
NANTERRE High Court, 6th Chamber, 10 February 2017, N° : 15/10981

Ruling on the decision of

Reference : TGI Nanterre, 6^e Ch., 10 févr. 2017, N° 15/10982

Jurisdiction : Nanterre High Court

Number(s) : 15/10981

On the persons of

Lawyers : Fiodor RILOV, Philippe DUBOIS, Olivier BARATELLI

Parties : BOLLORÉ Company, COMPAGNIE DU CAMBODGE Company

Full text

NANTERRE HIGH COURT

6th Chamber

PRE-TRIAL ORDER

Issued on 10 February 2017

N° R.G. : 15/10981

N° Minute : 17/

CASE

A B, C D, E F, G H, I J, K L, M N, O P, Q R, S T, U A,
W AA, E CU CV, AB AC, AD AE, AF AG, AH AI, AJ
AK, AL AM, AN AO, AP AQ, AR AS, AT AU, AV
AW, AX AY, AZ BA, BB AD, BD BA, BE BF, BG BH,
BI BB, BK BL, AP BM, BN BO, BP BQ, BR BS, BG
BT, BU BV, BW BX, BY BZ, CA BZ, CB BX, CC BZ,
CD CE, CF AA, CG CH, CI CJ, CJ CL, CM CN, CO
CP, CQ CR

V/

BOLLORE Company, COMPAGNIE DU
CAMBODGE Company

Copies delivered on :

10 January 2017 hearing,

We, CS CT, pre-trial judge, assisted by Sylvie
CHARRON, registrar;

PLAINTIFFS

Mr A B

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DEFENDANTS

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COURT ORDER

By a public and adversarial decision, issued in first instance, appealable pursuant to Article 776 of the Code of Civil Procedure, and made available at the Registry of the tribunal in accordance with the ruling given after the debate.

After the parties' Counsels have been heard, the case was deliberated upon and referred back for order.

Issued the following decision:

By writ served by a court bailiff on 24 July 2015, the *Société Bolloré* was summoned, along with the society *Compagnie du Cambodge*, before the *Tribunal de Grande Instance* of Nanterre at the request of 51 individuals, seeking the conviction *in solidum* of the defendants to repair the harm suffered in kind, including through land restitution; and to pay 50,000 euros with regards to the material prejudice claimed and 15,000 euros with regards to the moral prejudice claimed.

The plaintiffs notably state that “with regards to the material prejudice, since the grant of the concessions in 2008, the Bunong people have suffered economic damages as a result of their expropriation. Their expropriation led to a significant loss of income and a loss of means of livelihood.

The companies *Bolloré* and *Compagnie du Cambodge* filed submissions regarding the disclosure of evidence on 3 and 9 May 2016.

The plaintiffs filed submissions regarding the disclosure of evidence on 20 May 2016.

In their last submissions filed on 28 November 2016, to which the present decision refers regarding the background of the case, Mr. B and others request the pre-trial judge:

Pursuant to Articles 10, 11, 138, 139 and 771 of the Code of civil procedure,

Pursuant to Article 10 of the Civil Code,

Considering the documents supporting the request,

— To order the *Bolloré* and *Compagnie du Cambodge* companies to provide the plaintiffs employees, from the 8th day following the issuance of the upcoming order,

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with the following documents, subject to a fine of 5,000 euros for each day of delay in case of non-compliance:

[...]

1. The joint-venture agreement between the group *Bolloré* and the group *KCD*, commonly referred to as *Socfin-KCD*, concluded in 2008

2. The concession agreement concluded with the State of Cambodia in 2008, allowing *Socfin-KCD* to produce rubber at the industrial level

3. The supply agreement between any society of the group *Bolloré* and the company *Socfin-KCD*

4. The distribution agreement between any society of the group *Bolloré* and the company *Socfin-KCD*

5. The agreement whereby *Socfin* acquired the entire control of *Socfin-KCD* in 2015

B. INFORMATION ON LEGAL STRUCTURES

6. The legal organizational chart of the group *Bolloré*, mentioning the position and the capital holdings of the companies *Bolloré*, *Compagnie du Cambodge*, *Socfin*, *X* and *Socfin-KCD*: last known status

7. The organizational chart of the group management of the group *Bolloré* and the companies *Bolloré*, *Compagnie du Cambodge*, *Socfin*, *X* and *Socfin-KCD*: last known status

8. Statutes of the companies *Socfin*, *X* and *Socfin-KCD*

9. The intra-group assistance agreement to which the company *Bolloré* and/or the *Compagnie du Cambodge* and/or the *Company Socfin* and/or the *Company Socfin ASIA* and/or the *Company Socfin KCD* is a party, the purpose of which includes the management of services in favor of *Socfin KCD* (management fees) and/or, an administrative service in favor of *Socfin KCD* and/or an accounting service in favor of *Socfin KCD* and/or treasury advance in favor of *Socfin KCD*.

