

PHILIPPINE VETERANS INVESTMENT DEVELOPMENT CORPORATION, PETITIONER, VS. COURT OF APPEALS AND VIOLETA MONTELIBANO BORRES, RESPONDENTS.

G.R. No. 85266. January 30, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

The concept of piercing the veil of corporate fiction is a mystique to many people, especially the layman. But it is not as esoteric as all that as this case will demonstrate.

This case arose when Violeta M. Borres, private respondent herein, was injured in an accident that was later held by the trial and respondent courts to be due to the negligence of Phividec Railways, Inc. (PRI).[1] The accident occurred on March 29, 1979. On May 25, 1979, petitioner Philippine Veterans Investment Development Corporation (PHIVIDEDEC) sold all its rights and interests in the PRI to the Philippine Sugar Commission (PHILSUCOM). Two days later, PHILSUCOM caused the creation of a wholly-owned subsidiary, the Panay Railways, Inc., to operate the railway assets acquired from PHIVIDEDEC. On January 21, 1980, Borres filed a complaint for damages against PRI and Panay Railways Inc. (Panay),[2] whereupon the latter filed with leave of court a third-party complaint against the herein petitioner.[3] It alleged that upon the sale to PHILSUCOM of PRI, the corporate name of PRI was changed to Panay Railways, Inc. It disclaimed liability on the ground that in the Agreement concluded between PHIVIDEDEC and PHILSUCOM, it was provided that:

D. With the exception of the Liabilities and Contracts specified in Annexes 4 and 5 of the preceding paragraph, PHIVIDEDEC hereby holds PHILSUCOM harmless from and against any action, claim or liability that may arise out of or result from acts or omissions, contracts or transactions prior to the turn-over.

After trial, Judge Ricardo M. Ilarde of the Regional Trial Court of Iloilo held Phividec Railways, Inc. negligent and so liable to the plaintiff for damages. It also held that as PRI was a wholly-owned subsidiary of PHIVIDEDEC, the latter should answer for PRI's liability. The decision was affirmed on appeal by the respondent court,[4] which is now faulted for grave abuse of discretion in this petition.

The sole issue raised in this petition is the ruling of the Court of Appeals that:

Thus, the piercing of the veil of corporate fiction is called for in the case at bar. When PRI was sold by PHIVIDEDEC to PHILSUCOM on May 25, 1979, the legal fiction of PRI as a separate corporate entity from PHIVIDEDEC disappeared pursuant to and in view of the representations and warranties contained in the agreement of sale between PHIVIDEDEC and PHILSUCOM, particularly the stipulation already quoted above, by virtue of which PHIVIDEDEC held PHILSUCOM harmless from any claim or liability arising out of any act or transaction "prior to the turn-over." By virtue of this provision, PHIVIDEDEC had expressly assumed liability for any claim arising before the turn-over of PRI to PHILSUCOM. And since the accident in question took place before said turn-over and since after said turn-over PRI ceased to exist (in the sense that its railways operations were taken over by PHILSUCOM thru the Panay RW), the only logical conclusion is that PHIVIDEDEC should be solely liable for the damages to the plaintiff in the case at bar. Indeed, applying the

Koppel precedent just cited, PHIVIDEC cannot hide behind the veil of corporate fiction in order to evade this liability, nor could the veil of corporate fiction be made a shield to confuse claimants such as plaintiff-appellee.

It is the position of the petitioner that PHIVIDEC and PRI are entirely distinct and separate corporations although the latter is its subsidiary. The transfer of the shares of stock of PRI to PHILSUCOM did not divest PRI of its juridical personality or of its capacity to direct its own affairs and conduct its own business under the control of its own board of directors. By the same token, it is answerable for its own obligations, which cannot be passed on to the petitioner as its own liability. To support this stand, the petitioner invokes the case of *E.J. Nell v. Pacific Farms*,^[5] which, however, it has not accurately quoted.

