Republic of the Philippines
SUPREME COURT
Manila

SECOND DIVISION

[G.R. No. 131502. June 8, 2000]

WILSON ONG CHING KIAN CHUNG and THE DIRECTOR OF THE NATIONAL LIBRARY, *petitioners,*

vs.

CHINA NATIONAL CEREALS OIL AND FOODSTUFFS IMPORT AND EXPORT CORP., CEROILFOOD SHANDONG CEREAL AND OILS and BENJAMIN IRAO, JR., *respondents*.

BUENA, *J.*:

This is an appeal by way of a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure of the Decision[1] in Civil Case No. 94-68836 dated November 20, 1997 of the Regional Trial Court, Branch 33, Manila, which rendered a judgment on the pleadings against herein petitioners, the dispositive portion of which reads:

> "WHEREFORE, judgment is hereby rendered in favor of plaintiffs, and against defendant:
>
> "1. Decreeing the cancellation or annulment of the Copyrighted Registration No. 0-93-491 of defendant WILSON ONG;
>
> "2. Directing defendant Director of the National Library to effect the cancellation or annulment of the Copyrighted Registration No. 0-93-491 of defendant WILSON ONG; and
>
> "Damages cannot be awarded to Plaintiffs as no evidence was presented to substantiate their claims.
>
> "With costs against defendant WILSON ONG.
>
> "SO ORDERED."[2]

The antecedent facts are undisputed.

On September 16, 1993, petitioner Wilson Ong Ching Kian Chuan, doing business under the firm name of C.K.C. Trading, filed a Complaint for Infringement of Copyright with prayer for writ of injunction before the Regional Trial Court, Branch 94 of Quezon City (hereinafter Quezon City Court) against Lorenzo Tan, doing business under the firm name Mcmaster International Sales, and docketed as Q-93-17628. On the same day, said court issued a temporary restraining order enjoining the defendant, his distributors and retailers from selling vermicelli (*sotanghon*) "using the plaintiff's copyrighted cellophane wrapper with the two-dragons designed label, and setting the hearing of the injunctive relief for September 21, 1993."

On October 13, 1993, the Quezon City Court issued a Resolution which granted a writ of preliminary injunction in favor of the petitioner, denied therein defendant's application for a writ of preliminary injunction and, issues having been joined, set the case for pre-trial on November 12, 1993. On December 15, 1993, the Quezon City Court denied defendant's motion for dissolution of the writ of preliminary injunction.

On January 5, 1994, the China National Cereals Oils & Foodstuffs Import and Export Corporation (CEROILFOOD SHANDONG), and Benjamin Irao, Jr., as representative and attorney-in-fact of CEROILFOOD SHANDONG, herein respondents, filed a complaint[3] for Annulment/Cancellation of Copyrighted Certificate No. 0-93-491 and damages with prayer for restraining order/writ of preliminary injunction before the Regional Trial Court of Manila, (hereinafter Manila Court) against Wilson Ong Ching Kian Chuan, doing business under the firm name and style C.K.C. Trading and the Director of the National Library, docketed as Civil Case No. 94-68836.

On January 7, 1994, Judge Rodolfo G. Palattao of the Manila Court issued a temporary restraining order [4] enjoining petitioner from using his copyrighted labels and selling his vermicelli products which is similar to that of respondents'. On January 14, 1994, petitioner filed a motion to dissolve temporary restraining order[5] praying that the complaint be dismissed on the following grounds: 1.) *litis pendentia*, 2.) the issue involved is one of copyright under PD No. 49 and does not involve trademarks under Republic Act 166, 3.) courts of co-equal and coordinate jurisdiction cannot interfere with the orders of other courts having the same power and jurisdiction, 4.) plaintiff CEROILFOOD SHANDONG, being a foreign corporation and with no license to do business in the Philippines, has no legal capacity to sue, and 5.) courts should not issue injunctions which would in effect dispose of the main case without trial.

On January 27, 1994, the Manila Court issued an Order [6] granting a writ of preliminary injunction in favor of respondents and denying petitioner's motion to dismiss.

On January 31, 1994, petitioner filed before the Court of Appeals a petition for *certiorari* docketed as CA - G.R. SP No. 33178, seeking for the annulment of the January 27, 1994 Order of the Manila Court.

