

APPEAL

ORDINARY CIVIL TRIAL 75/2015

ELEVENTH DISTRICT JUDGE IN VERACRUZ

BISELL CONSTRUCCIONES E INGENIERÍA, S.A. DE C.V.

V.

PEMEX EXPLORATION AND PRODUCTION

[...]

GRIEVANCES

FIRST.- First of all, the considering point marked as FOURTH, of the contested decision based on the arguments and considerations set forth below, causes injury to my clients.

Part that literally says:

FOURTH. The statements made by the incidental claimant are well founded, based on the following reasoning.

In the first place, it must be said that the resolution that is issued today is due to the processing of the incident of incompetence due to pleas promoted by the defendant in the main, who once it was summoned and had knowledge of the original demand decided to file said incident not having had the opportunity to intervene in the appeal filed by the claimant in the main against the notification of October 15.

RES JUDICIAL ACQUIRES THAT CATEGORY DETERMINATIONS ON JURISDICTION ISSUES THAT HAVE BEEN CHALLENGED AND REVIEWED IN THE CORRESPONDING INSTANCES.

[...]

SECOND.- On the other hand, the second point of grievance consists in the fact that the District Judge analyzes, or rather transcribes, the arguments expressed by the claimant in the incident, to immediately declare them well-founded, without establishing in a clear, precise and consistent manner in the body of the resolution hereby challenged, the logical and legal reasoning that would have allowed it to arrive at such a determination, thus, being that they are identified as basic arguments that the A quo sustains the meaning of the resolution fought against them both together, without making a clear separation of each one of them, we will try to refer to them in the same way, to expose the grievances that each one causes to my clients, but trying to specify in a specific way the reasons for dissent that these generate to the detriment of my clients.

- I. Thus, when judge A quo affirms that he considers the argument put forward by the incidental plaintiff to be founded, consisting in the fact that the claim is "inadmissible" given that there are resolutions issued by Petróleos Mexicanos unilaterally and that deal with the interpretation of a contract of public works and that therefore constitute true administrative acts, lacks such a determination of the principle of congruence that all judicial decisions must observe; violating to the detriment of my clients, the content of articles 222 and 349 of the Federal Code of Civil Procedures, since, on the one hand, it is said to be incompetent to hear the matter and, on the other, determines to declare the "inadmissibility of the claim" founded which is typical of a substantive analysis of the question raised; likewise, in consideration of the undersigned, such determination of the judge causes injury, since it prejudices the origin of the claim filed

by my clients; in effect, since the controversy that settles through the resolution that by this means is fought, must deal solely and exclusively about the competence or lack of competence that, due to the matter, the Eleventh District Judge has or does not have, to know of the lawsuit filed by my clients against Petróleos Mexicanos, when resolving as it does; in the sense that he declares the inadmissibility of the lawsuit filed by my clients; violent also to the detriment of them, the right to effective protection of their rights and the right of access to justice (due process) since in advance, it is arriving at the determination that the demand is inadmissible, which is proper of a judgment that analyzes and resolves the merits of the matter raised before a court that is competent to analyze and resolve the merits of the claims raised by the defendants, prior to the development of the established procedures.

In the same way, the contested resolution causes harm to my clients, since when determining how the A quo does, that "The benefits claimed by the plaintiffs in this lawsuit, such as direct and indirect expenses, utility financing of work, additional charges, are concepts that cannot be requested by the contractor, based on the contract and its annexes, since contract 424042803, was entered into under the Petróleos Mexicanos Law and the DAC's (Provisions).

Thus, the Eleventh District Court, dated January 6, 2016, issued a new order, in compliance with the Second Instance resolution revoking the ruling dated October 15, 2015, in which it literally established the Next:

Poza Rica de Hidalgo, Veracruz, January 6, two thousand and sixteen.

VIEWED; the document sent by the Fourth Unitary Court of the Seventh Circuit, residing in Veracruz, Veracruz, to which is attached the testimony of the decision pronounced on December 30, two thousand and fifteen, in civil law 35/2015, whose operative paragraphs are:

"FIRST. The agreement of October 15, 2015, issued by the Eleventh District Judge in the State of Veracruz, residing in Poza Rica, in ordinary civil trial 75/2015, is REVOKED, in accordance with the final part of the last recital of this resolution.

[...]"