

Ofelia LUNA, et al.
vs.
Yoshio KAMATA and Yano
Enterprises, Inc.

Civil Action No. 84-0004
District Court MMI

Decided January 23, 1985

1. Civil Procedure - Involuntary Dismissal

A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Fed. R. Civ. P. 12.

2. Civil Procedure - Involuntary Dismissal

In considering a motion to dismiss, all allegations in the complaint must be construed in favor of the plaintiff. Fed. R. Civ. P. 12.

3. Civil Procedure - Involuntary Dismissal

A defendant's assertion that the sections of federal law cited by plaintiffs as the jurisdictional basis for suit are not applicable to the subject matter of the suit does not defeat jurisdiction, but rather contests whether plaintiff has stated a cause of action. Fed. R. Civ. P. 12.

4. Civil Procedure - Complaints - Construction

Under the Federal Rules of Civil Procedure, a complaint will be construed broadly and liberally so as to do substantial justice. Fed. R. Civ. P. 8.

5. Racketeering - Injury

Congress intended federal racketeering statute to aid the elimination of organized crime in the United States and immediate victims of racketeering activity were contemplated as civil plaintiffs for damages; there is no indication from the racketeering statute that Congress intended that it remedy only anti-competitive injuries. 18 U.S.C. §§1961-1968.

6. Racketeering - Elements of Claim

Where plaintiffs alleged an enterprise existed, the required acts of racketeering and violations of one of the specified criminal statutes, and that they suffered damages as a proximate result of the defendants' activities, plaintiffs pleadings were sufficient to survive a motion to dismiss for failure to state a claim under the federal racketeering act. 18 U.S.C. §§212 1961-1968.

FILED
Clerk
District Court

JAN 23 1965

For The Northern Mariana Islands
[Signature]

IN THE DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

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OFELIA LUNA, LERA MACEBALE)
a/k/a SHIRLEY BERNARDO, EVA)
TEDASA a/k/a BRENDA BELTRAN,)
)
Plaintiffs,)
)
vs.)
)
YOSHIO KAMATA and YANO)
ENTERPRISES, INC.,)
)
Defendants.)

CIVIL ACTION NO. 84-0004

DECISION

Plaintiffs brought this action for damages, alleging violations of the White Slavery Law, 18 U.S.C. Section 242, and the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. Sections 1961-1968. Plaintiffs allege that defendants operated a house of prostitution at the Club Diana in Saipan; that though they were hired as waitresses/dancers, they were recruited by defendants in the Philippines for this prostitution operation; and that defendants paid for their airplane tickets from the Philippines to Guam and then on to Saipan--all for the specific purpose of having them engage in prostitution with the Japanese customers of the Club Diana. Plaintiffs allege that as a result of defendants' conduct, they have been physically assaulted, battered and abused, and required to resign from their legitimate employment as waitresses and dancers.

1 Defendants answered, denying plaintiffs' allegations,
2 and brought this Motion to Dismiss. Defendants neglected to
3 notify the Court under which Rule this motion is brought nor did
4 they specify the grounds for which dismissal is sought. Instead,
5 defendants cited 18 U.S.C. Section 1964(c), (the code section
6 under which plaintiffs' complaint is brought), and made legal
7 arguments with reference to matters outside the pleadings. (The
8 motion for summary judgment filed earlier by plaintiffs was
9 withdrawn by plaintiffs in open court).

10 Rule 12(b) of the Federal Rules of Civil Procedure
11 provides that "[i]f, on a motion... to dismiss for failure of the
12 pleading to state a claim upon which relief can be granted
13 matters outside the pleading are presented..., the motion shall
14 be treated as one for summary judgment... ." Defendants here
15 presented no affidavits, facts or other evidence to support their
16 legal arguments, and therefore this motion will not be treated as
17 one for summary judgment.

18 [1,2] The standard to be applied to a motion to dismiss is
19 clear. A complaint should not be dismissed for failure to state
20 a claim unless it appears beyond doubt that the plaintiff can
21 prove no set of facts in support of his claim which would entitle
22 him to relief. Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct.
23 99, 101, 2 L.Ed.2d 80 (1957). In addition, all allegations in
24 the complaint must be construed in favor of the plaintiffs. DeLa
25 Cruz v. Tormey, 582 F.2d 45 (9th Cir. 1978).

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1 [3] Should defendants argue that this motion to dismiss is
2 brought for lack of subject matter jurisdiction, it has been held
3 that a "defendant's assertion, that the sections of federal law
4 cited by plaintiffs as the jurisdictional basis for suit are not
5 applicable to the subject matter of the suit, does not defeat
6 jurisdiction, but rather contests whether plaintiff has stated a
7 cause of action." 5 Wright and Miller, Federal Practice and
8 Procedure, Section 1350, citing Associated Dry Goods Corp. v.
9 EEOC, 419 F.Supp. 814.

10 [4-6] Regardless of the character of the motion to dismiss,
11 the complaint will be construed broadly and liberally so as to do
12 substantial justice, pursuant to F.R.C.P. Rule 8(f). Plaintiffs
13 have alleged the existence of an enterprise, the required acts of
14 racketeering and violations of one of the specified criminal
15 statutes, and that they suffered damages as a proximate result of
16 the defendants' activities.

17 It is clear that Congress intended RICO to aid the
18 elimination of organized crime in the United States, and that
19 immediate victims of racketeering activity were contemplated as
20 civil plaintiffs for damages. Organized Crime Control Act of
21 1970, P.L. 91-452, 84 Stat. 922 (1970). There is no indication
22 from the statute itself that Congress intended RICO to be limited
23 in any of the ways defendants suggest, or that RICO remedies only
24 anti-competitive injury. Moreover, courts have uniformly ac-
25 knowledged that RICO has a broad reach, though judicially imposed
26 limits on that reach are quite varied and often at odds.

1 However, contrary to defendants' suggestion, this Court finds
2 that none of those limits are applicable to this case at this
3 time.

4 Plaintiffs have made all the necessary pleading alle-
5 gations and, though the allegations of damages do not verbatim
6 fall under 18 U.S.C. Section 1964(c), they are sufficiently close
7 to the statutory language to withstand a motion to dismiss.
8 Thus, dismissal is not appropriate.

9 Defendants' motion is DENIED.

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11 DATED this 23rd day of January, 1985.

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16 JUDGE ALFRED LAURETA
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