On July 22, 1994, after the parties have expounded their respective positions by way of their comment, reply and rejoinder, the Court of Appeals rendered its Decision, [7] the dispositive portion of which reads:

> "WHEREFORE, the instant petition is hereby GRANTED, and as prayed for by petitioner, the Order dated January 27, 1994 issued in Civil Case 94-68836 by Branch 33, Regional Trial Court, National Capital Judicial Region, Manila, is hereby ANNULLED and SET ASIDE, although the prayer for dismissal of the complaint in Manila may be pursued before said court during the proceedings."

In the same Decision, the Court of Appeals ruled that the case was dismissible on grounds of *litis pendentia,* multiplicity of suits, and forum shopping.

On September 5, 1994, the Court of Appeals denied respondents' motion for reconsideration.[8] The Court of Appeals' Decision became final on October 3, 1994. Entry of Judgment [9] was made on November 15, 1994.

On November 21, 1994, petitioner filed a motion [10] praying for the dismissal of the Manila case on the strength of the findings of the Court of Appeals, particularly on "forum shopping." In an Order[11] dated March 8, 1995, the Manila Court held in abeyance the resolution of the motion to dismiss until further reception of evidence, stating therein that the dispositive portion of the Court of Appeals Decision did not order the dismissal of the case. In the meantime, respondents filed a motion to declare petitioners in default for failing to file an Answer despite the March 8 Order, which motion was opposed by petitioners, there being at that time a pending motion to dismiss which the court *a quo* refused to resolve on the merits.

In an Order[12] dated July 19, 1996, the Manila court denied the motion to declare petitioners in default, admitted *motu proprio* the motion to dismiss filed by petitioner as its answer, and directed the parties to submit their respective pre-trial briefs.

On September 17, 1996, petitioner filed a "Motion for the Issuance of a Writ of Execution"[13] praying that a motion for execution dismissing the Manila case be issued, and citing Atty. Benjamin Irao, Jr., counsel of CEROILFOOD SHANDONG and his co-counsel, Atty. Antonio Albano, guilty of forum shopping, pursuant to the Decision of the Court of Appeals in CA-G.R. SP. No. 33178.

On January 23, 1997, respondents filed before the Manila court a Supplement To Motion For Judgment On The Pleadings, claiming that petitioner failed to tender an issue.[14]

On November 20, 1997, Judge Rodolfo G. Palattao of the Manila Court rendered a Judgment on the Pleadings in favor of respondents, and ruled that *litis pendentia*, multiplicity of suits, and forum shopping were not present in the case.

Hence, the present appeal on pure questions of law.

Petitioners raise the following issues:

I

> Whether or not the legal pronouncements of the Court of Appeals in CA-G.R. SP No. 33178 that the Manila case is dismissible on grounds of *litis pendentia*, multiplicity of suits and forum shopping constitute the "Law of the Case."

II

> Whether or not the Regional Trial Judge of Branch 33, Manila erred in not applying the law of the case.

III

> Whether or not the court *a quo* can review the legal conclusions of an appellate court in the same case, on issues squarely submitted to and passed upon by the appellate court under identical set of facts and circumstances obtaining in the court *a quo*.

IV

> Whether or not the court *a quo* erred in *motu proprio* considering a motion to dismiss as the answer to the complaint and, thereafter, render a judgment on the pleadings on the ground that the motion to dismiss did not tender an issue.[15]

In support thereof, petitioners quote the ruling of the Court of Appeals on the issue of whether there was *litis pendentia* and multiplicity of suits in the present case, as follows:

> "The Manila court should have considered also that Civil Case Q-93-17628 involves practically the same parties, same subject-matter and same relief as in Civil Case 0-94-68836. Petitioner filed the first case on September 16, 1993, for INFRINGEMENT OF HIS REGISTERED COPYRIGHT, which covers the cellophane wrapper that he uses in packaging the vermicelli which he imports from the CHINA NATIONAL CEREALS OILS & FOODSTUFFS IMPORT AND EXPORT CORPORATION BASED IN BEIJING, CHINA, the main or principal of private respondent CEROILFOOD SHANDONG, the latter being the 'branch' of CEROILFOOD in Qingdao, China, and of which in Civil Case Q-93-17628, LORENZO TAN avers in his answer he is the 'exclusive and sole distributor.' In Civil Case 94-68836 subsequently filed in Manila, on January 5, 1994, LORENZO TAN admitted that he is the 'sole distributor' of plaintiff China National Cereals Oil and Foodstuffs Import and Export Corporation of the latter's PAGODA BRAND vermicelli products. Atty. Benjamin Irao, Jr., the attorney of private respondents, also the attorney-in-fact of Ceroilfood Shandong, admitted that his principal 'does not do business in the

