

STAR FORWARDERS, INC., PETITIONER, VS. HON. MIGUEL R. NAVARRO, PRESIDING JUDGE OF BRANCH XXXI OF THE CFI OF MANILA, ALLIED BANKING CORPORATION AND GENERAL BANK AND TRUST COMPANY...

G.R. No. 48646. November 16, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review on certiorari seeking to annul the orders of the Court of First Instance of Manila dated November 18, 1977 and July 6, 1978.

The antecedent facts, as culled from the pleadings, are as follows:

On August 14, 1974, petitioner Star Forwarders, Inc. (SFI) filed a complaint against private respondent General Bank and Trust Company (GENBANK) for breach of contract and damages, docketed as Civil Case No. 95027 before the then Court of First Instance of Manila, Branch XXXI. The complaint contained the following allegations: that on April 26, 1974, for valuable consideration, GENBANK issued to SFI an irrevocable letter of credit (p. 36, Rollo) for P1,773,750.00 payable in eleven equal installments; that, by the terms of the letter of credit, the payment of each installment shall be made by GENBANK to SFI against bills of exchange drawn by the latter, without recourse, on the bank's client, Inarda Development Corporation (IDC); that, after paying four installments, GENBANK wrote SFI informing the latter that it had cancelled the letter of credit on the ground that its issuance was attended by anomalies (p. 37, Rollo); that on August 13, 1974, SFI presented to GENBANK a bill of exchange drawn on IDC which GENBANK refused to honor; and that the failure of GENBANK to comply with its obligations under the irrevocable letter of credit caused SFI actual and compensatory damages.

With prior leave of court, SFI filed an amended complaint (pp. 30-35, Rollo) impleading private respondent Allied Banking Corporation (ALLIED) as an additional defendant on the allegation that the latter, by virtue of an agreement with, or authority given by the Central Bank and/or GENBANK had acquired all the assets and assumed all the liabilities of GENBANK, and that, in the alternative possibility that its liabilities were not assumed, the transfer of assets was in fraud of creditors. Therefore, SFI prayed that private respondents be ordered to comply with the letter of credit, to pay damages, expenses of litigation and costs of suit.

In its answer to the complaint (pp. 40-46, Rollo), GENBANK admitted the genuineness of the irrevocable letter of credit but averred, inter alia, that the same was secured through fraud and serious misrepresentation committed by IDC in connivance with the then incumbent manager of its (GENBANK) Roosevelt Branch in Quezon City, and that subject letter of credit was not supported by any sufficient and valuable consideration.

For its part, ALLIED filed a motion to dismiss the amended complaint (pp. 47-53, Rollo) based on the grounds that: (1) the complaint states no cause of action against it, and (2) the court has no jurisdiction over the subject matter of the suit. The second ground for dismissal was invoked since on March 25, 1977, the Monetary Board of

the Central Bank, by virtue of the authority vested in it under Republic Act No. 265 (Central Bank Act) as amended by Presidential Decree No. 1007, issued Resolution No. 675 forbidding GENBANK to do business in the Philippines and at the same time designating Mr. Arnulfo B. Aurellano, Assistant to the Governor of the Central Bank, as liquidator. Subsequently, on March 29, 1977, the Monetary Board, thru Resolution No. 677, ordered the liquidation of GENBANK. On April 1, 1977, the Central Bank, by the Solicitor General, filed a "Petition for Assistance in the Liquidation of General Bank and Trust Company" before the Court of First Instance of Manila, Branch IV docketed as Special Proc. No. 107812, pursuant to Section 29 of Republic Act No. 265 as amended by Section 1 of Presidential Decree No. 1007. On the theory that with the declaration of insolvency of GENBANK and the filing in court of said petition, ALLIED averred that SFI's claim for breach of contract allegedly committed by GENBANK should be filed and ventilated in that court (Court of First Instance of Manila, Branch IV).

Opposing the motion to dismiss (pp. 54-58, Rollo), SFI alleged that the determination as to whether or not ALLIED had assumed all the liabilities of GENBANK can only be made after trial on the merits, and that there were no insolvency proceedings proper where claims against GENBANK may be filed and prosecuted.

In an order dated September 19, 1977 (pp. 59-61, Rollo), the trial court denied the motion to dismiss ruling that the amended complaint stated a cause of action against the private respondents and that the alleged existence of an insolvency proceeding wherein SFI's claim should be filed is evidentiary in nature which can only be determined after trial on the merits.

ALLIED moved for a reconsideration of the order of denial (pp. 62-66, Rollo) insisting that jurisdiction to try the instant claim against GENBANK rests with Branch IV of the Court of First Instance of Manila which is hearing the petition for insolvency of said bank.

