IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

LUIS PEREZ)
)
vs.) No. 13677
)
JOHNS-MANVILLE PRODUCTS)
CORPORATION, a corp.)

COMPLAINT AT LAW

NOW COMES THE PLAINTIFF, LUIS PEREZ, by his attorney, MAX L. EASOFF, and complains of the defendant, JOHNS-MANVILLE PRODUCTS CORPORATION, a corp., of trespass on the case, and further complains as follows:

1. Plaintiff avers that the above entitled suit is brought against the defendant for the sum of Fifty Thousand ($50,000.00) Dollars for personal injuries sustained by reason of a so-called "occupational disease" and that this action is wholly of a civil nature; that the matter and amount in dispute in the said suit exceeds, exclusive of interest and costs, the sum of Three Thousand ($3,000.00) Dollars, all of which will more fully appear from the following paragraphs; that the defendant herein is, and was at the commencement of this suit, a foreign corporation, duly formed, created and organized under and by virtue of the laws of the State of New York, having its principal place of residence in the City of New York, State of New York; that the plaintiff herein is, and was at the commencement of this suit, a citizen and resident of the State of Illinois.

2. Plaintiff further states that on or about the 13th day of August, A. D. 1933, and for many years prior thereto, the defendant, incorporated under the laws of the State of New York, as aforesaid, was duly authorized to do business in the State of Illinois, County of Lake

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and City of Waukegan; That on said date, and prior thereto, and in the City of Waukegan, as aforesaid, the defendant owned, operated and maintained a factory, mill or establishment for the purpose of manufacturing tile and other asbestos products.

3. That said defendant, in its factory, mill or establishment, as aforesaid, owned and operated a certain department known as the "mixing room" where asbestos and cement were mixed in dry form, the materials being poured into a hopper from sacks and coming out as a mixture; that in the course of said processes, a great deal of asbestos and cement dust, and other dusts, were cast to and did impregnate the air in said premises in such great quantities as to be greatly deleterious to the health of human beings.

4. That on the aforesaid day and at the place aforesaid, and for a number of years prior thereto, the plaintiff was in the employ of the defendant and worked in said Mixing Room as a laborer, his principal work being to open the aforesaid sacks of cement and asbestos and dump them into a mixing machine, which machine mixed said materials in dry form, as aforesaid.

5. That in the carrying on of the said premises by the defendant as the same was being done, and as it had been conducted for many years prior thereto, the defendant knew, or in the exercise of due care and caution should have known that the same was apt to and did produce the illness and disease in the plaintiff of which the plaintiff now complains, which illness and disease is peculiar to such work and operations carried on and used in said business to which employees are not ordinarily exposed in their lines of business.

6. That plaintiff was in entire ignorance of the dangerous character of the various dusts to which he was exposed and to the specific nature of the disease or diseases that would or could result from the inhalation of the aforesaid dusts and was never at any time

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informed by any agent of the defendant of the fact that such danger did or could possibly exist.

7. That plaintiff was caused to and did during the period aforesaid, necessarily breathe in large quantities of asbestos dust, cement dusts and other dusts, in his throat and lungs, causing the illnesses herein complained of, while he, the plaintiff, was in the exercise of due care and caution for his own personal health and safety.

8. That at and during the aforesaid place and time, the defendant did one or more of the following acts, thereby causing the plaintiff to contract and succumb to the occupational disease known as Asbestosis which resulted in Pneumoconiosis in an advanced stage and Tuberculosis, as a result whereof: plaintiff has lost considerable weight; he has been incapacitated and weakened so that he cannot perform any work for which he is fitted; that he has suffered great mental and physicial pain and anguish and will continue so to suffer for the rest of his life; that he has become liable for and expended large sums of money in and about endeavoring to be cured of his illness as aforesaid; and that he has been prevented and hindered from attending to his usual occupation whereby he has lost divers great gains and profits and will hereafter be prevented to lose divers great gains and profits.

(a) Defendant wilfully failed to provide reasonable and approved devices, methods or means for the prevention of said diseases, contrary to the provisions of Section 1 of an Act entitled "An Act to Promote the Public Health by Protecting Certain Employees in this State from Dangers of Occupational Diseases" and providing for the enforcement thereof, in this, that there were in and about the said premises no proper suction fans or other apparatus provided for collecting the injurious dusts in the air in the said premises where plaintiff worked; that defendant failed to provide masks, air respirators or other apparatus to be used or worn by said plaintiff which would effectively prevent the plaintiff from inhaling the said dusts caused to impregnate and flow in the air in and about the said premises as provided by said Statute and which would effectively prevent him from contracting the diseases herein complained of.

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(b) Plaintiff negligently failed to remove as far as practicable, by either ventilating or exhaust devices, the aforesaid injurious dusts from the premises in which the plaintiff worked, contrary to Section 12 of "An Act Concerning the Health and Safety of Employees in Factories, Mercantile Establishments, Mills and Workshops in the State of Illinois."

(c) Negligently caused and permitted the premises to be swept so as to raise Asbestos dust, Cement dust and other dusts, contrary to Section 13 of "An Act Concerning the Health and Safety of Employees in Factories, Mercantile Establishments, Mills and Workshops."

9. Wherefore plaintiff asks judgment for Fifty Thousand ($50,000.00) DOLLARS.

Attorney for Plaintiff

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