> Philippines,' and named LORENZO TAN as his principal's 'exclusive distributor' of said product in the Philippines. Thus, Lorenzo Tan in both Civil Cases Q-93-17628 and 94-68836 appears as principal defendant in the first, and as sole distributor of Cereal Food Shandong, in the second. Indicatively, he is defending and complaining substantively the same rights and interests in both cases, and in effect there is identity of parties representing the same interests. While it is against TAN with whom the QC RTC issued an injunction, that writ should also apply to CEROILFOOD SHANDONG, as Tan is its exclusive and sole distributor in the Philippines, as private respondent corporation does business in the Philippines through TAN who imports his vermicelli wholly from said foreign corporation. And most importantly, TAN asserts rights to the trademark PAGODA, also allegedly owned by CEROILFOOD between TAN and CEROILFOOD SHANDONG that he is its corporate distributor. Also in 93-17628, petitioner's prayer for injunction is based on his registered copyright certificate, while TAN averred in his answer thereon that petitioner's copyright should be annulled and cancelled, and also prayed for injunction. In 94-68836, private respondent CEROILFOOD SHANDONG, as plaintiff, also prayed for 'ANNULMENT AND CANCELLATION OF COPYRIGHT CERTIFICATE No. 0-93-491 WITH DAMAGES AND PRAYER FOR RESTRAINING ORDER/WRIT OF PRELIMINARY INJUNCTION.' As can well be seen from those pertinent allegations/averments/prayers in both cases, they are identical with each other. They involved one and the same CERTIFICATE OF COPYRIGHT REGISTRATION. Though the first case is for INFRINGEMENT of copyright registration, while the second is for ANNULMENT AND CANCELLATION of the same copyright, since the first involves a breach, infraction, transgression, and the second for invalidation, discontinuance, termination and suppression of the same copyright certificate, what the first seeks to preserve is the exclusive use of the copyright, and the second seeks to terminate the very use of the same copyright by the registrant/owner. Though the quest of petitioner and private respondents in the two cases are aimed towards different ends - the first to uphold the validity and effectiveness of the same copyright, the second is merely a consequence of the first, - the real matter in controversy can be fully determined and resolved before the Quezon City court, and would render the Manila case a surplus age and also constitutes multiplicity of suits and dismissible on that ground, although such dismissal should be considered as without prejudice to the continuance of the proceedings before the Quezon City court. (pp. 8-10, CA Decision, Annex "B" of the Petition)"

On the issue of forum shopping, the Court of Appeals ruled further, thus:

> "Finally, the Manila court should also have considered forum shopping as a third drawback to private respondent's cause. It is a term originally used to denominate a litigant's privilege of choosing the venue of his action where the law allows him to do so, or of an 'election of remedies' of one of two or more co-existing rights. In either of which situations, the litigant actually shops for a forum of his action. However, instead of making a choice of the forum of their actions, litigants through the encouragement of their lawyers, file their actions on all available courts, or invoke irrelevant remedies simultaneously, or even file actions one after the other, a practice which had not only resulted conflicting adjudications among different courts, confusion inimical to an orderly administration of justice and created extreme inconvenience to some of the parties to the action. And thus it has been held in Villanueva vs. Andres, 172 SCRA 876, that forum shopping applies whenever as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or certiorari), in another forum. xxx
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> "Observedly, Attys. IRAO and ALBANO, who are TAN's lawyers in Quezon City, are also private respondents' lawyers in Manila. ATTY. IRAO who entered his appearance as counsel for private respondents in the Manila case, is also the 'authorized representative and attorney-in-fact' of private respondent corporation in the Manila case. While Atty. Irao 'withdrew' as counsel of TAN in the Quezon City, that did not remove the case filed in