SFI opposed the motion for reconsideration (pp. 67-71, Rollo) on the grounds that ALLIED cannot invoke the alleged insolvency of GENBANK which can only be done by the latter and that, even in the case of GENBANK, the special proceeding instituted by the Solicitor General is not one where the assets of GENBANK will be made available for the satisfaction of its liabilities.

On November 18, 1977, the trial court issued an order granting the motion for reconsideration filed by ALLIED and dismissing the amended complaint against both private respondents, the dispositive portion of which reads (pp. 84-85, Rollo):

"FOR ALL THE FOREGOING, the Motion for Reconsideration of the Order of 19 September 1977 should be, as it is hereby, granted. Consequently, the said Order is hereby reconsidered and set aside. The amended complaint is dismissed, without prejudice to filing the same in the Court in insolvency. Without pronouncement as to costs.

"SO ORDERED."

According to the trial court, upon the filing of the petition for assistance in the liquidation of GENBANK, the court wherein it was filed acquires jurisdiction, in the same proceeding, to adjudicate disputed claims against the bank to the exclusion of all other courts and that such defense can be invoked even by ALLIED since it concerns jurisdiction.

SFI moved for a reconsideration of said order (pp. 86-95, Rollo) contending that the special proceeding adverted to is not an insolvency proceeding and, even if it were, claims already filed and pending in other courts need not be dismissed as they can be defended by the appointed receiver or liquidator.

After considering said motion for reconsideration, the opposition thereto (pp. 96-102, Rollo), as well as the

testimonial and documentary evidence adduced during the preliminary hearing on the jurisdictional issue, the trial court, on July 6, 1978, issued an order denying the motion for reconsideration (pp. 104-105, Rollo).

Hence, the present petition.

On December 11, 1989, considering the length of time that this case has remained pending and as a practical measure to ease the backlog of this Court, We resolved to require the parties to manifest whether or not they are still interested in prosecuting this case, or supervening events have transpired which render this case academic or otherwise substantially affect the same (p. 366, Rollo).

On January 12, 1990, SFI manifested that it is not aware of any event subsequent to the filing of the petition which would render the case academic (pp. 367-368, Rollo). On January 15, 1990, ALLIED manifested that it has no objection to the dismissal of this case. Even if SFI has a valid cause of action, it should prosecute the same before the court where the petition to dissolve GENBANK is still pending (pp. 370-371, Rollo). On February 20, 1990, the Solicitor General manifested that he is not aware of any supervening event which would render the case academic (p. 377, Rollo).

The issue presented is whether or not the dismissal of the complaint filed by SFI before the trial court was proper.

In support of this petition, SFI alleges that the "Petition for Assistance in the Liquidation of General Bank and Trust Company" is not an insolvency proceedings proper because (1) there is no allegation therein surrendering the assets of GENBANK to the court; (2) it does not contain any list of creditors of GENBANK; and (3) what is being asked is for the court to see to it that ALLIED would assume all the liabilities of GENBANK. Under these circumstances, there is absolutely no sense in holding that a complaint for the enforcement of the liability of GENBANK which is already being prosecuted in the proper court (Court of First Instance of Manila, Branch XXXI) not only against it but also against ALLIED which assumed such liability should be dismissed in order to be prosecuted solely against GENBANK in another court (Court of First Instance of Manila, Branch IV). Additionally, SFI asserts that the case of *Hernandez, et al. v. Rural Bank of Lucena, Inc., et al.*, G.R. No. L-29791, January 10, 1978, 81 SCRA 75 invoked by both the Solicitor General and ALLIED is not applicable because the facts therein are different from the facts in the case at bar, namely: (1) there was an insolvency proceedings proper the purpose of which was to convert the assets of the bank into cash for distribution to its creditors; (2) the case that was filed in another court was for consignment, the determination of which requires an examination of the books of accounts of the insolvent bank and those books were already turned over to the receiver appointed by the Central Bank pursuant to an order of the insolvency court, and (3) the insolvency proceedings was already pending when the action for consignment was filed by Hernandez in another court and such fact was known to Hernandez.

From a perusal of the allegations of SFI, it is at once discernible that it does not argue squarely against the dismissal of its complaint by the trial court. It is not for Us to rule in this petition on the merits of the proceedings before Branch IV of the Court of First Instance of Manila. Instead, Our concern here is regarding jurisdiction over the action filed by SFI. The dismissal of SFI's complaint by the trial court finds support both in law and jurisprudence. Section 29 of Republic Act No. 265 as amended by Section 1 of Presidential Decree No. 1007 provides, to wit:

"x x x.

