

## THIRD DIVISION

[ G.R. NO. 153059, August 14, 2007 ]

**PEPSICO, INC., DOING BUSINESS UNDER THE NAME AND STYLE  
PEPSICO RESTAURANTS INTERNATIONAL, PETITIONER, VS.  
EMERALD PIZZA, INC., RESPONDENT.**

### D E C I S I O N

**NACHURA, J.:**

Before the court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the December 12, 2001 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 53758 and the April 16, 2002 Resolution<sup>[2]</sup> denying the motion for reconsideration thereof.

Petitioner PepsiCo, Inc. (PepsiCo) is a foreign corporation organized and existing under the laws of North Carolina, U.S.A. and licensed to do business in the Philippines.<sup>[3]</sup> Its operating unit, PepsiCo Restaurants International, oversees the company's restaurants outside the United States and Canada.<sup>[4]</sup>

On March 12, 1981, respondent Emerald Pizza, Inc. (Emerald), a domestic corporation, entered into a 20-year Franchise Agreement<sup>[5]</sup> with one of PepsiCo's restaurant businesses, the Pizza Hut, Inc. (Pizza Hut), a Delaware (U.S.A.) corporation. Emerald also entered into a Marketing Services Agreement with PepsiCo, which was implemented in March 1982.<sup>[6]</sup>

In order to show that the registration requirements of the Ministry (now Department) of Trade and Industry (MTI) were complied with, more specifically on the period of the franchise, the said agreement with Pizza Hut was amended on November 5, 1982.<sup>[7]</sup>

In 1988, due to an alleged breach by the franchisor of the franchise agreement, Emerald instituted a civil action against PepsiCo (not Pizza Hut). However, the parties amicably settled their differences and executed a compromise agreement to this effect on January 13, 1989.<sup>[8]</sup> This Agreement, which made reference to the 20-year franchise period stated in the March 12, 1981 Franchise Agreement, was signed by the authorized representatives of PepsiCo, Pizza Hut, and Emerald.

On March 3, 1989, in implementing the provisions of the compromise agreement, Emerald and Pizza Hut again executed an Amendatory Agreement.<sup>[9]</sup>

Then again, on account of purported violations by the franchisor of the franchise agreement, among which was its refusal to renew the franchise, Emerald, on April 23, 1996, instituted before the Regional Trial Court (RTC) of Pasig City, Branch 165,

Civil Case No. 65645, a Complaint<sup>[10]</sup> against PepsiCo for specific performance, injunction and damages with an application for the issuance of a temporary restraining order (TRO) or a writ of preliminary injunction. The trial court initially ordered the parties to maintain the *status quo* for 72 hours.<sup>[11]</sup>

In opposing Emerald's application for a TRO, PepsiCo, through its resident representative, argued, among others, that it was not a signatory to the franchise agreement subject of the case, thus, the complaint states no cause of action for it was not brought against the real party-in-interest.<sup>[12]</sup>

After summary hearing, the RTC issued its April 26, 1996 Order,<sup>[13]</sup> lifting the previous restraining order and dismissing the complaint. The trial court based its dismissal not on PepsiCo's assertion that it was not a real party-in-interest but on its other argument that the case was premature. The pertinent portions of the said Order read:

There being no allegation in the complaint much less was it shown (*sic*) that the instant dispute was submitted by the plaintiff for arbitration, the case at bar is prematurely filed and therefore, dismissable (*sic*) (Puromines, Inc. vs. Court of Appeals, 220 SCRA 281-291, G.R. No. 91228, March 22, 1993). The Court need not pass upon the other grounds/points raised in the position paper (opposition) of Yolanda M. Eleazar.

Wherefore, the temporary restraining order issued on April 23, 1996 is lifted and this case is hereby dismissed for being prematurely filed.

SO ORDERED.<sup>[14]</sup>

As its motion for reconsideration was later denied,<sup>[15]</sup> Emerald appealed the case to the CA.<sup>[16]</sup> While the appellate court agreed with the RTC that the complaint was prematurely filed because arbitration was not availed of as a remedy pursuant to the parties' franchise agreement, it found as erroneous the trial court's dismissal of the complaint.<sup>[17]</sup> The CA further found petitioner as a real party-in-interest, although it was not the franchisor in the original franchise agreement.<sup>[18]</sup> Thus, in the assailed December 12, 2001 Decision,<sup>[19]</sup> the CA disposed of the appeal as follows:

WHEREFORE, the trial court's order of dismissal is REVERSED and SET ASIDE. If the parties cannot reach an amicable settlement at this late hour, then the trial court should give them at least 60 days from notice within which to settle their disputes by arbitration, and if no settlement is finalized within that period, it should hold a pre-trial and try the case. No costs.

SO ORDERED.<sup>[20]</sup>

Both parties moved for the reconsideration of the said ruling, but the appellate court denied their motions on April 16, 2002.<sup>[21]</sup> PepsiCo elevated the case before us via Rule 45 on the sole proposition that the appellate court should have upheld the dismissal of the complaint as it was not filed against the real party-in-interest.<sup>[22]</sup> It

mainly argues that PepsiCo and Pizza Hut are entities separate and distinct from each other;<sup>[23]</sup> that the parties to the franchise agreement and its amendments were Pizza Hut and respondent; and that it was not privy to the said agreement.<sup>[24]</sup>

For resolution, therefore, by the Court is the singular issue of whether or not PepsiCo is a real party-in-interest in the civil case filed by Emerald.

We rule in the affirmative.

Under the Rules of Civil Procedure, every action must be prosecuted or defended in the name of the real party-in-interest, the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit.<sup>[25]</sup> "Interest" within the meaning of the rule means material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest.<sup>[26]</sup>

The purpose of the rule is to protect parties against undue and unnecessary litigation and to ensure that the court will have the benefit of having before it the real adverse parties in the consideration of the case. This rule, however, is not to be narrowly and restrictively construed, and its application should be neither dogmatic nor rigid at all times but viewed in consonance with extant realities and practicalities.<sup>[27]</sup> Since a contract may be violated only by the parties thereto as against each other, in an action upon that contract, the real parties-in-interest, either as plaintiff or as defendant, must be parties to the said contract.<sup>[28]</sup>

It is true that PepsiCo is not a signatory to the March 12, 1981 Franchise Agreement, the parties thereto being only Pizza Hut and Emerald. However, the settlement agreement entered into by the parties herein and Pizza Hut on January 13, 1989 clearly reveals that PepsiCo also assumed the obligations of Pizza Hut in the said franchise agreement and that it was in effect acting as a franchisor together with Pizza Hut, thus:

#### A G R E E M E N T

In order to settle the differences between PepsiCo Food Service International and Emerald Pizza, Inc. as well as the pending litigation between Emerald Pizza, Inc. and PepsiCo, Inc., et al., it is agreed that:

[1] Emerald's Cubao unit will be relocated to Robinson's Galleria Shopping Complex located at the corner of EDSA and Ortigas Ave., such unit to be opened for business by Dec. 31, 1989 or not later than the publicized official opening date of the aforesaid shopping complex. There will be no competition free zone with regard to this unit, but further unit development will only be allowed in conformity with Pizza Hut established standards and procedures. Disclosure of available data to justify further unit development is assured to Emerald by the Franchisor.

[2] Emerald will be granted a third unit site in Alabang, such unit to be identified and construction to commence not later than June 30, 1989, with commercial operation to be commenced not later than December 31, 1989.