

BERNARDINO PICZON, ROMAN PICZON, AND HEIRS OF TOMAS PICZON, PETITIONERS, VS. COURT OF APPEALS AND HEIRS OF ROSARIO C. PICZON, RESPONDENTS.

G.R. Nos. 76378-81. September 24, 1990

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

The main issue in this case is whether or not the investment worth P65,944 representing 17,400 shares of stocks in Piczon and Company, Inc., a corporation engaged in the manufacture and sale of ice in the Province of Samar, is owned solely and exclusively by Esteban S. Piczon or is owned in common by the four brothers, Bernardino, Esteban, Roman and Tomas, all surnamed Piczon.

Substantially, the facts as found by the trial court are as follows:

Sometime in 1947 or 1948, the brothers Esteban, Roman, Tomas and Bernardino, all surnamed Piczon, ventured into the business of manufacturing ice with the use of a war surplus one-ton ice-making machinery. As the business expanded, the brothers took in other persons, namely: Alejandro F. Piczon, Filomeno Piczon, Jesus Japson, Teodora Yboa and the Piczon heirs, in order to raise the necessary capital. During the existence of this informal partnership, three (3) certificates of public convenience were issued in the name of Alejandro F. Piczon for the installation, operation and maintenance of an ice plant in Catbalogan, Calbayog City and Zumarraga, all in the Province of Samar.

In 1954, the group in the informal partnership incorporated themselves and formed Piczon and Company, Inc. On May 14, 1954, the Articles of Incorporation was signed by the incorporators, with Esteban Piczon, as attorney-in-fact, signing for and in behalf of the "Piczon Brothers". When the Articles of Incorporation was presented to the Securities and Exchange Commission for registration, the Commission refused to register it on the ground that "Piczon Brothers" could not qualify as an incorporator because under the law only a natural person could be an incorporator. Consequently, the Piczon brothers executed a power of attorney on June 25, 1954 appointing Esteban Piczon as their attorney-in-fact "xxx to actively take part in the interest, business, direction, management and all that ought to be done" in the Corporation. Alejandro F. Piczon, who went to Manila to have the Articles of Incorporation registered, felt that he was sufficiently authorized to erase and did in fact erase the words "Piczon Brothers" and "Attorney-in-Fact", and initialled the erasures. Thus, only the name of Esteban Piczon appeared as one of the incorporators, together with Alejandro Piczon, Consuelo Piczon, Filomeno Piczon and Jesus Japson. However, this fact is now controverted by private respondents, the Heirs of Rosario C. Piczon.

Sometime in 1958, a conflict arose between Esteban Piczon and Filomeno Piczon, on the one hand, and Alejandro Piczon, on the other. It culminated in a civil suit filed by Piczon & Co., Inc., Esteban Piczon and Filomeno Piczon against Alejandro F. Piczon and his wife Consuelo for the transfer of ownership of the three (3) certificates of public convenience from the defendants to the Corporation as well as the determination of the contribution of

each stockholder and the issuance of the corresponding stock certificates on fully paid shares. (Civil Case No. 4618). However, during the pendency of this case, on July 17, 1959, Alejandro Piczon died and his estate transferred all his rights and interests to the Corporation.

Thereafter, Esteban Piczon was elected president and director of Piczon & Co., Inc. On August 19, 1968 Esteban Piczon died. It was after his death that the events leading to the filing of the present case transpired.

After Esteban's death, his widow Rosario Piczon filed a petition for the settlement of the estate of her late husband and her appointment as administratrix. (Special Proceedings No. 5256 (69-B)). After securing her letters of administration, Rosario submitted an inventory of the estate wherein she listed the subject stock investment worth P65,944 as wholly part of her husband's estate. The inclusion of this investment was strongly opposed by the brothers of the deceased, Roman, Tomas, and Bernardino, who contended, that they owned said investment in equal co-ownership with their brother Esteban.

In the meantime, immediately after Esteban's demise, Jesus Japson, then Secretary of the Board of Directors of Piczon and Co., Inc., issued a notice calling for a meeting of the remaining members of the Board on August 20, 1968. The minutes of the meeting showed the approval of P1,000.00 as financial aid to the family of the deceased Esteban Piczon and the election of Tomas Piczon as the fifth member of the Board. On August 21, 1968, with due notice, the Board of Directors held a meeting for the election of officers and Jesus Japson was elected President. The other officers named were Roman, Filomeno and Tomas, all surnamed Piczon.

