

Republic of the Philippines
SUPREME COURT
Manila

FIRST DIVISION

G.R. No. L-24075 January 31, 1974

CRISANTA Y. GABRIEL, petitioner,

vs.

DR. JOSE R. PEREZ and HONORABLE TIBURCIO EVALLE as Director of
Patents, respondents.

Paredes, Poblador, Cruz and Nazareno for petitioner.

Jesus I. Santos for respondent Dr. Jose R. Perez.

*Office of the Solicitor General Antonio P. Barredo, Assistant Solicitor General Antonio G. Ibarra
and Solicitor Alicia V. Sempio-Diy for respondent Director of Patents.*

MAKASIAR, J.

Petition for review of the decision dated July 18, 1964 of the respondent Director of Patents denying the petition of herein petitioner Crisanta Y. Gabriel to cancel and revoke certificate of registration No. SR-389 covering the trademark "WONDER" used on beauty soap issued on May 11, 1961 to herein private respondent Dr. Jose R. Perez.

On October 19, 1962, petitioner Crisanta Y. Gabriel filed with the Patent Office a petition for cancellation of the trademark "WONDER" from the supplemental register alleging that the registrant was not entitled to register the said trademark at the time of his application for registration; that the trademark was not used and has not been actually used by registrant at the time he applied for its registration; that it was thru fraud and misrepresentation that the registration was procured by the registrant; and that it was she who has been actually using the said trademark since March, 1959, and as such is the rightful and recognized owner thereof and therefore entitled to its registration. In support of her petition, she further alleged the written contract between her and the registrant (respondent) wherein, according to her, the latter has recognized her right of use and ownership of said trademark; and that the labels submitted by the registrant are the very containers bearing the trademark "WONDER" which are owned by her and which she has been exclusively and continuously using in commerce (pp. 24-25, Vol. I, rec.).

Respondent Dr. Jose R. Perez, in due time, duly filed his answer denying each and every ground for cancellation alleged in the said petition, and further averring that there is pending in the Court of First Instance of Bulacan a civil case (No. 2422) for unfair competition with injunction and damages filed by him against herein petitioner involving the manufacture of beauty soap and the use of the trademark "WONDER"; that a writ of preliminary injunction has been issued on September 7, 1961 by the said court against herein petitioner restraining her "from making, manufacturing and producing 'Wonder Bleaching Beauty Soap' with the same labels and chemical ingredients as those of the plaintiff, and from advertising, selling and distributing the same products"; and that no right of petitioner had been violated and therefore no cause of action exists in favor of petitioner (pp. 28-32, Vol. I, rec.).

Issues having been joined, the case was heard and thereafter, respondent Director of Patents rendered his decision denying the petition to cancel the certificate of registration (pp. 139-150, Vol. 1, rec.).

Petitioner filed a motion for reconsideration on the ground that the decision is contrary to law and the evidence; but the same was denied on January 15, 1965 by respondent Director of Patents for lack of merit (p. 158, Vol. rec.).

Hence, this petition for review filed on January 28, 1965 by herein petitioner (pp. 1-5, Vol. IV, rec.). Respondents were required to answer the same, and respondent Director Tiburcio Evalle filed his answer on August 6, 1965 (pp. 29-32, Vol. IV, rec.). Private respondent Dr. Jose R. Perez did not file an answer. Thereafter, both parties were required to file their respective briefs and petitioner filed one on September 28, 1965 (p. 38, Vol. IV, rec.), while respondent Director Evalle filed his brief on February 23, 1966 (p. 53, Vol. IV, rec.). Again, private respondent Perez did not file a brief as his counsel's motion for an extension of time within which to file one was denied by this Court for being late (pp. 41-42, Vol. IV, rec.). Consequently, the case was submitted for decision on May 22, 1966.

