore, or have an interest in any other one within the limits of the districts of Legaspi, Albay, and Daraga of the municipality of Albay, Province of Albay." It will be noted that the restrictions placed upon the plaintiff are strictly limited (a) to a limited district or districts, and (b) during the time while the defendant or his heirs may own or have open a drugstore, or have an interest in any other one within said limited district.

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The law concerning contracts which tend to restrain business or trade has gone through a long series of changes from time to time with the changing conditions of trade and commerce. With trifling exceptions, said changes have been a continuous development of a general rule. The early cases show plainly a disposition to avoid and annul all contract which prohibited or restrained any one from using a lawful trade "at any time or at any place," as being against the benefit of the state. Later, however, the rule became well established that if the restraint was limited to "a certain time" and within "a certain place," such contracts were valid and not "against the benefit of the state." Later cases, and we think the rule is now well established, have held that a contract in restraint of trade is valid providing there is a limitation upon either time or place. A contract, however, which restrains a man from entering into a business or trade without either a limitation as to time or place, will be held invalid. (Anchor Electric Co. vs. Hawkes, 171 Mass., 101; Alger vs. Thacher, 19 Pickering [Mass.], 51; Taylor vs. Blanchard, 13 Allen [Mass.], 370; Lufkin Rule Co. vs. Fringeli, 57 Ohio State, 596; Fowle vs. Park, 131 U. S., 88, 97; Diamond Match Co. vs. Roeber, 106 N. Y., 473; National Benefit Co. vs. Union Hospital Co., 45 Minn., 272; Swigert and Howard vs. Tilden, 121 Iowa, 650.)

The public welfare of course must always be considered, and if it be not involved and the restraint upon one party is not greater than protection to the other requires, contracts like the one we are discussing will be sustained. The general tendency, we believe, of modern authority, is to make the test whether the restraint is reasonably necessary for the protection of the contracting parties. If the contract is reasonably necessary to protect the interest of the parties, it will be upheld. (Ollendorff vs. Abrahamson, 38 Phil., 585.)

In that case we held that a contract by which an employee agrees to refrain for a given length of time, after the expiration of the term of his employment, from engaging in a business, competitive with that of his employer, is not void as being in restraint of trade if the restraint imposed is not greater than that which is necessary to afford a reasonable protection. In all cases like the present, the question is whether, under the particular circumstances of the case and the nature of the particular contract involved in it, the contract is, or is not, unreasonable. Of course in establishing whether the contract is a reasonable or unreasonable one, the nature of the business must also be considered. What would be a reasonable restriction as to time and place upon the manufacture of railway locomotive engines might be a very unreasonable restriction when imposed upon the employment of a day laborer.

Considering the nature of the business in which the defendant is engaged, in relation with the limitation placed upon the plaintiff both as to time and place, we are of the opinion, .and so decide, that such limitation is legal and reasonable and not contrary to public policy. Therefore the judgment appealed from should be and is hereby affirmed, with costs. So ordered.

Araullo, C.J., Street, Malcolm, Avancena, Ostrand, Johns, and Romualdez, JJ., concur.

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