On February 24, 1969, Rosario C. Piczon, as administratrix of her husband's estate, and Jose C. Labro, signing as administrator of the estate of Teodora Yboa, issued a notice to all stockholders calling for a special stockholders' meeting on March 1, 1969 to elect the directors and officers of the Corporation. In that meeting, Rosario C. Piczon was elected President, with Candido Piczon, Jose Piczon and Fidencia Oral as the other directors.

On March 12, 1969, Civil Case No. 70-B was filed by Rosario C. Piczon against Filomeno Piczon, Tomas Piczon and Natividad Piczon for mandamus with writ of preliminary injunction and attachment, praying that Filomeno, Tomas and Natividad be enjoined from collecting, receiving, possessing and disbursing corporate funds and properties of Piczon & Co., Inc. in their possession including funds accruing from subsequent business operations.

On May 12, 1969, the set of officers headed by Rosario C. Piczon as president forcibly took over the operation and management of Piczon & Co., Inc.

On June 27, 1969, Piczon & Co., Inc., together with Jesus Japson, Roman Piczon, Tomas Piczon, Salud Merida and Natividad Piczon instituted Civil Case No. 66-B for damages with preliminary mandatory injunction, against Rosario C. Piczon, Candido Piczon and Jose Piczon, praying that defendants be ordered to restore to the plaintiffs the possession and operation of the ice plants. A writ of preliminary injunction was eventually issued but it was executed only on July 7, 1969.

On September 7, 1969, another case, Civil Case No. 85-B, was filed by Rosario C. Piczon, Candido Piczon, Fidencia P. Oral, Esteban Piczon, Jr., and Jose Piczon against Jesus Japson, Graceta Japson, Tomas Piczon, Natividad Piczon, Roman Piczon, Salud Merida and Antonio Merida for quo warranto, mandamus, accounting and damages.

These four cases were consolidated and tried jointly in the Court of First Instance of Samar, Branch 11 (Catbalogan).[1] On March 22, 1973, the trial court through Judge Eliseo de Veyra rendered a decision, the dispositive portion of which reads as follows:

"WHEREFORE, facts and premises above considered judgment is hereby rendered:

"A) In Special Proceeding No. 5256 (69-B) which is the Administration of the estate of the late Esteban Piczon, as an incidental issue of said proceedings, the capital stock investment worth P65,944 of Esteban Piczon in the Piczon & Co., Inc. and listed in the inventory submitted by Rosario C. Piczon as Administratrix, is hereby declared to be of equal co-ownership among the estate of the late Esteban Piczon, Roman Piczon, Tomas Piczon and Bernardino Piczon. Only one-fourth (1/4) of said investment belongs to the estate of the deceased Esteban Piczon;

"B) In Civil Case No. 70-B, the complaint as well as the counter-claim are hereby dismissed without cost;

"C) 1. In Civil Case No. 66-B the set of Board of Directors and Officers as of August 21, 1968, the following members and officers:

Jesus Japson, President

Roman Piczon, Secretary

Filomeno Piczon, Treasurer

Tomas Piczon, Manager

and which board and set of officers subsequently was composed of:

Jesus Japson, President and Director

Tomas Piczon, Treasurer and Director

Roman Piczon, Manager and Director

Graceta Japson as Secretary and Director

is the set of officers that is legally constituted and shall continue to possess, manage and control the affairs of Piczon and Co., Inc.

2. Making permanent the writ of injunction issued by this Court in Civil Case No. 66-B, commanding the defendants to vacate their possession of the two (2) ice plants to the plaintiffs.

3. Ordering the defendants jointly and severally to pay the plaintiff-corporation the sum of P43,388.10 as actual damages.

4. Dismissing the counter-claim of the defendants.

5. The defendants in Civil Case No. 66-B are hereby ordered to pay the costs of this case.

"D) In Civil Case No. 85-B, the complaint as well as the counter-claim is hereby dismissed.

"SO ORDERED."[2]

Consequently, Rosario C. Piczon, et. al. appealed to the Court of Appeals.[3]

On May 31, 1977, the Special Fifth Division of the Court of Appeals through then Associate Justice Hugo Gutierrez, Jr. rendered a decision affirming the judgment of the trial court with the sole modification that the award of damages was eliminated. Pertinent portion of the decision reads:

"WHEREFORE, the decision appealed from is modified insofar as the payment of actual damages is concerned. No damages are awarded. In all other respects, the judgment of the Court below is affirmed with costs against the appellants.

