

CITY OF ATLANTA AND FULTON COUNTY RECREATION AUTHORITY)	CASE NO. B-17638
V.)	
ATLANTA BRAVES, INC., NATIONAL LEAGUE OF PROFESSIONAL BASEBALL.)	
CLUBS, CINCINNATI REDS, INC.,)	
HOUSTON SPORTS ASSOCIATION, INC.,)	
LOS ANGELES DODGERS, INC.,)	
METROPOLITAN BASEBALL CLUB, INC.,)	
PHILADELPHIA NATIONAL LEAGUE CLUB, PITTSBURGH ATHLETIC CLUB,)	
INC., ST. LOUIS NATIONAL BASEBALL CLUB, INC. and NATIONAL EXHIBITION)	
<u>COMPANY, INC.</u>)	SUPERIOR COURT, ATLANTA JUDICIAL CIRCUIT

O R D E R

The above stated case is no different from any other case where a party seeks a judicial declaration of its rights. The questions posed are strictly legal ones. The determination of the rights of the particular parties now before the Court must, as they must in every case, be made free from public clamor and without consideration for local sentiment. With conscious regard of these self-evident principles, the Court sets forth the following in connection with the legal questions of which a determination is sought.

The above matter originally came on before this Court for a hearing on December 17, 1965 at which time the Court, after a public hearing, reached the conclusion that Plaintiff had shown a then compelling need in connection with certain temporary relief prayed for. Having reached this conclusion, the Court, therefore, granted said relief by

issuing a temporary restraining order which was binding on all Defendants duly served and all other persons acting in concert with said Defendants and with knowledge of said order.

At the same time, the Court ordered the said Defendants duly served to show cause before the Non-Jury Division of this court on February 15, 1966 why the restraining orders thus issued should not be continued and made permanent and why all other relief sought in the petition should not be granted.

Thereafter, the Plaintiff filed a Motion for Summary Judgment, with supporting evidence, and this Court, at the request of the Plaintiff, set said matter down for a hearing on the Motion for Summary Judgment, which hearing was held on the 4th day of February, 1966 beginning at 9:45 A. M.

There appeared at said hearing attorneys for the Plaintiff, for the ATLANTA BRAVES, INC. (hereafter called the "BRAVES"), and the NATIONAL LEAGUE OF PROFESSIONAL BASEBALL CLUBS (hereafter called the "NATIONAL LEAGUE"), as well as individuals connected with the above referred to parties. Evidence was presented, both by affidavit and by oral testimony, and argument was made by counsel for the respective parties.

At said hearing Plaintiff asked for, as it is entitled to receive, a ruling of the Court on the question of

of the Plaintiff's Motion for Summary Judgment, including a judgment declaring the rights of the Plaintiff in a certain Lease Agreement pursuant to Georgia Code Annotated, Section 110-1101, and incidental injunctive relief pursuant to Georgia Code Annotated, Section 110-1102 including an injunction permanently enjoining the parties served from breaching said Agreement in the event that said Agreement is declared valid, legal and of full force and effect by this Court.

In essence, the evidence showed that (1) on October 20, 1964 the BRAVES entered into a contract with the Plaintiff, leasing the Atlanta Stadium for the purpose of playing therein Major League Professional Baseball; (2) that thereafter, to wit: in August, 1965 suit Number 332-626 was instituted in the Circuit Court of Milwaukee County, Wisconsin seeking, among other things, an injunction enjoining the BRAVES from performing pursuant to said Lease Agreement, and; (3) that, subsequently, a "Memorandum Decision" and "Order" was filed in the Circuit Court of Milwaukee County, Wisconsin on January 26, 1966 enjoining the BRAVES and the NATIONAL LEAGUE in certain particulars.

This Court is reluctant, as any court should be, to pass an order which might conflict with an order of a court of another sovereign state. This judicial reluctance cannot, however, justify this Court's shirking, however distasteful, a duty imposed. The parties to this suit have prayed for,

and are entitled to, an explicit and prompt ruling on the questions now before the Court.

This Court must, of necessity, recognize the fact that as a result of the entry of said Memorandum Decision and Order of January 26, 1966, the Plaintiff's rights under its Lease Agreement are, in fact, directly and immediately threatened thereby entitling the Plaintiff at this time to a final and binding order. Having invoked the legal, as well as the equitable powers of this Court, the Plaintiff has a right to expect whatever protection this Court can properly and legally afford.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1.

Said Lease Agreement between the BRAVES and the Plaintiff, dated October 20, 1964, as amended, is a valid, binding, legal contract and same is hereby expressly declared to be of full force and effect.

2.