10. The internal memoranda of the group *Bolloré* regarding the functioning of the companies *Socfin* and/or *X* and/or *Socfin KCD* between 2008 and 2016

11. The contracts wherein employees from the *Bolloré* group companies, especially from the companies

Bolloré and *Compagnie du Cambodge*, are put at the disposal of other companies, in favor of companies *X* and/or *Socfin KCD*

12. The names and the position of the executive officers from Companies *Socfin*, *X* and *Socfin-KCD* between 2008 and 2016, as well as their position in other companies of the group *Bolloré*, including the companies *Bolloré* and *Compagnie du Cambodge*

13. The names and the positions of executive directors in companies *X* and *Socfin KCD* between 2008 and 2016, as well as their respective positions in other companies of the *Bolloré* Group, including in the companies *Bolloré* and *Compagnie du Cambodge*

14. Any and all document highlighting restrictions as the prerogatives of the directors (executive officers, board of directors' members...) in the companies *X* and *Socfin KCD* between 2008 and 2016

15. The employment contracts of the executive officers from *X* and/or *Socfin KCD* with a company of the group *Bolloré* between 2008 and 2016, including the companies *Bolloré* and *Compagnie du Cambodge* (the salary and the address of the employee can be redacted)

16. The employment contracts of directors from *X* and/or *Socfin KCD* with a company of the group *Bolloré* between 2008 and 2016, including the companies *Bolloré* and *Compagnie du Cambodge* (the salary and the address of the employee can be redacted)

17. The positions held by Mr. Y de Z in *Socfin KCD* between 2008 and 2016

18. The employment contract of Mr. Y de Z with *X* and/or *Socfin* and/or *Compagnie du Cambodge* and/or the company *Bolloré* and/or any other society of the group *Bolloré* between 2008 and 2016 (salaries and the address of the employees can be redacted)

C. INDUSTRIAL AND FINANCIAL INFORMATION

19. A detailed status of financial flows (purchases, sales of any kind) between any entity of the group *Bolloré* and *Socfin-KCD* between 2008 and 2016

20. An income statement on the rubber plantations of *Socfin-KCD* in Mondulkiri (Sethikula and Varanasi) between 2008 and 2015, and the forecasts for 2016

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21. The turnover and the number of rubber trees sold, for every Socfin-KCD's plantations in the Mondulkiri region (Sethikula and Varanasi) between 2008 and 2015, and the forecasts for 2016

22. The destination of the latex coming from the Socfin-KCD's rubber plantations in Mondulkiri (Sethikula and Varanasi) between 2008 and 2016

23. The investments of *Bolloré* Group's companies in *Socfin-KCD* between 2008 and 2016

— To convict the companies *Bolloré* and *Compagnie du Cambodge* to pay the fees and costs.

In its last submissions, to which the present decision refers regarding the background of the case, the company *Bolloré* requests the pre-trial judge:

Pursuant to Articles 133, 138, 139, 142 and 770 of the Code of Civil Procedure;

Pursuant to Article 9 and following of the Code of Civil procedure;

Pursuant to Article 1353 al. 1 of the Civil Code;

Pursuant to Article 146 al.2 of the Code of Civil Procedure;

— To order each of the 51 plaintiffs to provide:

▶ Any official document establishing, for each of them, the existence, the nature, the localization, the exact surface area and the referencing of the land or lands for which the restitution is required;

▶ Any notarized, individualized and official document establishing property rights of each plaintiffs of the claimed land/lands;

▶ Any document justifying the civil status of each plaintiff (identity card, passport, birth certificate...).

—To reject the requests for disclosure of evidence filed by the 51 plaintiffs, as listed above;

— To convict the 51 plaintiffs listed above to pay the company *Bolloré* 5,000 euros pursuant to Article 700 of the Code of Civil Procedure and associated fees and costs.