"So ordered."[4]

On June 17, 1977, petitioners, appellees therein, filed a motion for partial reconsideration while private respondents, appellants therein, filed a motion for reconsideration. Both were denied by the Court of Appeals in its resolution of September 29, 1977.[5] Later, appellant Rosario C. Piczon died and she was duly substituted by her heirs.

Appellants filed their second motion for reconsideration on October 18, 1977 which was again denied by the Appellate Court in its resolution of October 24, 1977.[6] Undeterred, appellants filed a third motion for reconsideration on December 6, 1977 praying that the decision of the Court of Appeals be set aside and a new one be entered declaring that the investment worth P65,944 in Piczon and Co., Inc. belonged exclusively to the estate of Esteban Piczon.[7]

On December 19, 1977, the Appellate Court rendered a resolution stating that the third motion for reconsideration is "Noted", considering that the Court of Appeals had no more jurisdiction over the case, a petition for review on certiorari having been filed in the Supreme Court.[8]

On February 4, 1978, the Heirs of Rosario Piczon came to this Court and filed a motion for extension of time to file a petition for certiorari. Instead they filed a special civil action for certiorari on March 8, 1978, docketed as G.R. Nos. L-47730-33,[9] alleging that the Court of Appeals abused its discretion when it did not act on the third motion for reconsideration. On April 4, 1978, this Court issued a resolution ordering the return of the case to the Court of Appeals, then Intermediate Appellate Court, and requiring the said court to act on the petition as if it were a fourth motion for reconsideration.

On July 21, 1986, the Court of Appeals, this time through Associate Justice Desiderio P. Jurado of the Special Second Civil Cases Division, promulgated its assailed resolution which reversed the May 31, 1977 decision.[10] The dispositive portion reads:

"WHEREFORE, the decision of this Court, promulgated on May 31, 1977 is hereby MODIFIED: declaring that the capital investment worth P65,944.00 of Esteban Piczon in Piczon and Co., Inc. and listed in the inventory submitted by Rosario Piczon as administratrix of Esteban Piczon in Special Proceedings No. 5256 (69-B) belongs exclusively to Esteban Piczon, and that Tomas, Roman and Bernardino Piczon have no share therein; ordering that the shares of stock issued in favor of Tomas, Roman and Bernardino Piczon be CANCELLED; ordering that Roman, Tomas and Bernardino render an accounting of any profit or dividend received by them out of the capital investment of Esteban Piczon for the period from 1968 to the present, and deliver such profit or dividend to the Estate of Esteban Piczon with legal interest of 6% per annum in accordance with the doctrine enunciated in *Reformina vs. Tomol* (139 SCRA 260) from the date of receipt thereof.

"In all other respects, the decision of this Court promulgated on May 31, 1977 is AFFIRMED."

The group of Roman Piczon (appellees) moved for a reconsideration of the above resolution on August 8, 1986 praying among others that the May 31, 1977 decision be reinstated and/or declared final and executory. In the meantime, they also filed a motion for inhibition dated September 17, 1986 asking that the ponente of the above decision, Associate Justice Jurado, and Associate Justice Crisolito Pascual voluntarily inhibit themselves from proceeding with the case on the grounds of bias and prejudice.[11]

On October 3, 1986, the Court of Appeals, through Associate Justice Jurado, denied the aforesaid motion for inhibition. A motion for reconsideration dated October 21, 1986 was likewise denied. On October 17, 1986, the Appellate Court denied the motion for reconsideration dated August 8, 1986 for lack of merit.[12]

Hence this appeal.

Preliminarily, various procedural issues are raised in this case such as: that the Court of Appeals allegedly did not act on the petition for certiorari as stated in this Court's resolution in G. R. Nos. L-47730-33 but instead resolved private respondent's defunct and pro forma third motion for reconsideration on the merits; that there is no such thing as a third or even a fourth motion for reconsideration; and that the special civil action for certiorari under Rule 65 is not the proper remedy but appeal by certiorari under Rule 45.

Be it remembered that rules of procedure are but mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided.[13] Time and again, this Court has suspended its own rules and excepted a particular case from their operation whenever the higher inter-ests of justice so require. In the instant petition, we forego a lengthy disquisition of the proper procedure that should have been taken by the parties involved and proceed directly to the merits of the case.

