

IDONAH SLADE PERKINS, PETITIONER, VS. MAMERTO ROXAS ET AL., RESPONDENTS.*G.R. No. 47517. June 27, 1941*

Ponente: LAUREL, J.

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On July 5, 1938, the respondent, Eugene Arthur Perkins, filed a complaint in the Court of First Instance of Manila against the Benguet Consolidated Mining Company for the recovery of the sum of P71,379.90, consisting of dividends which have been declared and made payable on 52,874 shares of stock registered in his name, payment of which was being withheld by the company, and for the recognition of his right to the control and disposal of said shares, to the exclusion of all others. To the complaint, the company filed its answer, alleging, by way of defense, that the withholding of plaintiff's right to the disposal and control of the shares was due to certain demands made with respect to said shares by the petitioner herein, Idonah Slade Perkins, and by one George H. Engelhard. The answer prays that the adverse claimants be made parties to the action and served with notice, thereof by publication, and that thereafter all such parties be required to interplead and settle the rights among themselves.

On September 5, 1938, the trial court ordered the respondent, Eugene Arthur Perkins, to include in his complaint as parties defendants petitioner, Idonah Slade Perkins, and George H. Engelhard. The complaint was accordingly amended and in addition to the relief prayed for in the original complaint, respondent Perkins prayed that petitioner Idonah Slade Perkins and George H. Engelhard be adjudged without interest in the shares of stock in question and excluded from any claim they assert thereon.

Thereafter, summons by publication were served upon the non-resident defendant, Idonah Slade Perkins and George H. Engelhard, pursuant to the order of the trial court. On December 9, 1938, Engelhard filed his answer to the amended complaint, and on January 8, 1940, petitioner's objection to the court's jurisdiction over her person having been overruled by the trial court and by this court in G. R. No. 46831, petitioner filed her answer with a cross-complaint in which she sets up a judgment allegedly obtained by her against respondent, Eugene Arthur Perkins, from the Supreme Court of the State of New York, wherein it is declared that she is the sole legal owner and entitled to the possession and control of The shares of stock in question together with all the cash dividends declared thereon by the Benguet Consolidated Mining Company, and prays for various affirmative reliefs against the respondent. To the answer and cross-complaint thus filed; the respondent, Eugene Arthur Perkins, filed a reply and an answer in which he sets up several defenses to the enforcement in this jurisdiction of the judgment of the Supreme Court of the State of New York above alluded to. Instead of demurring to the reply on either of the two grounds specified in section 100 of the Code of Civil Procedure, petitioner, Idonah Slade Perkins, on June 5, 1940, filed a demurrer thereto on the ground that "the court has no jurisdiction of the subject of the action," because the alleged judgment of the Supreme Court of the State of New York is *res judicata*.

Petitioner's demurrer having been overruled, she now filed in this court a petition entitled "Certiorari, Prohibition and Mandamus," alleging that "the respondent judge is about to and will render judgment in the abovementioned

case disregarding the constitutional rights of this petitioner; contrary to and annulling the final, subsisting, valid judgment rendered and entered in this petitioner's favor by the courts of the State of New York, * * * which decision is res judicata on all the questions constituting the subject matter of civil case No. 53317, of the Court of First Instance of Manila; and which New York judgment the Court of First Instance of Manila is without jurisdiction annul, amend, reverse, or modify in any respect whatsoever"; and praying that the order of the respondent judge overruling the demurrer be annulled, and that he and his successors be permanently prohibited from taking any action on the case, except to dismiss the same.

The only question here to be determined, therefore, is whether or not, in view of the alleged judgment entered in favor of the petitioner by the Supreme Court of New York, and, which is claimed by her to be res judicata on all questions raised by the respondent, Eugene Arthur Perkins, in civil case No. 53317 of the Court of First Instance of Manila, the local court had jurisdiction over the subject matter of the action in the said case. By jurisdiction over the subject matter is meant the nature of the cause of action and of the relief sought, and this is conferred by the sovereign authority which organizes the court, and is to be sought for in general nature of its powers, or in authority specially conferred. In the present case, the amended complaint filed by the respondent, Eugene Arthur Perkins, "in the court below alleged the ownership in himself of the shares of stock involved in this action as manager of the conjugal partnership between him and his wife, Idonah Slade Perkins; that the petitioner, Idonah Slade Perkins, and George H. Engelhard assert claims to and interests in the said stock adverse to Eugene Arthur Perkins; that such claims are invalid, unfounded, and made only for the purpose of vexing, hindering and delaying Eugene Arthur Perkins in the exercise of the lawful control over and use of said shares and dividends accorded to him by law and by previous orders and decrees of this court; and the said amended complaint prays, inter alia, "that defendant Benguet Consolidated Mining Company be required and ordered to recognize the right of the plaintiff to the control and disposal of said shares so standing in his name to the exclusion of all others; that the additional defendants, Idonah Slade Perkins and George H. Engelhard, be each held to have no interest or claim in the subject matter of the controversy between plaintiff and defendant Benguet Consolidated Mining Company, or in or under the judgment to be rendered herein and that by the said judgment they, and each of them be excluded therefrom; and that the plaintiff be awarded the costs of this suit and general relief." The respondent's action, therefore, calls for the adjudication of 'title to certain shares of stock of the Benguet Consolidated Mining Company, and the granting of affirmative reliefs, which fall within the general jurisdiction of the Court of First Instance of Manila. (Vide: sec. 146, et seq., Adm. Code, as amended by Commonwealth Act No. 145; sec. 56, Act No. 136, as amended by Act No. 400.)

