

SOCIEDAD EUROPEA DE FINANCIACION, S.A., JULIO MUÑOZ, JAIME AMAT, IN THEIR OWN BEHALF AS STOCKHOLDERS AND IN BEHALF OF CAPITAL INSURANCE & SURETY CO., INC., PETITIONERS, VS. COUR...

G.R. No. 75787. January 21, 1991

Ponente: NARVASA, J.

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NARVASA, J.:

The material facts upon which the present appeal turns are set forth in the decision of the Court of Appeals (formerly Intermediate Appellate Court) dated July 30, 1986 in AC-G.R. CV No. 03744.[1]

Sometime in 1949, Julio Ramonet Muñoz, in representation of a New York business firm, Carum Trading, Inc., gave Antonio V. Rocha US \$400,000.00 to open an insurance company in the Philippines. With the money, Rocha organized the Capital Insurance & Surety Co., Inc. Under Rocha's direction, the company prospered. A sister corporation was subsequently also set up by Rocha, the Capital Life Assurance Corporation.

In 1958, Rocha transferred all the shares of Capital Insurance & Surety Co., Inc. (hereafter, simply CAPITAL INSURANCE) to Carum Trading, Inc. Joaquin G. Garrido replaced Rocha in the insurance corporation. Effective control over CAPITAL INSURANCE then passed to the hands of Sociedad Europea de Financiacion (hereafter, simply SEF) which came to own 89.75% of the former's stock, and 34.05% of the outstanding shares of Capital Life Assurance Co. (hereafter, simply CAPITAL LIFE). That control was exercised by Garrido, who was named General Manager of the insurance firms. He also served as director of the companies, together with Julio Ramonet Muñoz, Jaime Amat, J. Amado Araneta, and Angel Gamboa (since deceased).

In 1966, Garrido and Araneta proposed to the board of directors that CAPITAL INSURANCE obtain a loan of P600,000.00 from Progressive Commercial Bank. This, according to them, in order that a better financial position could be projected when renewal was sought of the license of its sister corporation, CAPITAL LIFE. Security for the loan would consist of the SEF shares in CAPITAL INSURANCE --- constituting, as above mentioned, 89.75% of the outstanding stock. Assurance was given by Garrido and Araneta, too, that the loan was never to be used and would instead be placed on time deposit in Progressive Bank. The assurance was no doubt of considerable weight since Progressive Commercial Bank (hereafter, simply PROGRESSIVE) was owned and controlled by Araneta and his family, and Garrido was himself a director thereof.

The board approved the arrangement. The loan of P600,000.00, with maturity of 90 days and interest at 11% per annum, was obtained from PROGRESSIVE with the SEF shares as collateral. On October 19, 1966, PROGRESSIVE issued a cashier's check in the amount of P600,000.00 in favor of SEF. The check was endorsed to said bank for "deposit to the account of Capital Life Assurance Corporation," and a certificate of time deposit (No.1189) was issued in favor of CAPITAL LIFE.

A day earlier, on October 18, 1966 -- and, of course, before the cashier's check was drawn and deposited, and the

certificate of time deposit delivered to CAPITAL LIFE, as above recounted -- Garrido, as president of CAPITAL LIFE, executed a deed assigning to PROGRESSIVE all the rights, title to and interests of CAPITAL LIFE in said time deposit certificate (No. 1189); and granting PROGRESSIVE full control of the deposit of P600,000.00 and the right to retain it until the loan was repaid together with corresponding interests and charges, as well as all obligations in connection therewith, and the right, if the loan were not repaid at maturity, to charge CAPITAL LIFE's saving account for the full amount of the outstanding balance thereof, without further notice to it.

A year and a half later, on "the pretext," according to the Court of Appeals, "that the loan was unpaid," and no doubt to the surprise and consternation of SEF and the other directors of CAPITAL INSURANCE, PROGRESSIVE caused the foreclosure of the pledged SEF shares and its sale at public auction through a notary public, resulting in said shares being eventually auctioned off to PROGRESSIVE on May 20, 1968. PROGRESSIVE then scheduled a stockholders' meeting of CAPITAL INSURANCE to effect a reorganization of the firm.