On May 22, 1973, counsel for private respondent filed a motion for the early resolution of the case alleging among others that "respondent Dr. Jose R. Perez had died already and still Crisanta Y. Gabriel, the petitioner in this case, has been continuously harassing the rights of the late Dr. Jose R. Perez as far as the ownership and use of the trademark are concerned." (Pp. 59-61, Vol. IV, rec.) [*No motion been filed for substitution of the heirs in lieu of the deceased private respondent.*]

By way of factual background, herein private respondent Dr. Jose R. Perez filed with the Patents Office on February 23, 1961 an application for registration of the trademark "WONDER" in the Supplemental Register. After due and proper proceedings, the said petition was approved and the trademark "WONDER" was registered, as prayed for, in the Supplemental Register. Thereafter, Certificate of Registration No. SR-389 was issued to and in the name of herein private respondent Dr. Jose R. Perez. Said trademark "WONDER" is used by said private respondent on bleaching beauty soap (Medicated and Special) which under the Official Classification of Merchandise (Rule 82) of the Board of Patents falls under Class 51. Private respondent Dr. Perez, in his petition for registration, claimed March 10, 1953 as the date of first use of said trademark and August 1, 1953 as the date of first use of said trademark in commerce in the Philippines (see pp. 1-7, Vol. I, rec.).

Petitioner Crisanta Y. Gabriel on the other hand, earlier filed on October 3, 1960 with the Patent Office a petition to register the same trademark "WONDER" and claimed March 7, 1959 as the date of first use of said trademark in commerce. Said petition was dismissed on November 18, 1960 by the Patents Office (thru its examiner) on the ground that said petitioner was not the owner of the trademark sought to be registered, informing at the same time petitioner that "as shown on the labels submitted, it appear that Dr. Jose R. Perez is the owner of the present mark" Subsequently, on March 23, 1961, the said application was considered abandoned under Rules 97 and 98 of the Revised Rules of Practice in Trademark Cases for failure of petitioner to comply with Rule 93 of the same Revised Rules (see p. 8, Vol. I, rec.; pp. 79-86, Vol. III, rec.). Later, said applicant was revived, but further consideration thereof was suspended by the Patents Office until final determination of the present case wondering that the matter of ownership of the trademark "WONDER" is in dispute (see p. 9, Vol. I, rec.).

The main facts of this case as substantially supported by the evidence on record, are related by respondent Director of Patents in the decision now under review, thus:

... Way back in 1953, the Respondent who claims to be a medical researcher and manufacturer, was experimenting on the creation of a beauty soap. Having discovered a workable formula he applied from the Bureau of Health for the issuance of a Certificate of Label Approval and on June 6, 1958 he was issued such certificate. It covers a beauty soap for bleaching, which whitens or sometimes softens the skin. (t.s.n., p. 48, Aug. 27, 1963). This certificate (Exh. "5") particularly describes and mentions "Dr. Perez" Wonder Beauty Soap. He continued experimenting until he was able to discover an improved soap formula

which he claims that aside from bleaching or whitening the skin it also allegedly removes pimples, freckles, dandruff, scabies, itching, head lice(s), rashes, falling of hair, and shallow wrinkles (t.s.n. p. 49, Aug. 27, 1963). For such product he obtained another certificate of label approval from the Bureau of Health on August 10, 1959 (Exh. "6"). This document also particularly describes "Dr. Perez Wonder Beauty Soap (Improved Formula)."

In January, 1959 he made an agreement with a certain company named "Manserco" for the distribution of his soap. It was then being managed by Mariano S. Yangga who happens to be the brother of the Petitioner Crisanta Y. Gabriel (t.s.n., pp. 3-4, Aug. 27, 1963). This was corroborated by Mr. August Cesar Espiritu who testified in favor of the Respondent. Mr. Espiritu claims to be the organizer and one of the incorporators of "Manserco," although really no document of its corporate existence was introduced as evidence in this case (t.s.n., pp. 55-57, Sept. 23, 1963). However, this fact had never been disputed by the Petitioner.