Similarly, the Court of First Instance of Manila is empowered to adjudicate the several demands contained in petitioner's crosscomplaint. The cross-complaint sets up a judgment allegedly recovered by Idonah Slade Perkins against Eugene Arthur Perkins in the Supreme Court of New York and by way of relief prays:

"(1) Judgment against the plaintiff Eugene Arthur Perkins in the sum of one hundred eighty-five thousand and four hundred dollars (\$185,400), representing cash dividends paid to him by defendant Benguet Consolidated Mining Co. from February, 1930, up to and including the dividend of March 30, 1937.

"(2) That plaintiff Eugene Arthur Perkins be required to deliver to this defendant the certificates representing the 48,000 shares of capital stock of Benguet Consolidated Mining Co. issued as a stock dividend on the 24,000 shares owned by this defendant as described in the judgment Exhibit 1-A.

"(3) That this defendant recover under that judgment Exhibit 1-A interest upon the amount of each cash dividend referred to in that judgment received by plaintiff Eugene Arthur Perkins from February, 1930, to and including the dividend of March 30, 1937, from the date of payment of each of such dividends at the rate of 7 per cent per annum until paid.

"(4) That this defendant recover of plaintiff her costs and disbursements in that New York action amounting to the sum of one thousand five hundred eighty-four and 20/00 dollars (\$1,584.20), and the further sum of two thousand dollars (\$2,000) granted her in that judgment Exhibit 1-A as an extra allowance, together with interest. "(5) For an order directing an execution to be issued in favor of this defendant and against the plaintiff for amounts sufficient to satisfy the New York judgment Exhibit 1-A in its entirety, and against the plaintiff and the defendant Benguet Consolidated Mining Co. for such other amounts prayed for herein as this court may find to be due and payable by each of them; and ordering them to comply with all other orders which this court may issue in favor of the defendant in this case.

"(6) For the costs of this action, and

"(7) For such other relief as may be appropriate and proper in the premises."

In other words, Idonah Slade Perkins in her cross-complaint brought suit against Eugene Arthur Perkins and the Benguet Consolidated Mining Company upon the alleged judgment of the Supreme Court of the State of New York and asked the court below to render judgment enforcing that New York judgment, and to issue execution thereon. This is a form of action recognized by section 309 of the Code of Civil Procedure (now section 47, Rule 39, Rules of Court) and which falls within the general jurisdiction of the Court of First Instance of Manila, to adjudicate, settle and determine.

The petitioner expresses the fear that the respondent judge (may render judgment "annulling the final, subsisting, valid judgment rendered and entered in this petitioner's favor by the courts of the State of New York, * * * which decision is res judicata on all the questions constituting the subject matter of civil case No. 53317," and argues on the assumption that the respondent judge is without jurisdiction to take cognizance of the cause. Whether or not the respondent judge in the course of the proceedings will give validity and efficacy to the New York judgment set up by the petitioner in her cross-complaint is a question that goes to the merits of the controversy and relates to the rights of the parties as between each other, and not to the jurisdiction or power of the court. The test of jurisdiction is whether or not the tribunal has power to enter upon the inquiry, not whether its conclusion in the course of it is right or wrong. If its decision is erroneous, its judgment can be reversed on appeal; but its determination of the question, which the petitioner here anticipates and seeks to prevent, is the exercise by that court and the rightful exercise—of its jurisdiction.

The petition is, therefore, hereby (denied, with costs against the petitioner. So ordered.

Avanceña, C. J., Diaz, Moran, and Horrilleno, JJ., concur.

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