

THIRD DIVISION

[G.R. No. 118843, February 06, 1997]

**ERIKS PTE. LTD., PETITIONER, VS. COURT OF APPEALS AND DELFIN F.
ENRIQUEZ, JR., RESPONDENTS.
D E C I S I O N**

PANGANIBAN, J.:

Is a foreign corporation which sold its products sixteen times over a five-month period to the same Filipino buyer without first obtaining a license to do business in the Philippines, prohibited from maintaining an action to collect payment therefor in Philippine courts? In other words, is such foreign corporation "doing business" in the Philippines without the required license and thus barred access to our court system?

This is the main issue presented for resolution in the instant petition for review, which seeks the reversal of the Decision^[1] of the Court of Appeals, Seventh Division, promulgated on January 25, 1995, in CA-G.R. CV No. 41275 which affirmed, for want of capacity to sue, the trial court's dismissal of the collection suit instituted by petitioner.

The Facts

Petitioner Eriks Pte. Ltd. is a non-resident foreign corporation engaged in the manufacture and sale of elements used in sealing pumps, valves and pipes for industrial purposes, valves and control equipment used for industrial fluid control and PVC pipes and fittings for industrial uses. In its complaint, it alleged that:^[2]

"(I)t is a corporation duly organized and existing under the laws of the Republic of Singapore with address at 18 Pasir Panjang Road #09-01, PSA Multi-Storey Complex, Singapore 0511. It is not licensed to do business in the Philippines and i(s) not so engaged and is suing on an isolated transaction for which it has capacity to sue x x x." (par. 1, Complaint; p. 1, Record)

On various dates covering the period January 17 -- August 16, 1989, private respondent Delfin Enriquez, Jr., doing business under the name and style of Delrene EB Controls Center and/or EB Karmine Commercial, ordered and received from petitioner various elements used in sealing pumps, valves, pipes and control equipment, PVC pipes and fittings. The ordered materials were delivered via airfreight under the following invoices:^[3]

Date	Invoice No.	AWB No.	Amount
17 Jan 89	27065	618-7496-2941	S\$ 5,010.59
24 Feb 89	27738	618-7553-6672	14,402.13
02 Mar 89	27855	(freight & handling charges per Inv. 27738)	1,164.18
03 Mar 89	27876	618-7553-7501	1,394.32
03 Mar 89	27877	618-7553-7501	1,641.57
10 Mar 89	28046	618-7553-7501	7,854.60
		618-7578-3256/	
21 Mar 89	28258	618-7578-3481	27.72
14 Apr 89	28901	618-7578-4634	2,756.53
19 Apr 89	29001	618-7741-7631	458.80
16 Aug 89	31669	Self-collect (handcarried by buyer)	1,862.00

			S\$36,392.44
21 Mar 89	28257	618-7578-4634	415.50
04 Apr 89	28601	618-7741-7605	884.09
14 Apr 89	28900	618-7741-7631	1,269.50
25 Apr 89	29127	618-7741-9720	883.80

02 May 89 29232	(By seafreight)	120.00
05 May 89 29332	618-7796-3255	1,198.40
15 May 89 29497	(Freight & handling charges per Inv. 29127)	111.94

		S\$ 4,989.29
31 May 89 29844		545.70
	618-7796-5646	-----
		S\$ 545.70

	Total	S\$ 41,927.43
		=====

The transfers of goods were perfected in Singapore, for private respondent's account, F.O.B. Singapore, with a 90-day credit term. Subsequently, demands were made by petitioner upon private respondent to settle his account, but the latter failed/refused to do so.

On August 28, 1991, petitioner corporation filed with the Regional Trial Court of Makati, Branch 138,^[4] Civil Case No. 91-2373 entitled "Eriks Pte. Ltd. vs. Delfin Enriquez, Jr." for the recovery of S\$41,939.63 or its equivalent in Philippine currency, plus interest thereon and damages. Private respondent responded with a Motion to Dismiss, contending that petitioner corporation had no legal capacity to sue. In an Order dated March 8, 1993,^[5] the trial court dismissed the action on the ground that petitioner is a foreign corporation doing business in the Philippines without a license. The dispositive portion of said order reads:^[6]

"WHEREFORE, in view of the foregoing, the motion to dismiss is hereby GRANTED and accordingly, the above-entitled case is hereby DISMISSED.

SO ORDERED."

On appeal, respondent Court affirmed said order as it deemed the series of transactions between petitioner corporation and private respondent not to be an "isolated or casual transaction." Thus, respondent Court likewise found petitioner to be without legal capacity to sue, and disposed of the appeal as follows:^[7]

"WHEREFORE, the appealed Order should be, as it is hereby AFFIRMED. The complaint is dismissed. No costs.

