

United States v. Continental Oil Co.

U. S. District Court, District of New Mexico. Civil Action No. 4763. Filed July 28, 1972.

Case No. 1612, Antitrust Division, Department of Justice.

Clayton Act

Mergers—Injunctive Relief—Divestiture—Refinancing of Purchasing Company by Divesting Company—Divestiture in Event of Default.—A final judgment in a litigated case requiring an oil company to divest itself of designated facilities and pipelines was modified to order divestiture of the assets if the court-approved buyer, which was to be refinanced by the divesting firm, should default and the divesting company should reacquire any interest in the assets. See ¶ 4365.

For plaintiff: John N. Mitchell, Atty. Gen., Lee Loevinger, Asst. Atty. Gen., Baddia J. Rashid, Bernard O'Reilly, Dept. of Justice, Washington, D. C., George B. Haddock, James Legnard and Lawrence W. Somerville, Attys., Dept. of Justice, Antitrust Div., Los Angeles, Cal., and John Quinn, U. S. Atty. For defendant: Lloyd F. Thanouser, and A. T. Biggers, Houston, Tex., A. T. Seymour, and Allen C. Dewey, of Modrall, Seymour, Sperling, Roehl & Harris, Albuquerque, N. M., James T. Jennings, Roswell, N. M., Vinson, Elkins & Searles, Houston, Tex., for Continental Oil Co.

Modification of Final Judgment
of February 21, 1968

PAYNE, D. J.: The Final Judgment in this case was entered on February 21, 1968, and provided for the divestiture by Continental Oil Company (Conoco) of the Artesia, New Mexico, refinery and certain related properties, in a manner and to a type of purchaser prescribed in Paragraph III of the Final Judgment. On May 21, 1969, the Court entered an Order approving the sale of the Artesia refinery and other related assets to Navajo Refining Company (Navajo), a partnership consisting of Navajo Corporation and Holly Corporation.

Pursuant to a Stipulation approved by the Court on May 21, 1969, Navajo submitted itself to the jurisdiction of the Court

for the purpose of administration of the Final Judgment of February 21, 1968, and hence, is now a party to the Judgment.

On July 28, 1972, the plaintiff, United States of America, Conoco and Navajo, appeared by and through their attorneys at a public hearing on the application of Navajo for approval of a certain proposal for the refinancing of Navajo by Conoco.

The Court, having received testimony in support of the application and having considered the application and the statements and arguments of counsel, and having entered its Order approving such refinancing of Navajo, and

It being the opinion and the finding of the Court that the refinancing of Navajo has become necessary to its continued via-

bility and that as a consequence of Navajo's inability to obtain outside financing Conoco is substituted for Republic National Bank as the dominant creditor with certain security interests which will permit Conoco to reacquire the refinery and other properties in the event of any default by Navajo,

Now, Therefore, It Is Hereby Ordered, Adjudged and Decreed As Follows:

The Final Judgment of February 21, 1968, is hereby supplemented and amended to order, adjudge and decree that if Conoco shall acquire any interest in any assets of Navajo under the security agreements and transactions which are included in or become a part of the refinancing of Navajo, then and within twelve months after the

date of the period of redemption authorized by applicable law, Conoco is ordered and directed to divest itself of all its right, title and interest in the assets acquired by the foreclosure to a person approved by the Court. During such period as Conoco is or may be in possession pursuant to its remedies under the security instruments, Conoco, to the extent that it is reasonably practicable, shall continue to operate the assets acquired in foreclosure as a viable operating business and to supply products to independent marketing customers of Navajo. Paragraph III of the Final Judgment of February 21, 1968, shall be applicable to any such divestiture, except as modified by this amendment.