

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

AMSTED INDUSTRIES, INCORPORATED
and GLAMORGAN PIPE & FOUNDRY
COMPANY,

Defendants.

CIVIL ACTION NO. 71 C 3124

Equitable Relief Sought

Filed: December 29, 1971

COMPLAINT

The United States of America, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the above named defendants and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 15 of the Act of Congress of October 15, 1914, as amended (15 U.S.C. § 25), commonly known as the Clayton Act, in order to prevent and restrain the violation

by the defendants, as hereinafter alleged, of Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

2. Amsted Industries, Incorporated has its principal place of business, transacts business and is found within the Northern District of Illinois, Eastern Division.

3. Glamorgan Pipe & Foundry Company transacts business and is found within the Northern District of Illinois, Eastern Division.

II

DEFENDANTS

4. Amsted Industries, Incorporated (hereinafter referred to as "Amsted") is made a defendant herein. Amsted is a corporation organized and existing under the laws of the State of Delaware, with its principal office in Chicago, Illinois.

5. Glamorgan Pipe & Foundry Company (hereinafter referred to as "Glamorgan") is made a defendant herein. Glamorgan is a corporation organized and existing under the laws of the Commonwealth of Virginia, with its principal place of business in Lynchburg, Virginia.

III

DEFINITIONS

6. As used in this complaint:

- (a) "Cast iron pipe" means cast iron pressure pipe which is made, in whole or in part, of iron and is cast into desired diameters and lengths;
- (b) "Midwest area" means the States of Illinois, Indiana, Michigan and Wisconsin; and
- (c) "Mid-Atlantic area" means the States of Delaware, New York, Maryland, New Jersey and Pennsylvania.

IV

TRADE AND COMMERCE

7. Cast iron pipe is principally used in the construction of water mains and storm sewers. Purchasers of cast iron pipe primarily include private contractors and municipal governmental bodies, many of which are located in states other than the states in which these products are manufactured. A substantial amount of cast iron pipe regularly and continuously moves in interstate commerce from the place of manufacture to the purchaser.

8. Amsted manufactures and sells cast iron pipe as well as other products, including other types of pipe, machine tools, and steel products. Its cast iron pipe is manufactured in foundries in Council Bluffs, Iowa, and Florence, New Jersey, by its Griffin Pipe Products Company division. Amsted's total sales of all products for its fiscal year 1970 were in excess of \$274 million, and its sales of cast iron pipe amounted to approximately \$28 million. In the year 1970, Amsted ranked as the 363rd largest industrial corporation in the United States. In the manufacture and sale of cast iron pipe, as well as in the conduct of its other business operations, Amsted is engaged in interstate commerce.

9. Glamorgan manufactures and sells cast iron pipe as well as other products, including other types of pipe. Its cast iron pipe is manufactured in its foundry in Lynchburg, Virginia. Glamorgan's total sales of all products in 1970 were in excess of \$19 million, and its sales of cast iron pipe amounted to approximately \$8 million. In the manufacture and sale of cast iron pipe, as well as in the conduct of its other business operations, Glamorgan is engaged in interstate commerce.

10. Because of high freight costs associated with the distribution of cast iron pipe, cast iron pipe manufacturers generally tend to concentrate their sales in states which are in close proximity to their production plants. Within the limits imposed by the availability of satisfactory freight rates and transportation connections, however, these firms do make and attempt to make sales in states which are beyond their primary marketing areas. Thus, while Amsted has traditionally concentrated the majority of its sales in the states which are immediately adjacent to its plant locations, it made sales in 1970 to customers located in 36 states. During the same year, Glamorgan, from its production plant in Virginia, similarly sold cast iron pipe to customers located in 22 states.

11. Amsted and Glamorgan regularly make or attempt to make substantial sales of cast iron pipe to customers located in the same states. For example, since 1968, Amsted has sold cast iron pipe to customers located in 21 of the same states in which Glamorgan has made sales during that period. In 1970, Amsted made sales of cast iron pipe to customers located in 16 of the states in which Glamorgan also made sales.