SO ORDERED."

Hence, this petition.

The Issue

The main issue in this petition is whether petitioner-corporation may maintain an action in Philippine courts considering that it has no license to do business in the country. The resolution of this issue depends on whether petitioner's business with private respondent may be treated as isolated transactions.

Petitioner insists that the series of sales made to private respondent would still constitute isolated transactions despite the number of invoices covering several separate and distinct items sold and shipped over a span of four to five months, and that an affirmation of respondent Court's ruling would result in injustice and unjust enrichment.

Private respondent counters that to declare petitioner as possessing capacity to sue will render nugatory the provisions of the Corporation Code and constitute a gross violation of our laws. Thus, he argues, petitioner is undeserving of legal protection.

The Court's Ruling

The petition has no merit.

The Concept of Doing Business

The Corporation Code provides:

"Sec. 133. Doing business without a license. - No foreign corporation transacting business in the Philippines without a license, or its successors or assigns, shall be permitted to maintain or intervene in any action, suit or proceeding in any court or administrative agency of the Philippines; but such corporation may be sued or proceeded against before Philippine courts or administrative tribunals on any valid cause of action recognized under Philippine laws."

The aforementioned provision prohibits, not merely absence of the prescribed license, but it also bars a foreign corporation "doing business" in the Philippines without such license access to our courts.^[8] A foreign corporation without such license is not ipso facto incapacitated from bringing an action. A license is necessary only if it is "transacting or doing business" in the country.

However, there is no definitive rule on what constitutes "doing," "engaging in," or "transacting" business. The Corporation Code itself does not define such terms. To fill the gap, the evolution of its statutory definition has produced a rather all-encompassing concept in Republic Act No. 7042^[9] in this wise:

"SEC. 3. Definitions. - As used in this Act:

xxx

xxx

xxx

(d) the phrase 'doing business' shall include soliciting orders, service contracts, opening offices, whether called 'liaison' offices or branches; appointing representatives or distributors domiciled in the Philippines or who in any calendar year stay in the country for a period or periods totalling one hundred eight(y) (180) days or more; participating in the management, supervision or control of any domestic business, firm, entity or corporation in the Philippines; and any other act or acts that imply a continuity of commercial dealings or arrangements, and contemplate to that extent the performance of acts or works, or the exercise of some of the functions normally incident to, and in progressive prosecution of, commercial gain or of the purpose and object of the business organization: Provided, however, That the phrase 'doing business' shall not be deemed to include mere investment as a shareholder by a foreign entity in domestic corporations duly registered to do business, and/or the exercise of rights as such investor; nor having a nominee director or officer to represent its interests in such corporation; nor appointing a representative or distributor domiciled in the Philippines which transacts business in its own name and for its own account." (underscoring supplied)

In the durable case of *The Mentholatum Co. vs. Mangaliman*, this Court discoursed on the test to determine whether a foreign company is "doing business" in the Philippines, thus:^[10]

"x x x The true test, however, seems to be whether the foreign corporation is continuing the body or substance of the business or enterprise for which it was organized or whether it has substantially retired from it and turned it over to another. (*Traction Cos. v. Collectors of Int. Revenue* [C.C.A., Ohio], 223 F. 984, 987.) The term implies a continuity of commercial dealings and arrangements, and contemplates, to that extent, the performance of acts or works or the exercise of some of the functions normally incident to, and in progressive prosecution of, the purpose and object of its organization.] (sic) (*Griffin v. Implement Dealer's Mut. Fire Ins. Co.*, 241 N.W. 75, 77; *Pauline Oil & Gas Co. v. Mutual Tank Line Co.*, 246 P. 851, 852, 118 Okl. 111; *Automotive Material Co. v. American Standard Metal Products Corp.*, 158 N.E. 698, 703, 327 Ill. 367.)"

The accepted rule in jurisprudence is that each case must be judged in the light of its own environmental circumstances.^[11] It should be kept in mind that the purpose of the law is to subject the foreign corporation doing business in the Philippines to the jurisdiction of our courts. It is not to prevent the foreign corporation from performing single or isolated acts, but to bar it from acquiring a domicile for the purpose of business without first taking the steps necessary to render it amenable to suits in the local courts.

The trial court held that petitioner-corporation was doing business without a license, finding that:^[12]

"The invoices and delivery receipts covering the period of (sic) from January 17, 1989 to August 16, 1989 cannot be treated to mean a singular and isolated business transaction that