SEF, Muñoz, and Amat forthwith instituted a derivative suit against Garrido, Araneta and PROGRESSIVE in the Court of First Instance of Manila.[2] They sued in their own behalf and in behalf of CAPITAL INSURANCE and prayed for annulment of the loan and the accompanying pledge of the SEF stock on the ground of breach of trust on the part of Garrido, Araneta and the latter's bank. They also accused defendants Garrido and Araneta of mismanagement of the corporation and prayed for damages on account thereof. The Trial Court issued a writ of preliminary injunction, after due hearing, prohibiting the defendants from voting the pledged stock in CAPITAL INSURANCE.

On April 30, 1985, judgment was rendered by the Trial Court disposing of the case as follows:[3]

"WHEREFORE, the Court renders judgment declaring the loan of P600,000.00 obtained by plaintiff Sociedad Europea de Financiacion, S.A., from defendant Progressive Commercial Bank, and the promissory note that evidence it, as well as the pledge of shares of stock of Sociedad Eluropea de Financiacion, S.A., in Capital Insurance and Surety Co., Inc. to be void being absolutely simulated and fictitious. The foreclosure of the said shares, and its acquisition at public auction by defendant Progressive Commercial Bank are also declared void ab initio. The writ of preliminary injunction is hereby made permanent, without bond.

Defendant Progressive Commercial Bank or its successor in interest is ordered to return the 8,907 shares of Capital Insurance and Surety Co., Inc. owned by plaintiff Sociedad Europea Financiacion, S.A. to the possession of said plaintiff, within five (5) days after finality of this decision.

In addition, the court sentences all the defendants, jointly and severally, to pay plaintiffs the sum of P100,000.00 as exemplary or corrective damages, plus attorney's fees in the sum of P50,000.00, and costs of suit.

The counterclaim of the defendants are DISMISSED (sic)."

From this judgment, the defendants appealed to the Intermediate Appellate Court. The plaintiffs also appealed, contending that the award of damages was quite inadequate. As already stated,[4] the appeals were resolved on July 30, 1986 by the Appellate Tribunal (by then renamed the Court of Appeals). Its decision affirmed that of the Trial Court with modification, as follows:

"WHEREFORE, the decision appealed from is hereby AFFIRMED with the following modifications:

The plaintiffs are ordered to pay Progressive Bank as compensation for its accommodation an amount equivalent to the interests, penalties and charges on the 'loan' agreed upon.

Costs against all parties, pro-rata."

The Appeals Court also ruled that the issue of mismanagement by the directors, defendants Garrido and Araneta, was a matter within the exclusive jurisdiction of the Securities and Exchange Commission.[5] SEF and its co-plaintiffs moved for reconsideration; and their motion having been denied by Resolution dated August 22, 1986,[6] they have perfected an appeal to this Court, ascribing to the Court of Appeals the following errors which they argue are of sufficient gravity to warrant reversal of its judgment, to wit:

- 1) ruling that the issue of mismanagement of the corporation is a matter within the exclusive jurisdiction of the Securities and Exchange Commission; and
- 2) ordering them to pay Progressive Bank the interest, penalties and charges on the "loan" agreed upon.[7]

On the error first assigned, petitioners do not seriously dispute the fact that in the present state of the law, their claim of mismanagement of the corporation CAPITAL INSURANCE by the respondents Garrido and Araneta would be an intracorporate dispute falling within the original and exclusive jurisdiction of the Securities and Exchange Commission to hear and decide. Indeed, P.D. No. 902-A on the subject expressly provides that:

"SEC. 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving:

* * *

b) Controversies arising out of intracorporate or partnership relations, between and among stockholders, members, or associates; between any and/or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;

* * *."