In its last submissions filed on 4 January 2017, to which the present decision refers regarding the background of the case, the society *Compagnie du Cambodge* requests the pre-trial judge:

Pursuant to Articles 11, 133, 138, 139, 142, 146, 770 of the Code of Civil Procedure;

Considering the summons issued on 24 July 2015,

Considering the summons for disclosure issued on 22 March 2016;

Considering disclosure submissions filed by the plaintiffs on 9 May 2016;

Considering the disclosure submissions filed by the plaintiffs on 9 May 2016

— To order each of the 51 plaintiffs to provide the above-mentioned documents

— To reject all the requests of the 51 plaintiffs,

— To convict the 51 plaintiffs to pay 5,000 euros pursuant to Article 700 of the Code of Civil Procedure and associated fees and costs.

The disclosure requests were discussed during the hearing on 10 January 2017 and held on deliberation until 10 February 2017.

FINDINGS

The plaintiffs state that their legal action is based on the expropriation of lands located in Cambodia.

In order to prove their rights on the claimed lands, the plaintiffs submitted the following documents:

— Exhibit n°12 entitled "Bunong Community Registration Document for the Village of Lames filed with the Cambodian Ministry of the Interior on 6 October 2011 in accordance with the 2001 Land Law;"

— Exhibit n°13 entitled "Bunong Community Registration Document for the Village of Bu Sra filed with the Cambodian Ministry of the Interior on 4 June 2012 in accordance with the 2001 Land Law;"

— Exhibit n°14 ("Land Law 2001"), non-translated,

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— Exhibit n° 15 to 24 corresponding to the declarations of different persons “on the circumstances in which they lost their lands.”

It appears from these documents that the plaintiffs are not mentioned in the “Bunong Community Registration Document for the Village of Lames filed with the Cambodian Ministry of the Interior on 6 October 2011 in accordance with the 2001 Land Law,” or in the “Bunong Community Registration Document for the Village of Bu Sra filed with the Cambodian Ministry of the Interior on 4 June 2012 in accordance with the 2001 Land Law;” and that the declarations contain questions drafted in advance, the answers to which fail to provide, for the main part, information on the localization of the disputed lands, as none refer to a right or a property title.

It follows that the companies *Bolloré* and *Compagnie du Cambodge* have a legitimate reason for requesting the disclosure of the documents related to the property rights of the plaintiffs on the disputed lands and to their identity.

Therefore, the request for disclosure of documents listed in the disposition of the present order will be granted, without any injunction being made.

To support their requests for disclosure, the plaintiffs allege, that the companies *Bolloré* and *Compagnie du Cambodge* exercise, from France, operational powers in the *Socfin-KCD* joint-venture, and that they direct and organize, on a daily basis, the activities harming them in Bu Sra, Cambodia.

However, they provide no evidence as to the operational power alleged or as to the alleged harm, even though some information is publicly available, since the two companies are listed on the stock market.

Accordingly, the request for an order of disclosure of evidence, the purpose of which should not to supplement the plaintiff’s failure to obtain evidence, must be rejected.

Considering that fairness does not require to apply Article 700 of the Code of Civil Procedure at that stage, requests in this respect will be dismissed and the legal costs will be added to the proceedings on the merits.

FOR THESE REASONS:

We, CS CT, pre-trial judge, ruling through making it available at the Registry, by an adversarial order and in first instance,

INVITE each of the 51 plaintiffs to provide the following documents:

— Any official document establishing the existence, the nature, the localization, the exact surface area and the referencing of the land/lands for which restitution is required.

— Any notarized, individualized and official document establishing the property rights on the claimed land/lands

— Any document justifying the civil status of each plaintiff (identity card, passport, birth certificate...),

REJECT the other requests for disclosure of evidence,

REJECT all other requests,

REFER BACK the case and the parties to **the electronic pre-trial hearing on 29 May 2017 at 9.30 am** for the conclusions on the merits;

JOIN the costs associated with the present proceedings with that on the merits.

Signed by CS CT, Vice-President, in charge of the pre-trial proceedings, and Sylvie CHARRON, Registrar, to whom the decision has been provided by the magistrate.

THE REGISTRAR

THE PRE-TRIAL JUDGE