

**ARMCO STEEL CORPORATION (OF THE PHILIPPINES), PETITIONER,
VS. SECURITIES AND EXCHANGE COMMISSION, ARMCO STEEL
CORPORATION (OF OHIO, U.S.A.) AND ARMCO MARSTEEL ALLOY
CORPORATION,...**

G.R. No. 54580. December 29, 1987

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

On July 1, 1965 ARMCO Steel Corporation, a corporation organized in Ohio, U.S.A., hereinafter called ARMCO-OHIO, obtained from the Philippine Patent Office, Certificate of Registration No. 11750 for its trademark consisting of the word "ARMCO" and a triangular device for "ferrous metals and ferrous metal castings and forgings". On April 14, 1971, pursuant to trademark rules, the petitioner filed with the said patent office an "Affidavit of Use" for said trademark, which was subsequently accepted and for which the Patent Office issued the corresponding notice of acceptance of "Affidavit of Use".

ARMCO Marsteel-Alloy Corporation was also incorporated on July 11, 1972 under its original name Marsteel Alloy Company, Inc. but on March 28, 1973 its name was changed to ARMCO-Marsteel Alloy Corporation hereinafter called ARMCO-Marsteel, by amendment of its Articles of Incorporation after the ARMCO-Ohio purchased 40% of its capital stock. Both said corporations are engaged in the manufacture of steel products. Its article of incorporation in part reads as follows as to its purposes: "to manufacture, process x x x and deal in all kinds, form, and combinations of iron, steel or other metals and all or any products or articles particularly consisting of iron, steel or other metals x x x x."

On the other hand ARMCO Steel Corporation was incorporated in the Philippines on April 25, 1973, hereinafter called ARMCO-Philippines. A pertinent portion of its articles of incorporation provides as among its purposes: "to contract, fabricate x x x manufacture x x x regarding pipelines, steel frames x x x."

ARMCO-Ohio and ARMCO-Marsteel then filed a petition in the Securities and Exchange Commission (SEC) to compel ARMCO-Philippines to change its corporate name on the ground that it is very similar, if not exactly the same as the name of one of the petitioners, which is docketed as SEC Case No. 1187. In due course an order was issued by the SEC on February 14, 1975 granting the petition, the dispositive part of which reads as follows:

"In view of the foregoing, the respondent, ARMCO STEEL CORPORATION, is hereby ordered to take out 'ARMCO' and substitute another word in lieu thereof in its corporate name by amending the articles of incorporation to that effect, within thirty (30) days from date of receipt of a copy of this Order; after which, three (3) copies of the amended articles of incorporation, duly certified by a majority of the board of directors and countersigned by the president and secretary of the corporation, shall be submitted to this Commission, together with the corresponding filing fees, as required by law."[1]

A motion for reconsideration of the said order was filed by said respondent on March 6, 1975 but this was denied in an order of April 16, 1965 as the motion was filed out of time, a copy of the questioned order having been

received by respondent on February 18, 1975 so that said order had become final and executory.[2] A motion for reconsideration filed by respondent to set aside said order of April 16, 1965 was also denied by the SEC on June 23, 1975.[3] An appeal was interposed by respondent to the Court of Appeals which was docketed as CA-G.R. No. 04448-R but the appeal was dismissed in a resolution of January 13, 1976, on the ground that the appeal was perfected beyond the reglementary period allowed by law.

On March 22, 1976 said respondent amended its articles of incorporation by changing its name to "ARMCO structures, Inc." which was filed with and approved by the SEC.

Nevertheless, in an order of January 6, 1977, the SEC issued an order requiring respondent, its directors and officers to comply with the aforesaid order of the Commission of February 14, 1975 within ten (10) days from notice thereof.⁵

A manifestation and motion was filed by respondent informing SEC that it had already changed its corporate name with the approval of the SEC to ARMCO Structures, Inc. in substantial compliance with the said order or in the alternative prayed for a hearing to determine if there is a confusing similarity between the names of the petitioners on one hand and the ARMCO Structures, Inc. on the other.