In *Philex Mining Corp. vs. Reyes*,[8] quoted with approval in *Abejo vs. De la Cruz*,[9] the Court held that "* * an intra-corporate controversy is one which arises between a stockholder and the corporation. There is no distinction, qualification, nor any exemption whatsoever. The provision is broad and covers all kinds of controversies between stockholders and corporations. * *" By logical extension, the same thing can be said about disputes among the stockholders of a corporation which have to do with their rights or relations as such or with the conduct of the corporate business and affairs. So the Court has held in *Aytona vs. Calalang*,[10] involving a suit between stockholders of the same corporation:

"Considering that the present suit is one brought by stockholders of Sawyer-Adecor International, Inc. and Nationwide Development Corporation (NADECOR), Aytona and the estate of Aguinaldo, against other shareholders and officers of Sawyer and NADECOR; that the suit by and between the stockholders of a corporation is, by definition of law, an intracorporate dispute (Section 5b, Presidential Decree No. 902-A, as amended by PD Nos. 1653, 1759 and 1799, March 11, 1976); that disputes or "Controversies arising out of intra-corporate * * relations, between and among stockholders" fall within the original and exclusive jurisdiction of the Securities and Exchange Commission as provided by Presidential Decree No. 902-A, as amended, supra; the Regional Trial Court, at the very outset had no jurisdiction over the subject matter of Civil Case No. Q-45704 and consequently, had no authority to take cognizance of the same (see *Union Glass Container Corporation v. SEC*, 126 SCRA 31; *Rivera v. Florendo*, 144 SCRA 643), much less to issue a writ of injunction therein. And as discussed by the Court of Appeals, there is, as yet, no foreign judgment to enforce in the Philippines."

(See also *Sales vs. Securities and Exchange Commission*,[11] and *Metro Manila Transit Corporation vs. Morales*.[12])

It is, however, the petitioners' thesis that their action was instituted on May 27, 1969, long before the advent of PD No. 902-A, which issued only on March 11, 1976, and that the jurisdiction over the dispute thus acquired by the trial court to hear and decide the case was not affected, and did not cease to attach, despite the supervention of the Decree, which vested such jurisdiction, original and exclusive, in the Securities and Exchange Commission. They cite *People vs. Mariano*,^[13] to the effect that "(t)he jurisdiction of a court is determined by the statute in force at the time of the commencement of the action," and *Tinitigan vs. Tinitigan, Sr.*,^[14] which held that:

"* * The Well-settled rule that 'jurisdiction once acquired continues until the case is finally terminated' is hereby observed (*Republic vs. Central Surety and Ins. Co.*, 25 SCRA 64 [1968]). 'The jurisdiction of a court depends upon the state of facts existing at the time it is invoked, and if the jurisdiction once attaches to the person and subject matter of the litigation, the subsequent happening of events, although they are of such character as would have prevented jurisdiction from attaching in the first instance, will not operate to oust jurisdiction already attached.' (*Ramos vs. Central Bank of the Philippines*, 41 SCRA 565, 583 [1971])."

Whatever merit there is in this submission, however, is offset by the circumstance that as appears from those portions of the trial court's decision cited by the petitioners themselves, said court held their evidence of alleged mismanagement and breach of trust to be "* * speculative and hazy * *,"^[15] thereby and to all intents and purposes finding as a fact that there was a failure of proof as to such claims and dismissing or denying them on that ground, the somewhat ambivalent observation that that deficiency of proof obviated the need to pass upon the claims notwithstanding; nor should the fact that the Court of Appeals did not uphold that finding in express terms assume any significance, its approval thereof being implicit in its affirmance of the trial court's decision without modification except as to a disposition resolving an issue unrelated to the aforesaid claims.

In fine, assuming that petitioners are correct in positing that the trial court retained jurisdiction to hear and decide their claims of mismanagement and breach of trust, the enactment of PD No. 902-A during the pendency of the action notwithstanding, the fact remains that said court did exercise that jurisdiction and its finding that the proof on those claims was "speculative and hazy" amounted to a rejection thereof. There appearing nothing in the record to warrant a review or reversal of said finding -- one of fact, as already pointed out -- and the same having been implicitly affirmed on appeal by the Court of Appeals, it is entitled to full faith and credit from this Court, in accordance with settled jurisprudence. Even if it can be successfully argued that the Trial Court and the Court of Appeals refrained from resolving said claims despite said finding, upon an erroneous notion of lack of jurisdiction, there is nothing to prevent this Court from correcting that lapse and rejecting the claims at this stage. It is axiomatic that an appeal, once accepted by this Court, throws the entire case open to review, and that this Court has the authority to review matters not specifically raised or assigned as error by the parties, if their consideration is necessary in arriving at a just resolution of the case.^[16]