While the High Court is not ordinarily a trier of facts, it has the prerogative to review and reverse the factual findings of the courts below if it should find that these do not conform to the evidence on record.[14] Furthermore, in the case of *Heirs of Juan Dacasan vs. Court of Appeals*, G.R. No. 84308, July 2, 1990, we held that factual findings of the Appellate Court are binding on the Supreme Court and the exception to this rule is when such findings conflict with those of the trial court.

The subject of the present action is the July 21, 1986 resolution of the Court of Appeals with Associate Justice Desiderio Jurado as the ponente. That resolution contains findings of fact and conclusions of law which are in direct conflict with those found in the decisions of both the trial court and the Appellate Court speaking through Associate Justice Gutierrez, Jr.

This Court, in the exercise of its authority to re-weigh and re-evaluate factual findings, have found from the maze of evidence on record that the investment worth P65,944 representing 17,400 shares of stocks in Piczon and Co., Inc. is indeed owned in common by the brothers Bernardino, Esteban, Roman and Tomas.

Despite the assertions of the widow of Esteban S. Piczon that the subject investment is exclusively owned by her late husband, documents signed by Esteban himself are on record which would render these assertions nugatory.

First is the amended complaint dated July 11, 1958 filed by Piczon and Co., Inc., represented then by its president Esteban S. Piczon, against the Spouses Alejandro and Consuelo Piczon, docketed as Civil Case No. 4613.[15] Paragraph No. 3 of the said complaint states:

"Sometime in 1948 and early in 1949, an informal unregistered partnership was formed among Alejandro F. Piczon, Esteban Piczon and Brothers, Marciano Lim, Filomeno Piczon, the Heirs of Piczon, Salud P. Merida, Jesus Japson and Teodora Yboa for the purpose of engaging in the manufacture of ice in Catbalogan, Calbayog City and Zumarraga, all in the province of Samar, and the sale thereof therein in all the other towns of said province." (underscoring supplied)

Esteban S. Piczon also admitted in paragraph 10 of the same pleading that the amounts of the subscribed capital stock and the payments thereof were made to appear in the names of the following incorporators: Alejandro F. Piczon, Consuelo F. Piczon, Esteban S. Piczon, Jesus S. Japson and Filomeno Piczon, thus omitting the other members of the informal partnership who had contributed to its capital, in order to facilitate the incorporation of Piczon and Co., Inc. This statement corroborates the allegation of petitioners that in the Articles of Incorporation and By-laws, the words "& Brothers" and "Attorney-in-Fact" were deleted leaving only the name of Esteban S. Piczon as incorporator in order to expedite registration with the Securities and Exchange Commission. An examination of the Articles of Incorporation and By-laws reveals that the erased words "& Brothers" and "Attorney-in-Fact" are still discernible thereby giving credence and merit to petitioners' allegations.

Esteban S. Piczon also referred to the Report on Special Examination submitted by Mr. Quintin Quijano to Judge Fidel Fernandez of the Court of First Instance of Catbalogan, Samar, in compliance with the latter's order, pertinent portions of which read as follows:

"Paragraph 29:

"Sometime after this case was filed, this Honorable Court ordered one Mr. Quintin Quijano, a certified public accountant, to make an examination of the books of plaintiff corporation for the purpose of determining the capital invested by each of the stockholders thereof.

"Paragraph 30:

"The report submitted by said certified public accountant dated November 16, 1957, can be made the basis for determining the amount paid by each stockholder to the capital stock of plaintiff corporation after due hearing thereon."

Upon perusal of the said report, page 2 of Schedule "A" and Schedule "B" thereof shows a capital investment of Esteban S. Piczon and Brothers in the amount of P19,899.00 as of December 31, 1952 and P22,000.00 as of December 31, 1956.[16]

Schedule "B-1", on page 1 of the report gives the following details:

"(B) E.S. Piczon & Bros. Capital:

1949 –

Value of building purposely constructed for the use of Samar Ice Plants completed in 1949.....

P18,988.00

Balance, E.S. Piczon & Bros. as of Dec. 31, 1949.....

18,899.00

1950 –

Value of delivery truck owned by E.S. Piczon & Bros. used by Samar Ice Plants.....

1,000.00

Balance, E.S. Piczon & Bros. Capital, as of Dec. 31, 1950 up to Dec. 31, 1952.....

