

MARIA LUISA FLOR C. BANEZ, SPOUSES PETRONILO ESTEVES AND LUISA ESTEVES AND CONSUELO M. CAULBOY, PETITIONERS, VS. DIMENSIONAL CONSTRUCTION TRADE AND DEVELOPMENT CORPORATION AND T...

G.R. No. 62648. November 22, 1985

Ponente: ALAMPAY, J.

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ALAMPAY, J.:

Originally this case was brought to this Court on an appeal of the petitioners herein from the order dated February 12, 1982 of respondent Judge of the Court of First Instance, Pangasinan, Branch IX at Urdaneta, Pangasinan, issued in Civil Case No. U-3569, dismissing plaintiff's complaint. In a Resolution of this Court dated May 4, 1983, petitioners were allowed to file a Petition for Review on Certiorari of the aforesaid decision and thereafter respondents were required to file their comment thereto.

The facts of this case disclose that on October 13, 1980, petitioners herein filed with the aforementioned court below a complaint, docketed as Civil Case No. U-3569, praying therein that the defendant Dimensional Construction Trade and Development Corporation, the private respondent in this case, be ordered to pay them the sums of money which were already due to them under the various promissory notes issued by said defendant. Defendant corporation was served copy of the summons and complaint on November 18, 1980, but it failed to file any responsive pleading. On August 20, 1981, or nine (9) months thereafter, petitioners moved to have private respondents declared in default. On October 14, 1981, the trial court declared private respondent in default and set the date for the reception of plaintiff's evidence. According to petitioners herein, they submitted their evidence ex-parte on November 25, 1981 before the Clerk of Court who was duly commissioned to receive plaintiff's evidence and that the case was thereafter submitted for decision.

Before a judgment in the case can be rendered, defendant corporation filed on December 16, 1981, an omnibus motion to: (a) annul all proceedings taken in the court below; (b) lift and dissolve all attachments, levies or executions and (c) to dismiss the case. It was defendant's contention that it is the Securities and Exchange Commission and not the Court of First Instance, that has exclusive jurisdiction over the subject matter of the case because of Section 5 (a) of Presidential Decree No. 902-A, which vests in the Securities and Exchange Commission original and exclusive jurisdiction to hear and decide cases involving the devices or schemes employed by or any acts of the Board of Directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholders, partners, members of associations or organizations registered with the Commission. Petitioners herein filed their opposition to said omnibus motion averring that defendant corporation has no right to be heard in any manner after losing its standing in court due to the default order issued against it. Petitioners argued that their complaint is simply a suit for the collection of sums of money on account of promissory notes which have already matured and therefore their case is originally and exclusively cognizable by the Court of First Instance. After defendant private respondent filed its rejoinder, the respondent court issued the questioned order of February 12, 1982, dismissing

said Civil Case No. U-3569, and setting aside its previous orders declaring defendant in default and referring the case to the Clerk of Court for reception of plaintiff's evidence. The court below in effect held that it is the Securities and Exchange Commission which has jurisdiction to hear and decide the plaintiff's complaint.

The petition is impressed with merit as there appears to be a grave abuse of discretion committed by the court below in dismissing petitioners' complaint.

The recitals of the complaint in Civil Case No. 3569 disclose that plaintiff's cause of action is merely for the collection of the various sums of money that have already become payable to petitioners due to the promissory notes executed by defendant corporation which have already matured. There is no allegation nor any mention whatsoever in plaintiff's complaint that a device or scheme was resorted to by private respondent corporation amounting to fraud and misrepresentation. It is, therefore, difficult to consider that petitioners' case falls within the jurisdiction of the Securities and Exchange Commission pursuant to PD 902-A. Paradoxically, despite the absence of imputation of fraud and misrepresentation being alleged by plaintiff, it is the defendant corporation itself which insinuates the existence of fraud and misrepresentation on its part. Evidently, the defendant's challenge to the jurisdiction of the court below is principally intended to negate the effects of the order of default earlier issued against it as well as the evidence already adduced by petitioners in the court below. The tactical step resorted to by the private respondent in the trial court appears to be its deliberate attempt to unduly delay the satisfaction of the reliefs claimed for by petitioners and to avoid the effects of its failure to file any answer to the complaint and controvert the evidence already adduced against it.

In the promissory notes issued by private respondent corporation, it is clearly indicated therein that the sums of money received by private respondent were in the nature of investments of the petitioners, agreed upon by the parties to be returned by the corporation upon the maturity of said promissory notes. As the money received by private respondent do not constitute payment of subscription of shares, the petitioners herein did not become members of respondent Dimensional Trade and Development Corporation. In the case of *Sunset View Condominium Corporation vs. Hon. Jose C. Campos, Jr., et al.*, 104 SCRA 295, it was ruled that where the stated party-litigants "are not shareholders of the condominium corporation, the instant cases for collection cannot be 'a controversy arising out of intra-corporate or partnership relations between and among stockholders, members or associates'."

From the practical standpoint it would even be a useless exercise to refer to the Securities and Exchange Commission the subject case which has been pending in court for over five (5) years considering that private respondents herein did not even elect to file any answer to the complaint filed against it in the court below nor has it made any mention in its pleadings submitted to this court that it has a good and meritorious defense to the petitioners' cause of action. The efforts of the private respondent to promote unwarranted delay should not be allowed to succeed any further.

WHEREFORE, the questioned order of the court below dated February 12, 1982, dismissing petitioners' complaint in Civil Case No. U-3569 is hereby reversed and set aside. The respondent court is hereby directed to take cognizance of the proceedings that transpired in the aforesaid case and render judgment based on the evidence adduced therein by the herein petitioners. Costs against the private respondents.

SO ORDERED.

Concepcion, Jr., (Chairman), Abad Santos, Escolin, and Cuevas, JJ., concur.

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