We must sustain the respondents.

In *Koppel v. Yatco*,^[6] the Court, citing *Fletcher*, declared that the veil of corporate fiction may be pierced when it is used to defeat public convenience, justify wrong, protect fraud, or defend crime.^[7] It added that when the corporation is the mere alter ego or business conduit of a person it may be disregarded, "to prevent injustice, or the distortion or hiding of the truth, or to let in a just defense."^[8]

The rule is that:

Where it appears that two business enterprises are owned, conducted and controlled by the same parties, both law and equity will, when necessary to protect the rights of third persons, disregard the legal fiction that two corporations are distinct entities, and treat them as identical.^[9]

In *Yutivo Sons Hardware Co. v. Court of Tax Appeals*,^[10] this Court held:

It is an elementary and fundamental principle of corporation law that a corporation is an entity separate and distinct from its stockholders and from other corporations to which it may be connected. However, "when the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud or defend crime," the law will regard the corporation as an association of persons, or in the case of two corporations merge them into one. x x x Another rule is that, when the corporation is the "mere alter ego or business conduit of a person, it may be disregarded."

In *Commissioner of Internal Revenue v. Norton and Harrison Co.*,^[11] this Court likewise ruled that where a corporation is merely an adjunct, business conduit or alter ego of another corporation the fiction of separate and distinct corporate entities should be disregarded.

In fact, contrary to the suggestion in the petition, what the Court said in the *Nell* Case was:

Generally where one corporation sells or otherwise transfers all of its assets to another corporation, the latter is not liable for the debts and liabilities of the transferor, except: (1) where the purchaser expressly or impliedly agrees to assume such debts; (2) where the transaction amounts to a consolidation or merger of the corporations; (3) where the purchasing corporation is merely a continuation of the selling corporation; and (4) where the transaction is entered into fraudulently in order to escape liability for such debts.

Moreover, as correctly pointed out by the respondent court:

Besides, PHIVIDEC's act of selling PRI to PHILSUCOM shows that PHIVIDEC had complete control of PRI's business. This circumstance renders applicable the rule cited by third-party plaintiff-appellee (*Costan v. Manila Electric*, 24 F 2nd 383) that if a parent-holding company (PHIVIDEC in the present case) assumes complete control of the operations of its subsidiary's business, the separate corporate existence of the subsidiary must be disregarded, such that the holding company will be responsible for the negligence of the employees of the subsidiary as if it were the holding company's own employees.

It is clear from the evidence of record that by virtue of the agreement between PHIVIDEC and PHILSUCOM,

particularly the stipulation exempting the latter from any "claim or liability arising out of any act or transaction" prior to the turn-over, PHIVIDEDEC had expressly assumed liability for any claim against PRI. Since the accident happened before that agreement and PRI ceased to exist after the turn-over, it should follow that PHIVIDEDEC cannot evade its liability for the injuries sustained by the private respondent.

A contrary conclusion would leave the private respondent without any recourse for her legitimate claim. In the interest of justice and equity, and to prevent the veil of corporate fiction from denying her the reparation to which she is entitled, that veil must be pierced and PHIVIDEDEC and PRI regarded as one and the same entity.

WHEREFORE, the challenged decision is AFFIRMED and the petition is DENIED, with costs against the petitioner. It is so ordered.

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

[1] Rollo, pp. 25-34; 56-64.

[2] Ibid., pp. 40-44.

[3] Id., pp. 37-39. [4] Lombos-De la Fuente, J., with Martinez and Pe, JJ., concurring.

[5] 15 SCRA 415.

[6] 77 Phil. 496.

[7] Ibid., p. 505, citing 1 Fletcher, Cyclopedia of Corporation; Permanent Ed., pp. 135-136.

[8] Fletcher, pp. 139-140.

[9] Abney v. Belmont Country Club Properties, Inc., 279 Pac., 829.

[10] 1 SCRA 160.

[11] 11 SCRA 714.

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