19,899.00

1953 –

Credited to capital account per JV dated Dec. 31, 1953, on account of the withdrawal of Marciano Lim's capital investment of P5,000.00 (withdrawn June 21, 1950), the amount of P1,972.76 being the share of E.S. Piczon & Bros. and an additional sum of P128.24 to place the capital in round figures, the whole amount of P2,101.00 however being charged to Accounts Receivable-Miscellaneous E. S. Piczon & Bros.....

2,101.00

BALANCE, E.S. PICZON & BROS. CAPITAL, as of DEC. 31, 1953 up to DEC. 31, 1956.....

P22,000.00"

Moreover, the Minutes of the General Meeting of the Stockholders[17] held on February 4, 1968 attested by Esteban Piczon as President and prepared by Jesus Japson as Secretary, contains the following notation:

"Mr. Filomeno Piczon represents the Piczon Heirs and the late Teodora Yboa and Hon. Esteban Piczon his brothers." (Underscoring supplied).

Private respondents maintain that the signature of Esteban Piczon in the aforesaid Minutes is not authentic as it shows distinct and obvious differences with that found in the Articles of Incorporation. According to them the signature in the Articles of Incorporation is rounded with few flourishes while the signature in the Minutes is angular with excessive flourishes.

After carefully examining the signatures in these two documents, we agree with private respondents that the signature of Esteban Piczon in the Articles of Incorporation is different from the one appearing in the Minutes of the General Meeting. But this does not mean that the Minutes of the General Meeting is not genuine and the signature of Esteban Piczon, spurious. It must be remembered that the Articles of Incorporation was signed by Esteban Piczon on May 14, 1954 or fourteen (14) years before he signed the Minutes of General Meeting. We thoroughly checked other documents bearing Esteban Piczon's signature particularly those he had signed nearest to February 1968 and we found that the signature in the Minutes of the General Meeting is genuinely his. One notable document is the Oath signed by Esteban Piczon attached to the Annual Report submitted to the Public Service Commission for the year ended December 31, 1967. His signature therein is substantially similar to the questioned specimen in the aforesaid Minutes.

The late Chief Justice Moran in his treatises has stressed that "the test of genuineness ought to be the resemblance, not to the formation of the letters in some other specimen x x x but to the general character of writing which is impressed on it as the involuntary and unconscious result of constitution, habit or other permanent course, and is,

therefore, itself permanent."[18]

We do not discount the evidentiary value of the Articles of Incorporation and By-laws for these are public documents registered with the Securities and Exchange Commission. However, in view of the other strong and more convincing evidence, we should not limit ourselves to what is written on these documents but rather we must look beyond them to arrive at the truth.

From Esteban Piczon's own admissions of his brothers' rights over the investment as found in the records and from the findings of the lower court who was in a better position to examine real evidence as well as observe the deportment of the witnesses while they testified in the case, we rule for the petitioners and grant the writ prayed for.

WHEREFORE, the assailed resolution of the Court of Appeals dated July 21, 1986 is SET ASIDE and the decision of the same court promulgated on May 31, 1977 is hereby ordered REINSTATED. This decision is immediately executory. With costs against private respondents.

SO ORDERED.

Feliciano, Bidin, and Cortes, JJ., concur.

Gutierrez, Jr., J., no part.

[1] Civil Cases Nos. 66-B, 70-B (5266), 25-B (5310) and 69-B.

[2] Original Record, pp. 393-394.

[3] CA-G.R. Nos. 54244-47.

[4] Rollo, p. 108.

[5] Rollo, p. 141.

[6] Rollo, pp. 144-154, 155.

[7] Rollo, pp. 158-176.

[8] Rollo, p. 179.

[9] Rollo, p. 3 (G.R. Nos. L-47730-33).

[10] Presiding Justice Ramon G. Gaviola, Jr. and Associate Justice Crisolito Pascual, concurring; Rollo, p. 201.

[11] Rollo, pp. 202-240, 247-255.

[12] Rollo, pp. 272, 291.

[13] Aznar III vs. Bernad, G.R. No. 81190, May 9, 1988, 161 SCRA 276.

[14] Ongsiako vs. Intermediate Appellate Court G.R. No. 69901, July 31, 1987, 152 SCRA 627.

[15] Exhibit "C-4", Folder of Exhibits.

[16] Exhibit "C-1", Folder of Exhibits.

[17] Exhibit "D", Folder of Exhibits.

[18] Alcos vs. Intermediate Appellate Court, G.R. No. 79317, June 28, 1988, 162 SCRA 823, 833-834.

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