12. The manufacture and sale of cast iron pipe in the nation as a whole is highly concentrated. There are only nine companies engaged in the production and sale of cast iron pipe in the United States. In 1970, the total tonnage produced and sold by all manufacturers amounted to about 1,537,000 tons, and the four leading producers of cast iron pipe accounted for approximately 71 percent of this total. Amsted, with 1970 sales of about 168,600 tons, was the fourth largest seller and accounted for approximately 11 percent of the national market. Glamorgan, with 1970 sales of about 61,300 tons, was the eighth largest seller and accounted for approximately 4 percent of the national market. Following the proposed acquisition of Glamorgan by Amsted, concentration in the national market will increase to the point where the four leading firms will account for in excess of 75 percent of the sales, and Amsted will become the third leading cast iron pipe firm in the nation with approximately 15 percent of total sales.

13. In 1970, Amsted and Glamorgan both made substantial sales of cast iron pipe to customers located in the Midwest area, which represents a significant market for both producers.

This area, which borders upon and forms part of the primary marketing area served by Amsted's Iowa plant, also represents a market which, while somewhat removed from Glamorgan's Virginia plant, is capable of being effectively served by Glamorgan because it is within the distribution limits imposed by freight rates and transportation connections. Approximately 10 percent of Amsted's total 1970 sales of cast iron pipe were made within the Midwest area. In that same year, Midwest area sales accounted for approximately 15 percent of Glamorgan's total annual sales of cast iron pipe.

14. In 1970, there were approximately 219,000 tons of cast iron pipe sold in the Midwest area by seven cast iron pipe manufacturers. Amsted, with sales of approximately 16,600 tons, accounted for about 7.5 percent of total area sales and ranked fifth among sellers in the market. Glamorgan, with sales of approximately 10,000 tons, accounted for about 4.5 percent of total area sales and ranked seventh among sellers in the market. Concentration among sellers of cast iron pipe in the Midwest area is extremely high and the four

leading firms in the market account for about 82 percent of the sales. Following its proposed acquisition of Glamorgan, Amsted will be the third leading seller in the market with approximately 12 percent of sales, and concentration in the market will increase to the point where the four leading firms will account for about 86 percent of the cast iron pipe sales.

15. The Mid-Atlantic area is another area in which both Amsted and Glamorgan made substantial sales in 1970. This area either borders upon or forms part of the primary marketing area of both these producers and is capable of effectively being served by both firms because it is within the distribution limits imposed by freight rates and transportation connections. The cast iron pipe industry in this area, which represents a significant market for both Amsted and Glamorgan, is also highly concentrated. In 1970, Amsted was a leading seller in this area and about 35 percent, or approximately 60,000 tons, of its total annual sales of cast iron pipe were made to customers in the Mid-Atlantic area. During the same year, Mid-Atlantic area sales of about 10,000 tons accounted for approximately 15 percent of Glamorgan's total annual sales of cast iron pipe.

V

VIOLATION ALLEGED

16. Amsted and Glamorgan have entered into an agreement pursuant to which Amsted will acquire all of the assets and business of Glamorgan on or about December 30, 1971.

17. The effect of the proposed acquisition of Glamorgan by Amsted may be substantially to lessen competition or tend to create a monopoly in violation of Section 7 of the Clayton Act in the following ways, among others:

- (a) Actual and potential competition between Amsted and Glamorgan in the manufacture and sale of cast iron pipe will be eliminated in the United States as a whole, in the Midwest area, and in the Mid-Atlantic area;
- (b) Actual and potential competition generally in the manufacture and sale of cast iron pipe may be substantially lessened in the United States as a whole, in the Midwest area, and in the Mid-Atlantic area; and
- (c) Concentration generally in the manufacture and sale of cast iron pipe will be substantially

increased in the United States as a whole,
in the Midwest area, and in the Mid-Atlantic
area.

PRAYER

WHEREFORE, plaintiff prays:

1. That the proposed acquisition by Amsted of the assets of Glamorgan be adjudged a violation of Section 7 of the Clayton Act.
2. That a preliminary injunction and a temporary restraining order be issued against Amsted and Glamorgan enjoining and restraining each of them from taking any further action, directly or indirectly, to consummate the aforesaid agreement or understanding, or any similar agreement, understanding, or plan relating to the purchase or acquisition of any of the stock, share capital, or assets of Glamorgan by Amsted pending adjudication of the merits of this complaint.
3. That Amsted and Glamorgan, and all persons acting on their behalf, be perpetually enjoined from carrying out the aforesaid agreement or any similar plan or agreement, the effect of which would be to merge, consolidate, or in any way combine the businesses or assets of Amsted and Glamorgan.

4. That the plaintiff have such other relief as the Court may deem just and proper.

5. That plaintiff recover the costs of this action.



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