



Rights of Persons Assembling as a Community to be an Interpleader*

Supreme Administrative Court Order No. 453/2554, dated 8th August B.E. 2554 (2011)

Sahaviriya Steel Industries Public Co., Ltd., et al. (P)

v.

Director General of the Department of Lands., et al. (D)

Although not the owner or the possessor of the disputed land in which the Certificate of Utilization of such Land (Nor. Sor. 3 Kor.) may be revoked due to being the *domaine public* of State, the interpleaders were persons whose domicile, profession and habitation were in the disputed land. Consequently, the interpleaders had the rights to exploitation of land which was the *domaine public* of State under the laws. They also had the rights to participation with the State and communities in the preservation and exploitation of natural resources and biological diversity and in the protection, promotion and conservation of the quality of the environment for usual and consistent survival in the environment which was not hazardous to their health and sanitary condition, welfare or quality of lives as prescribed in the Constitution. The interpleaders, therefore, were entitled to file a motion of interpleading to the court.

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Legal Principle : *Being an interested person*

Administrative Court Procedure : *Interpleading*

Legal Provision : *The Constitution of the Kingdom of Thailand, B.E. 2550 (2007)*
(Section 67 paragraph one)

Civil Procedure Code (Section 57 paragraph one (1))

Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure, B.E. 2543 (2000) (Clause 78)

Judgment (Summary)

The eight joint Plaintiffs claimed that they had possessory rights in 52 plots of land according to the Certificate of Utilization (Nor. Sor. 3 Kor.) Tambon Mae Ramphueng, Bang Saphan District, Prachuap Khiri Khan Province before the government had announced the disputed area to be a protected and reserved forest area under the laws. Subsequently, the Defendant No. 1 had issued the order to revoke such Certificate because the land in the protected and reserved forest area had been prohibited to issue the certificate of title. The Plaintiff, therefore, filed a case with the Administrative Court by claiming that such order was unlawful.

During the inquiry of facts of the Administrative Court of First Instance, Mr. S. together with 33 people had filed a motion of interpleading as the third person of a case by claiming that they were persons whose domicile, profession and habitation were in the disputed land and mangrove forest. They had the rights to exploitation of land by carrying on the profession of local fishery and agriculture in coconut, rice and pineapple, and they acquired for the benefit of natural resources, biological diversity and natural drainage from Mae Ramphueng Canal and mangrove forest as well. The said rights were recognized and protected by Section 66 and 67 of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007). Furthermore, the interpleaders also participated with the local community in the management and maintenance of natural resources and

the environment by assembling a group to carry out activities to preserve the environment and natural resources in Bang Saphan District Prachuap Khiri Khan Province. Accordingly, if the court delivered a judgment by revoking the Defendants' order as the Plaintiffs requested, it recognized that the Plaintiffs would be the persons who had the possessory rights to exploit the said land. It may cause the damages to the community, ecological system and public interest, which directly caused the loss of mangrove forest and natural resources, and inevitably affected the rights of the interpleaders and community. The interpleaders, therefore, had a legal claim concerning the judgment or order of the court.

The Administrative Court of First Instance held that any third person, who not the party, may become the party of a case by means of interpleading. An interpleader must be an interested person or a person likely to be affected by the outcome of the case. In this case, such person must be the owner or the possessor of the disputed land who had not filed a case to the Administrative Court. The interpleaders were only persons who lived in the community or the nearby disputed land, so they were not entitled to file a motion of interpleading to the court pursuant to Clause 78 of Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure, B.E. 2543 (2000) and Section 57 paragraph one (1) and (2) of Civil Procedure Code. Consequently, the court issued the order rejecting the said motion of interpleading. The interpleaders appealed such order to the Supreme Administrative Court.

The Supreme Administrative Court held that the cause of action in this case was the existence of the order to revoke the Plaintiffs' Certificate of Utilization of Land (Nor. Sor. 3 Kor.) which was administrative act under Section 5 of Administrative Procedure Act, B.E. 2539 (1996) resulting from the exercise of power as provided by the Land Code by the competent official of the Defendant No.1 affecting the individual's status of rights or duties. This case had the issue the Court needed to consider whether the disputed land was prohibited to issue the certificate of title due to being in the protected and reserved forest area as the *domaine public* of State. The interpleaders were persons whose domicile, profession and habitation were in the disputed land, thus they had the rights to exploitation

of land which was the *domaine public* of State under the laws and the rights to participation with the State and communities in the preservation and exploitation of natural resources and biological diversity and in the protection, promotion and conservation of the quality of the environment for usual and consistent survival in the environment which was not hazardous to their health and sanitary condition, welfare or quality of lives as prescribed in Section 67 paragraph one of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007). The issuance of the Certificate of Utilization of the disputed land, therefore, affected the rights of the interpleaders. This interpleading was for the protection of their rights to use the *domaine public* of State according to Section 57 paragraph (1) of Civil Procedure Code and Clause 78 of Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure, B.E. 2543 (2000).

The Supreme Administrative Court reversed and ordered the Administrative Court of First Instance to accept the motion of the interpleaders for trial and adjudication.