Manila outside the sphere of the rule on 'forum shopping." (pp. 10-11, CA Decision, Annex "B" of the Petition)

Petitioners contend that the foregoing conclusions of fact and law of the Court of Appeals are correct and should not be disturbed, especially since the decision of the Court of Appeals had already become final and entered in the Books of Judgment; that the parties to the case and the Regional Trial Judge in Branch 33, Manila are bound by the said conclusions of fact and law and the same should not be reopened on remand of the case; and that it is not within the Trial Judge's discretion to take exception to, much less overturn, any factual or legal conclusions laid down by the Court of Appeals in its verdict and to dispose of the case in a manner diametrically opposed thereto, citing the case of *PNB vs. Noah's Ark Sugar Refinery*, 226 SCRA 36, 48.

Petitioners further allege that the acts of the trial judge suffer from procedural infirmity: and that it makes no sense for the trial judge to refuse to resolve the motion to dismiss on the merits; to *motu proprio* consider the motion to dismiss as the answer to the complaint; and to later rule that the motion to dismiss did not tender an issue and, therefore, a judgment on the pleadings is in order. Petitioners also aver that a motion to dismiss is not a responsive pleading (citing *Prudence Realty Development Corporation vs. CA*, 231 SCRA 379); that at the time the trial judge considered the motion to dismiss to be the answer to the complaint, he knew very well, or at least should have known that the motion to dismiss did not tender an issue for indeed, it is not within the province of the motion to admit or deny the allegations of the complaint, and there being no legitimate answer and no real joinder of issues, the rendition of the subject Judgment on the Pleadings becomes suspect. According to petitioners, in deviating from the usual procedure, the court *a quo* gave undue benefit and advantage to the respondents at the expense of herein petitioners; and that the explanation given by the trial judge that the dispositive portion of the Court of Appeals decision did not expressly order him to dismiss the case is flimsy and untenable.

On the other hand, respondents assert that the doctrine of law of the case is not applicable to the present case because the Court of Appeals never ordered the dismissal of the case and that the Order of the Manila Court dated January 27, 1994 was annulled and set aside only insofar as the preliminary injunction is concerned. Respondents cite the case of *Magdalena Estate, Inc. vs. Caluag*, 11 SCRA 333 which ruled that the deficiencies in the dispositive part of the decision cannot be supplied by any finding or opinion found in the body of the decision. Respondents also allege that while petitioner Wilson Ong had belatedly faulted the Court below in considering his motion to dismiss as his answer, he never questioned the correctness of the findings of the court *a quo* in the assailed decision.

After a review of the records of the case and an examination of the pleadings filed by the parties, the Court finds the petition to be meritorious.

Being interrelated, the first, second and third issues shall be discussed jointly.

Indeed, the court *a quo* erred in not resolving the petitioner's motion to dismiss in accordance with the decision of the Court of Appeals which found that "The Manila court should have considered also that Civil Case Q-93-17628 involves practically the same parties, same subject-matter and same relief as in Civil Case 94-68836"; that "the real matter in controversy can be fully determined and resolved before the Quezon City court and would render the Manila case a surplusage and also constitutes multiplicity of suits and dismissible on that ground, although such dismissal should be considered as without prejudice to the continuance of the proceedings before the Quezon City court"; and that "the Manila court should also have considered forum shopping as a third drawback to private respondents' cause."

While the Court of Appeals stated in the dispositive portion of its decision that "the prayer for dismissal of the complaint in Manila may be pursued before said court during the proceedings," it is clear from the body of the Court of Appeals Decision that the case before the Manila court should be dismissed on grounds of *litis pendentia*, and forum shopping.

While the general rule is that the portion of a decision that becomes the subject of execution is that ordained or decreed in the dispositive part thereof, there are exceptions to this rule.