Petitioners then filed a comment to said manifestation alleging that the change of name of said respondent was not done in good faith and is not in accordance with the order of the Commission of February 14, 1975 so that drastic action should be taken against the respondent and its officers. Subsequently, petitioners filed a motion to cite said respondent, its directors and officers in contempt for disobeying the orders of February 14, 1975 and January 6, 1977. In an order of August 31, 1977, the SEC finding that the respondent, its directors, and officers have not complied with the final order of February 14, 1975 required them to appear before the Commission on September 22, 1977 at 10:00 o'clock in the morning to show cause why they should not be punished for contempt by the Commission.⁶

After the hearing the parties submitted their respective memoranda. In another order of January 17, 1979, the SEC finding that the respondent did not make the proper disclosure of the circumstances when it amended its articles of incorporation and submitted the same for the approval of the SEC thus said respondent, its directors, and officers were ordered within ten (10) days from notice to comply with the order of February 14, 1975. An appeal was interposed by the respondent to the SEC en banc. The Commission en banc in an order of December 14, 1979 dismissed the appeal for lack of merit.⁷

Hence, the herein petition for review filed by ARMCO-Philippines wherein it seeks the reversal of the orders of the SEC of December 14, 1979 and August 6, 1980 and that the order of February 14, 1975 be declared functus officio for having been substantially complied with by the petitioner. The grounds of the petition are as follows:

"I

THE SECURITIES AND EXCHANGE COMMISSION ERRED WHEN IT DID NOT CONSIDER ITS ORDER DATED FEBRUARY 14, 1975 FUNCTUS OFFICIO PURSUANT TO THE LEGAL MAXIM 'CESSANTE LEGIS RATIONE CESSAT ET IPSA LEX' AFTER PETITIONER HAD SUBSTANTIALLY COMPLIED IN GOOD FAITH WITH SAID ORDER AND SAID COMPLIANCE HAD ACHIEVED THE PURPOSE OF THE ORDER, BY CHANGING ITS CORPORATE NAME WITH THE APPROVAL OF SAID COMMISSION.

II

THE COMMISSION ERRED WHEN IT DID NOT FIND THAT ITS APPROVAL OF PETITIONER'S AMENDED ARTICLES OF INCORPORATION CHANGING PETITIONER'S CORPORATE NAME FROM "ARMCO STEEL CORPORATION" TO "ARMCO STRUCTURES, INCORPORATED" WAS REGULAR AND LEGAL.

III

THE COMMISSION ERRED WHEN IT DID NOT FIND THAT PRIVATE RESPONDENTS WERE NO LONGER ENTITLED TO THE RELIEF AWARDED BY THE ORDER DATED FEBRUARY 14, 1975 CONSIDERING THAT SAID ORDER HAD BECOME FUNCTUS OFFICIO AND FURTHER ENFORCEMENT THEREOF WILL BE INEQUITABLE AS IT WILL DEPRIVE PETITIONER OF EQUAL PROTECTION OF LAWS.

IV

THE COMMISSION ERRED WHEN, THERE BEING A DISPUTE AS TO WHETHER OR NOT THE PURPOSE OF THE ORDER DATED FEBRUARY 14, 1975 HAD BEEN COMPLIED WITH AND WHETHER THERE WAS STILL CONFUSING SIMILARITY BETWEEN THE CORPORATE NAMES OF RESPONDENTS AND THE NEW NAME OF PETITIONER, IT DID NOT GRANT PETITIONER'S PRAYER THAT A HEARING BE HELD TO THRESH THE ISSUE."

The Court finds no merit in the petition.

The order of the public respondent SEC of February 14, 1975 which has long become final and executory clearly spells out that petitioner must "take out ARMCO and substitute another word in lieu thereof in its corporate name by amending the articles of incorporation to that effect, x x x." Far from complying with said order petitioner amended its corporate name into ARMCO Structures, Inc., and secured its approval by the SEC on March 22, 1976. That this amendment was made by petitioner without the knowledge of the proper authorities of the SEC is borne by the fact that thereafter on January 6, 1977 an order was issued by the SEC requiring petitioner, its board of directors, and officers to comply with the order of the Commission of February 14, 1975. When the attention of the SEC was called by petitioner that the change of corporate name had been undertaken by it to ARMCO Structures, Inc. and asked that it be considered as a substantial compliance with the order of February 14, 1975, the SEC in its order of January 17, 1979 speaking through its hearing officer Antonio R. Manabat ruled as follows:

"The Order of February 14, 1975, cannot but be clearer than what it purports to require or demand from respondent. Under in no distinct terms, it enjoins the removal or deletion of the word 'Armco' from respondent's corporate name, which was not so complied with. The Commission, therefore, cannot give its imprimatur to the new corporate name because there was no compliance at all.

