

EXHIBIT 2.D



Date: July 16, 2021

To whom it may concern:

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Alexander Danesis, Project Manager in this company, attests to the following:

“To the best of my knowledge, the aforementioned documents are a true, full and accurate translation of the specified documents.”

Alexander Danesis

Signature of Alexander Danesis

NJ 1988, 747

Supreme Court, 03-11-1988, No. 7246

HR 11-03-1988, ECLI:NL:HR:1988:AC1916, with note by W.H. Heemskerk

Court

Supreme Court

Date

03/11/1988

Judges

Snijders, Martens, Hermans, Haak, Roelvink, Biegman-Hartogh

Case number

7246

Note

W.H. Heemskerk

LJN

AC1916

JCDI

JCDI:ADS114204:1

Subject area(s)

Unknown (V)

Civil procedural law (V)

Source documents

ECLI:NL:HR:1988:AC1916, Judgment, Supreme Court, 03-11-1988

ECLI:NL:PHR:1988:AC1916, Finding, Supreme Court (Advocate-General), 03-11-1988

Laws considered

Dutch Code of Civil Procedure (old) Art. 56; Dutch Code of Civil Procedure (old) Art. 59 para. 1 under 3°; Dutch Code of Civil Procedure (old) Art. 876; Dutch Code of Civil Procedure (old) Art. 877

Substance

Petition for preliminary hearing of witnesses.

Summary

Denial based on weighing of interests, whereby the correct standard of the Supreme Court ruling of 6 Feb. 1987, NJ 1988, 1, has been applied. Justification. No room for being ordered to pay the costs of the proceeding.

Party(ies)

1. The foundation 'Stichting Onderzoek Bedrijfs Informatie SOBI', of Amsterdam, and
2. Pieter Tijmen Lakeman, of Amsterdam, Petitioners in cassation, atty. K.G.W. van Oven, LLM, versus
1. The public corporation 'Hollandia-Kloos Holding NV', of Krimpen aan de IJssel, and
2. Robert Marie Lubbers, of Capelle aan de IJssel, Respondents in cassation, atty. P.M. Verbeek, LLM.

Previous judgment

The Supreme Court:

1. The suit in the fact-finding instance
In a petition brief dated 29 Aug. 1986, the Petitioners in cassation – hereinafter referred to as Sobi and Lakeman – applied to the Court of Amsterdam with the petition to order a preliminary hearing of witnesses with respect to the facts and events described in the petition brief, and to appoint an examining magistrate before whom the hearings will be held and then to hear as witnesses the witnesses named in the petition brief, supplemented with further witnesses.
After the Respondents in cassation – hereinafter referred to as Hollandia-Kloos and Lubbers – mounted a defense against that petition, the Court denied the petition by order dated 28 Oct. 1986.
Sobi and Lakeman filed an appeal of this order with the Court of Appeal of Amsterdam.
By order dated 2 April 1987, the Court of Appeal upheld the order of the Court.
The order of the Court of Appeal is attached to this order.
2. The action in cassation
Sobi and Lakeman filed an action in cassation against the order of the Court of Appeal. The cassation petition is attached to this order and constitutes a part of it.
Hollandia-Kloos and Lubbers petitioned to dismiss the appeal, whereby, however, they referred to the opinion of the Supreme Court with respect to section 6 of the grounds for appeal.
The findings of A-G Biegman-Hartogh extend to quashing the decision of the Court of Appeal regarding the distribution of costs, but otherwise to dismissal of the appeal.
3. Evaluation of the grounds for appeal
 - 3.1.
The Court of Appeal upheld the denial by the Court of the petition to hold a preliminary hearing of witnesses based on a weighing of interests, reflected in *ratione decidendi* 5.3 and 6.7, whereby it came to the conclusion that due to the imbalance of the interests of the parties on both sides ‘asset to the petition would come in conflict with the requirements of reasonableness’. The Court of Appeal thus applied the standard indicated in the order of the Supreme Court of 6 Feb. 1987, NJ 1988, 1, under 4.3, third paragraph, and therefore did not exhibit any incorrect understanding of law. The Court of Appeal’s decision is not incomprehensible and did not require any further justification.
Sections 1 and 5 of the grounds for appeal therefore fail.
 - 3.2.
The Court of Appeal considered ‘the boundlessness and ambiguity of the matters of fact summarized in the introductory petition,’ by which it means that the enumeration did not specify the probandum to a precisely demarcated, limited area. From this indeterminacy, the Court of Appeal derived the fact that a large portion of the business operations of Hollandia-Kloos and Lubbers could be involved in the hearings of witnesses and plausibly ruled that such a thing would occur if the petition were to be granted and would damage Hollandia-Kloos and Lubbers.
Given this background, the Court of Appeal arrived at the aforementioned weighting. All of this is not internally in conflict or incomprehensible and did not require further justification. This is not harmed by the fact that Sobi and Lakeman provided a summary of their arguments in their petition on appeal.
The lack of foundation of Section 2 derives from the considerations above.
 - 3.3.
Section 3 lacks a factual basis.
The consideration attacked therein does not include the fact that the interest asserted by Hollandia-Kloos and Lubbers ‘should not, or not necessarily, be considered as an interest to be respected in law’.
 - 3.4.
Since *ratio decidendi* 6.7 independently bears the decision of the Court of Appeal and Section 5 of the grounds for appeal, which is directed against it, fails, Sobi and Lakeman lack an interest in Section 4, so that this section does not require any discussion.
 - 3.5.

Section 6 is correctly submitted. For corresponding reasons as are set forth in the order of the Supreme Court of 18 Jan. 1980 NJ 1980, 472, next to last paragraph, with regard to a proceedings in the fact-finding instance regarding a petition as set forth in Art. 6 of the Trade Name Act, there was no place in the present case for an award of the costs. The disputed order cannot remain standing in this point.

4. Ruling

The Supreme Court:

quashes the order of the Court of Appeal of Amsterdam of 2 April 1987, but exclusively with regard to the award of the costs set forth therein;
otherwise denies the appeal.

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