The exceptions where the dispositive part of the judgment does not always prevail over the body of the opinion are:

> (a)....where there is ambiguity or uncertainty, the body of the opinion may be referred to for purposes of construing the judgment because the dispositive part of a decision must find support from the decision's *ratio decidendi*;[16]
>
> (b)....where extensive and explicit discussion and settlement of the issue is found in the body of the decision.[17]

Considering the circumstances of the instant case, the Court finds that the exception to the general rule applies to the instant case. Since the statement of the Court of Appeals regarding the prayer for the dismissal of the case seemingly gave the Manila court the discretion to dismiss or not to dismiss Civil Case No. 94-68836, the Manila court should have referred to the body of the decision for purposes of construing the issue of whether or not the complaint should be dismissed, because the dispositive part of a decision must find support from the decision's *ratio decidendi*. Findings of the court are to be considered in the interpretation of the dispositive portion of the judgment.[18] Moreover, extensive and explicit discussion and settlement of the issues are found in the body of the Court of Appeals decision so that it is grave error for the court *a quo* to rule again, as it did, on the issues of *litis pendentia* and forum shopping in its decision, and to overturn that of the Court of Appeals, thus:

> "The argument of Defendant Ong in his motion for execution that the case at bench should now be dismissed on the grounds of forum shopping and litis pendentia as allegedly ruled by the Court of Appeals, does not impress this Court. For while the appellate court urged this Court to consider *litis pendentia* and forum shopping in the trial resolution of the case at bench, nowhere in its (CA) decision could it be deduced that this Court is mandated to dismiss the case on these precise grounds. The dispositive portion of the decision does not contain such a mandate."[19]

In Viva Productions, Inc. vs. Court of Appeals,[20] this Court set aside the decision of the Makati court and declared null and void all orders of the RTC of Makati after ruling that:

> "Thus, we find grave abuse of discretion on the part of the Makati court, being a mere co-equal of the Parañaque court, in not giving due deference to the latter before which the issue of the alleged violation of the sub-judice rule had already been raised and submitted. In such instance, the Makati court, if it was wary of dismissing the action outrightly under administrative Circular No. 04-94, should have, at least ordered the consolidation of its case with that of the Parañaque court, which had first acquired jurisdiction over the related case in accordance with Rule 31 of the Revised Rules of Court." (emphasis ours.)

The Quezon City court and the Manila court have concurrent jurisdiction over the case. However, when the Quezon City court acquired jurisdiction over the case, it excluded all other courts of concurrent jurisdiction from acquiring jurisdiction over the same. The Manila court is, therefore, devoid of jurisdiction over the complaint filed resulting in the herein assailed decision which must perforce be declared null and void. To hold otherwise would be to risk instances where courts of concurrent jurisdiction might have conflicting orders.[21]

WHEREFORE, the assailed decision of the Regional Trial Court of Manila, Branch 33 in Civil Case No. 94-68836 is ANNULLED and SET ASIDE. Said case is ordered dismissed without prejudice to the continuance of the proceedings before the Quezon City court where Civil Case No. Q-93-17628 is pending.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and *De Leon, Jr., JJ.,* concur.

FOOTNOTES:

[1] Penned by Judge Rodolfo G. Palattao.
[2] Decision, Original Records, pp. 724-741.
[3] Original Records, pp. 1-17.
[4] Dated January 7, 1994, Original Records, pp. 55-61.
[5] Original Records, pp. 34-41.
[6] Order dated January 27, 1994, Original Records, pp. 396-405.
[7] In SP 33178, *Rollo*, pp, 94-104.
[8] *Rollo*, p. 106.
[9] *Rollo*, p. 107.
[10] Original Records, pp. 445-446.
[11] Original Records, p. 513.
[12] *Ibid.*, p. 641-643.
[13] *Ibid.*, pp. 653-656.
[14] Original Records, pp. 695-699.
[15] Memorandum for Petitioners, pp.7-8; *Rollo*, pp. 181-182.
[16] Heirs of Juan Fresto *vs.* Galang, 78 SCRA 534 (1977); Pastor Jr. *vs.* CA, 122 SCRA 885 (1983); Mutual Security Insurance Corp. *vs.* CA 153 SCRA 678 (1987)
[17] Auyong Hian *vs.* CTA, 59 SCRA 110 (1974); Millare *vs.* Millare, 106 Phil. 293 (1959)
[18] Aguirre *vs.* Aguirre, 58 SCRA 461 (1974)
[19] Decision of RTC Manila, Branch 33, Civil Case No. 94-68836, p. 14; *Rollo*, p. 37.
[20] 269 SCRA 664 (1997)
[21] Viva Production, Inc. vs. Court of Appeals, 269 SCRA 664, 673; Templo *vs.* dela Cruz, 60 SCRA 295 (1974)