Petitioners' second assignment of error must, however, be sustained as meritorious. The Court finds it inexplicable, not to say ludicrous, unjust and inequitable, to hold the petitioners liable to Progressive Bank for anything on account of the latter's so-called "accommodation loan" of P600,000.00, considering that:

1. the proceeds of the loan were immediately placed on time deposit with the same lending institution;
2. a day after its placement, the time deposit was assigned to the same Bank, together with all rights to the interest thereon, full control of the deposit being given to said Bank until the accommodation loan was fully paid;
3. the Bank was at no time under any risk whatsoever, for an "accommodation" that it could recall at its pleasure because it retained total control of the loan proceeds under time deposit with it;
4. while retaining full disposition of the amount fictitiously loaned, said Bank reserved, and did in fact,

exercise rights proper and appropriate only to the lender under a genuine forbearance, such as charging interests and, later, even foreclosing on the security for alleged nonpayment; there is no evidence that it ever set off interests on the loan with interests that the time deposit should justly have earned, only a fair arrangement in the circumstances;

5. as found by the trial court and affirmed by the Court of Appeals, the loan and accompanying pledge were simulated and the Bank was a party to the simulation.

The Court feels also that the award of P100,000.00 in exemplary or corrective damages lets the private respondents off too lightly for the part they played in this sorry affair. Both the Trial Court and the Court of Appeals found that the defendants had concocted a scheme "to divest plaintiff SEF of its interests in Capital Insurance and for themselves to own the controlling interest therein," and carried out that illicit objective. Said award of damages should be increased to P600,000.00.

WHEREFORE, MODIFIED so as to: (a) declare petitioners not liable to Progressive Bank for any interests, penalties or charges on or on account of the "accommodation loan" in question, and (b) increase to P600,000.00 the exemplary or corrective damages that the private respondents are sentenced, jointly and severally, to pay said petitioners, the appealed Decision of the Court of Appeals is otherwise AFFIRMED, with costs against petitioners. SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, pp. 30-31. The decision was written for the Court by Campos, Jr., J., with whom concurred Pascual and Jurado, JJ.; Camilon, J., inhibited himself. It was promulgated on July 30, 1986.

[2] Docketed as Civil Case No. 73091

[3] Rollo, pp. 28-29

[4] SEE footnote 1, *supra*.

[5] Rollo, p. 38

[6] *Id.*, pp. 10-11

[7] The petition was given due course and the parties required to file memoranda. Memoranda were filed for the petitioners on June 9, 1987 and by PROGRESSIVE on April 29, 1987. The Court waited in vain for some time for the memoranda of respondents Garrido and J. Amado Araneta. The Court then declared the case submitted for decision.

[8] 118 SCRA 602, 605, 606; italics supplied

[9] 149 SCRA 654, 666

[10] 162 SCRA 336, 339

[11] 169 SCRA 109, 110 (Syllabus)

[12] 173 SCRA 629, 634

[13] 71 SCRA 600, 601; see also *Lat vs. PLDT*, 67 SCRA 425, to the effect that jurisdiction over the subject matter, once acquired by a court, is retained until the end of the litigation.

[14] 100 SCRA 619 634

[15] Petitioners' Memorandum; Rollo, pp. 131-132. The Trial Court (per Hon. Bernardo P. Pardo) said that it "need not resolve the question of damages and accounting for mismanagement of the corporation and breach of trust of the directors ** Garrido and Araneta, because the evidence thereon is speculative and hazy, and at this time, the Court may even lack jurisdiction because of the exclusive authority of the Securities and Exchange Commission to decide on disputes involving intra-corporate matters. In fact there is already a receivership or conservatorship case instituted by the Insurance Commissioner for the liquidation of Capital Insurance and Surety Co., Inc."

[16] Saura Import & Export Co., Inc., vs. Philippine International Surety Co., Inc., 8 SCRA 143; Miguel vs. Court of Appeals, 29 SCRA 760

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