The fact that the Securities and Exchange Commission issued its certificate of filing of amended articles of incorporation on March 22, 1976, is nothing but an illusory approval of the change of corporate name and a self-induced protection from the Commission to further exact compliance of the Order of February 14, 1975. Craftily, the Securities and Exchange Commission and/or its administrative personnel were made to issue such certificate during its unguarded moment. Verily, the certificate could not have been issued were it not for such lapses or had respondent been in good faith by making the proper disclosures of the circumstances which led it to amend its articles of incorporation.

Correctly pointed out by petitioners, a 'new determination' as to whether or not there is confusing similarity between petitioners' names and that of 'Armco Structures, Incorporated', cannot be ordered without

transgression on the rule of, or the decisional law on, finality of judgment."⁸

The Court finds that the said amendment in the corporate name of petitioner is not in substantial compliance with the order of February 14, 1975. Indeed it is in contravention therewith. To repeat, the order was for the removal of the word "ARMCO" from the corporate name of the petitioner which it failed to do. And even if this change of corporate name was erroneously accepted and approved in the SEC it cannot thereby legalize nor change what is clearly unauthorized if not contemptuous act of petitioner in securing the registration of a new corporate name against the very order of the SEC of February 14, 1975. Certainly the said order of February 14, 1975 is not rendered functus officio thereby. Had petitioner revealed at the time of the registration of its amended corporate name that there was the said order, the registration of the amended corporate name could not have been accepted and approved by the persons in-charge of the registration. The actuations in this respect of petitioner are far from regular much less in good faith.

The arguments of the petitioner that the SEC had approved the registration of several other entities with one principal word common to all as "ARMCO", and that there is no confusing similarity between the corporate names of respondents and the new name of petitioner, would indeed in effect be re-opening the final and executory order of the SEC of February 14, 1975 which had already foreclosed the issue. Indeed, in said final order the SEC made the following findings which are conclusive and well-taken:

"The only question for resolution in this case is whether the respondent's name ARMCO STEEL CORPORATION is similar, if not identical with that of petitioner, ARMCO STEEL CORPORATION (of Ohio, U.S.A.) and of petitioner, ARMCO-MARSTEEL ALLOY CORPORATION, as to create uncertainty and confusion in the minds of the public.

By mere looking at the names, it is clear that the name of petitioner, ARMCO STEEL CORPORATION (of Ohio, U.S.A.), and that of the respondent, ARMCO STEEL CORPORATION, are not only similar but identical and the words 'of Ohio, U.S.A.,' are being used only to identify petitioner ARMCO STEEL-OHIO as a U.S. corporation.

It is indisputable that ARMCO-STEEL-OHIO, having patented the term 'Armco' as part of its trademark on its steel products, is entitled to protection in the use thereof in the Philippines. The term 'Armco' is now being used on the products being manufactured and sold in this country by Armco-Marsteel by virtue of its tie-up with ARMCO-STEEL-OHIO. Clearly, the two companies have the right to the exclusive use and enjoyment of said term.

ARMCO STEEL-PHILIPPINES, has not only an identical name but also a similar line of business, as shown above, as that of ARMCO STEEL-OHIO. People who are buying and using products bearing the trademark 'Armco' might be led to believe that such products are manufactured by the respondent, when in fact, they might actually be produced by the petitioners. Thus, the goodwill that should grow and inure to the benefit of petitioners could be impaired and prejudiced by the continued use of the same term by the respondent."

Obviously, the petition for review is designed to further delay if not simply evade compliance with the said final and executory SEC order. Petitioner also seeks a review of the orders of execution of the SEC of the said February 14, 1975 order. An order or resolution granting execution of the final judgment cannot be appealed⁹ otherwise there will be no end to the litigation.¹⁰

WHEREFORE, the petition is DISMISSED for lack of merit with costs against petitioner. This decision is immediately executory.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Paras, JJ., concur.

[1] Annex "J" to Petition.

[2] Annex "K" to Petition.

[3] Annex "L" to Petition.

[4] Annex "M" to Petition.

5 Annex "M".

6 Annex "R".

7 Annex "A" to the Petition.

8 Annex "V" to the Petition.

9 Heirs of June D. Francisco vs. Munoz-Palma, 37 SCRA 753; Romero, Sr. vs. Court of Appeals, 40 SCRA 172.

10 Corpuz vs. Alikpala, 22 SCRA 104; Socco vs. Vda. de Leary, SCRA 326, 329.

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