

## **Case Concerning The Barcelona Traction, Light And Power Company, Limited**

(Belgium v. Spain)

I.C.J. Reports 1964

### **Facts**

- a. The International Court of Justice delivered judgment, by 15 votes to 1.
- b. Belgium filed a claim against Spain for damages against Belgian nationals who were shareholders of Traction Company.
- c. Traction Company is incorporated in Canada but has many subsidiaries in Spain.
- d. The Spanish subsidiary, Barcelona Traction, filed for bankruptcy in which Belgium believed was due to actions of the Spanish State.
- e. Belgium claimed that many nationals had a very larger stake of the company but was not proven by the Spanish Government.
- f. Belgium claims it has the right to use diplomatic protection over its shareholders.
- g. Both Belgium and Spain are states.

### **Questions**

- a. Does sovereign immunity and diplomatic protection extend to shareholders of that particular state?

- b. Does Belgium have the right and jurisdiction to bring Spain to court for the actions of a Canadian company?
- c. Do international companies and shareholders have legal personality?

### **Decisions**

- a. The court found that Belgium did not have *jus standi*, recognized rights, to exercise diplomatic protection for its nationals that held stake in the Traction Company. International law states that the national State of the company can exercise this right and seek payment. No such law has been established for shareholders. If a wrong was done to a company which resulted in harming of the shareholders, then only the company has the authority to seek compensation. In turn a shareholder must turn to the company in hope that it will seek action within the courts. Only through a special treaty or agreement can shareholders have this right. No such treaty existed.
- b. The court found that Belgium did not have the right to bring Spain to court since Traction Company was located in Canada. The court acknowledged that the company went bankrupt in Barcelona but stated that the corporation as a whole still existed and was still capable of operating. Thus, the shareholders could seek legal action but only through Canada against Spain. The Traction Company was established by the court to have taken on the legal identity of Canada who has exercised the right of protecting Traction Company, making the suit against Spain invalid.
- c. Only certain organizational entities have legal personality. Companies such as Traction must use their home state to bring about law suits against other states. Individuals or in this case shareholders, do not have legal personality when it comes to international law.

The court therefore dismissed the case on the basis that individuals or shareholders do not have legal personality and cannot be protected by diplomatic tools which are reserved for states.

### **Principles**

- a. The international law elements of the case are sovereignty, diplomatic protection, jurisdiction and legal personality.

- b. The rule of law that was used in this case was the general rule/principle of international law. This law suggests that individuals or in this case shareholders do not possess the same rights as states and cannot be offered diplomatic protection. Furthermore, Spain cannot be sued by Belgium for its actions against a Canadian company. Only Canada has proper jurisdiction and authority to sue Spain.
  
- c. One principle of law that arose within this case was that of *jus standi* or recognized right. States have recognized rights that individuals do not have when it comes to international law. If a law is recognized and becomes a custom among nations then it is considered law in the international realm.

### **Conclusion**

The court's ruling of dismissal of the case adequately demonstrates the differences between states and individuals and who is considered sovereign in the international realm. The court ruled in favor of Spain since Belgium had no jurisdiction to do so and the shareholders seeking compensation was not given diplomatic immunity. However, if the shareholders were to seek aid from Canada in which the company is headquartered and given correct identity with, a law suit could occur. Thus an individual cannot bring a claim against a state since it is not given that authority. This case will be viewed as an excellent reference for cases dealing with organizations and sovereign immunity claims and how to correctly deal with them.

### **Bibliography**

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### **Submitted**

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