"If the Monetary Board shall determine and confirm within the said period that the banking institution is insolvent or cannot resume business with safety to its depositors, creditors and the general public, it shall, if the public interest requires, order its liquidation, indicate the manner of its liquidation and approve a liquidation plan. The Central Bank shall, by the Solicitor General, file a petition in the Court of First Instance reciting the

proceedings which have been taken and praying the assistance of the court in the liquidation of the banking institution. The court shall have jurisdiction in the same proceedings to adjudicate disputed claims against the bank and enforce individual liabilities of the stockholders and do all that is necessary to preserve the assets of the banking institution and to implement the liquidation plan approved by the Monetary Board. The Monetary Board shall designate an official of the Central Bank as liquidator who shall take over the functions of the receiver previously appointed by the Monetary Board under this Section. The liquidator shall, with all convenient speed, convert the assets of the banking institution to money or sell, assign or otherwise dispose of the same to creditors and other parties for the purpose of paying the debts of such bank and he may, in the name of the banking institution, institute such actions as may be necessary in the appropriate court to collect and recover accounts and assets of the banking institution. (underscoring supplied)

“x x x.”

The records readily reveal that the claim of SFI is a disputed claim. GENBANK, in its answer to the complaint filed by SFI before the trial court stated, among other things, "[t]hat the letter of credit on question was secured through fraud and serious misrepresentations committed by the applicant Inarda Development Corporation, in connivance with the then incumbent Manager of Defendant's Roosevelt Branch in Quezon City, who taking undue advantage of his position fraudulently manipulated the transaction, with the knowledge and consent of plaintiff (SFI) as beneficiary, resulting in the issuance of the Letter of Credit, to the damage and prejudice of defendant (GENBANK)" (p. 42, Rollo). Applying the aforequoted provision, the Court of First Instance where the "Petition for Assistance in the Liquidation of General Bank and Trust Company" was filed has the jurisdiction to resolve said claim which, in this case, is Branch IV of the Court of First Instance of Manila. The rationale behind this provision is set forth in the "whereas" clauses of Presidential Decree No. 1007:

"WHEREAS, where a bank has become insolvent or can not continue to resume business with safety to its depositors and other creditors, its assets must be preserved and its debts and accounts settled as expeditiously as possible; and

"WHEREAS, the action of the Central Bank in connection with the above should not be hampered by unnecessarily tedious and protracted court litigations." (underscoring supplied)

Along the same line as these reasons are considerations of practicality and necessity, and to prevent multiplicity of suits. Indeed, it will be burdensome on the part of the liquidator if he were to appear before several courts to litigate claims against the insolvent bank. Resolving a similar issue, We said in the case of *Hernandez, et al. v. Rural Bank of Lucena, Inc., et al.*, supra, that "x x x the liquidation court or the Manila court has exclusive jurisdiction to entertain the claim of the Hernandez spouses that their mortgage obligation had already been extinguished by means of their tender of the check issued by the San Pablo Colleges." While We concede that the facts of the Hernandez case are not on all fours with the present case yet, what is controlling is Our ruling therein that convenience and practicality are the overriding considerations in vesting exclusive jurisdiction on the liquidation court to entertain the claim of the Hernandez spouses, and which We are simply reiterating now.

The notion of SFI that the suit to be filed before the liquidation court will only be against GENBANK is incorrect. It will also be a suit against ALLIED since, and as SFI is very much aware, it (ALLIED) had assumed all the obligations of GENBANK, as evidenced by Resolution No. 677 (p. 77, Rollo):

"x x x.

"C. To approve the following plan of liquidation of Genbank:

'1. All the assets of GENBANK shall be purchased by the Lucio Tan Group which shall also assume all the liabilities of Genbank under the following terms and conditions: (underscoring supplied)

'x x x . ' "

and in the Certification prepared by liquidator Arnulfo B. Aurellano (p. 72, Rollo);

"x x x.

"4. That in a Memorandum of Agreement dated 9 May 1977 executed by the Allied Banking Corporation and Arnulfo B. Aurellano as Liquidator of General Bank and Trust Company, and entered in the notarial book of Notary Public Marino E. Eslao as Doc. No. 2882, Page No. 17, Book No. VII, Series of 1977, the former acquired all the assets and assumed all the liabilities of the General Bank and Trust Company; (underscoring supplied)

"x x x."

ACCORDINGLY, the petition is hereby DENIED. The orders of the court dated November 18, 1977 and July 6, 1978 are AFFIRMED.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Griño-Aquino, JJ., concur.

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