The finding above set forth includes an express finding that said Lease Agreement was executed in, and is to be performed, within the territorial confines of the State of Georgia and is, in fact, a Georgia contract. It follows, therefore, that any construction of its terms must be

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determined under the provisions of Georgia law. This Court rules expressly that Paragraph 25.8 (c) of said Lease Agreement does not relate to orders or decrees of a court of law or equity. This so-called "escape clause" is subject to no other construction when the Agreement, taken as a whole, is considered. The Court finds further that the above referred to paragraph pertains and relates only to the possible creation of a Federal regulatory body or like public authority established by the Congress of the United States specifically to govern the affairs of professional baseball and to edict orders, directions and regulations of such a public authority if such an authority should, during the twenty-five year period covered by said Lease Agreement, be duly and legally established. The only legal construction possible, under the laws of this State, is that said clause does not refer to orders or decrees such as are illustrated by the Memorandum Decision and Order of the Circuit Court of Milwaukee County seeking to prevent or restrain the BRAVES from playing their home baseball games in Atlanta Stadium, Atlanta, Georgia during the 1966 baseball season or thereafter.

This subject was expressly dealt with in Section 2.1 of the Lease Agreement relating to the 1965 playing season. The Defendants availed themselves of its provisions as long as the BRAVES had any contractual commitments to Milwaukee County. Any other construction of Paragraph 25.8 (c) would

violate that cardinal rule of construction of the law of Georgia which provides that contracts are to be construed so as not to reject any part thereof. Even if this were not true, the uncontradicted evidence before this Court shows conclusively that this was, in fact, the intention of the parties.

3.

Consequently, this Court is constrained to find that said Lease Agreement is a valid, binding contract, notwithstanding said Order dated January 26, 1966. The BRAVES, as a party to said Lease Agreement, has no legal right to avoid any of the terms or obligations of a valid, pre-existing contract by reason of the issuance of said Memorandum Decision and Order. It stands without question that no court can require a party not to enter into a valid contract when such contract has already been executed, become effective and pursuant to which contract there has been substantial performance by the parties.

4.

This Court takes express note of the fact that the foregoing Memorandum Decision and Order of January 26, 1966 does not, as of this date, attempt to prohibit the BRAVES from scheduling and playing its 1966 regular home games in Atlanta, Georgia. Said Order goes no further than to require that the BRAVES shall be prohibited from (a) contracting in future with respect to the 1966 baseball season in Atlanta,

Georgia, unless it includes in such contract a right to avoid the same if the Milwaukee Court enjoins the BRAVES from exhibiting its home games away from Milwaukee in the future, and; (b) requires the BRAVES, the NATIONAL LEAGUE and its members to make tentative and conditional arrangements for exhibition of the BRAVES home games in Milwaukee, if required to do so by said Milwaukee court in the future, and; (c) ordering that the BRAVES, the NATIONAL LEAGUE and its members make plans for expansion of franchises so as to permit an expansion team of competitive quality to play in Milwaukee in 1966.

5.

Notwithstanding the facts referred to in Paragraph 4 above, this Court, in view of the relief requested and still vigorously sought by the State of Wisconsin in that case, that the BRAVES be prohibited from playing their 1966 home games in Atlanta, Georgia, further finds that pursuant to the terms of said Lease Agreement, Plaintiff has a lawful contractual right to have said Defendant BRAVES schedule and play its home games with other teams of the NATIONAL LEAGUE in Atlanta Stadium during the entire present term of said Lease and has a further right to have the NATIONAL LEAGUE, and its individual corporate members, schedule and play all games designated in the presently published NATIONAL LEAGUE schedule as home games of the BRAVES

with the Atlanta BRAVES in Atlanta, Georgia during 1966 and during the remaining term of said Lease.

6.

Incidental to the Declaratory Judgment herein entered and in order to preserve Plaintiff's rights, it is further ORDERED that the Defendant BRAVES, its Officers, Directors, Agents, Servants, Employees, Players, and all other persons acting in concert with them, are hereby permanently enjoined from taking any action which would impair the performance by said BRAVES of the terms of said Lease Agreement and they are hereby permanently and specifically enjoined from taking any action or making any arrangements for the scheduling ~~or~~ exhibition of BRAVES home Major League Professional Baseball games at any place other than Atlanta Stadium, Atlanta, Georgia for the 1966 baseball season and during the term of said Lease.

The above injunction, enjoining the Defendant BRAVES from breaching any of the terms of said Lease Agreement is predicated, in part, on the uncontradicted evidence that the Plaintiff has no adequate remedy at law in that connection in view of the irreparable nature of the damages which would ensue if said BRAVES, in their present financial condition, were to breach the terms of said contract herein declared valid and lawful.

7.

Consequently, the Defendant NATIONAL LEAGUE, its members and all persons acting in concert therewith, are hereby permanently enjoined from taking any action which would, in any wise, impair the full and faithful performance of the terms of the said Lease Agreement and from taking any action or making any arrangements which would in any way, alter, amend or otherwise change, as to location in Atlanta, Georgia, the home schedule of Defendant BRAVES as presently published (and attached to Plaintiff's petition) for the 1966 baseball season, thereby impairing the terms of said Lease Agreement between Plaintiff and BRAVES.

8.

Plaintiff's application for any and all additional injunctive relief as may be required or sought by Plaintiff, in addition to the permanent relief granted herein, will be considered by this Court, upon motion of Plaintiff with notice to Defendants served, after giving all parties a reasonable opportunity to be heard.

IT IS SO ORDERED this 8th day of February, 1966.

S/ Sam Phillips McKenzie
Sam Phillips McKenzie, Judge
Superior Court, N. J. C.