Because the corporation was allegedly going bankrupt and the members were deserting, the Respondent terminated the agreement in July, 1959, and thereafter he asked the Petitioner to become the distributor of his products (t.s.n., pp. 4-5, Aug. 27, 1963) and on September 1, 1959, a contract of "Exclusive Distributorship" was executed between the Petitioner and the Respondent. (Exh. "7"; "F-1" to "F-2".) The agreement is hereunder reproduced, to wit:

EXCLUSIVE DISTRIBUTORSHIP AGREEMENT

KNOW ALL MEN BY THESE PRESENT:

THIS AGREEMENT made and executed by and between DR. JOSE R. PEREZ, Filipino, of legal age, a resident of Sta. Maria, Bulacan, now and hereinafter called the Party of the First Part,

AND

CRISANTA Y. GABRIEL, likewise Filipino, of legal age, a resident of 1558 Camarines St., Manila, now and hereinafter called the Party of the Second Part,

WITNESSETH

1. That the Party of the First Part hereby agrees and binds himself to make the Party of the Second Part the sole and exclusive distributor of his product called and popularly known as "Dr. Perez" Wonder Medicated Beauty Soap' for the whole Philippines for a period of five (5) years from date of perfection of this agreement, renewable for another five (5) years at the mutual agreement of both parties;
2. That the Party of the First Part hereby agrees to sell to the Party of the Second Part the abovementioned merchandise at the rate of sixty (P.60) centavos a piece which shall have a minimum weight of eighty (80) grams; PROVIDED however that said price may be subject to change in cases of deflation and inflation of the peso;
3. That the Party of the First Part hereby binds himself to make delivery of the merchandise under contract at 1558 Camarines

St., Manila, the cost of the same being for the account of the former;

4. That the Party of the First Part hereby agrees to extend to the Party of the Second Part a credit line of TWO THOUSAND (P2,000.00) PESOS with accounts due and payable on the 5th and 20th of each month with a maximum of sixty days from date of receipt of the merchandise by the Party of the Second Part;

5. That the Party of the First Part guarantees the production of the full quantity of Dr. Perez Wonder Medicated Beauty Soap that the Party of the Second Part could sell and distribute; with the latter giving the former a written notice of the same;

6. That the Party of the Second Part has the exclusive right of ownership of the packages and that said party is responsible for the costs as well as the design and the manner of packing the same;

7. That the Party of the First Part hereby binds himself not to give or sell to any person or entity the same product or any similar product or products of the same name during the term and duration of this contract;

8. That this contract is binding upon the administrator, heirs and assigns of both parties during the term and duration of this agreement;

9. That this contract will take effect upon the signing thereof.

IN WITNESS WHEREOF, the parties and their witnesses have hereunder set their hands at Manila this 1st day of September, 1959. (See pp. 11-13, Vol. IV, rec.).

At this juncture, mention should be made of the Petitioner's commercial background, as it appears in the record. Her documentary exhibits show that she was registered as a bona fide Filipino retailer as of April 8, 1958 (Exh. "C"); that she was doing business under the name "Gabriel Grocery and Cold Store" as of March 20, 1958 (Exh. "A"); and that on September 24, 1959 she obtained another certificate of registration for the firm name "Wonder Commercial Co., Inc.," she being the Manager thereof (Exh. "B"). (Pp. 10-13, Vol. IV, rec.).

Respondent Director of Patents set forth the evidence of the petitioner as follows:

From the evidence presented by her, she endeavors to prove that even before the execution of the agreement (Exh "F-1") or particularly on March 11, 1959 she hired the services of Eriberto Flores (t.s.n., pp. 43-52, May 23, 1963) who allegedly designed the packages for which she paid him the sum of P50.00 (Exh. "FF"). Thereafter she allegedly started the sales promotion of the Respondent's product by extensive advertisement through some magazines (Exhs. "G"; "G-I"; and "H"), the radio (Exhs, "I"-18"), and the cinema by means of projector "slides" (Exhs. "M" and "N") in various neighborhood theatres in the Philippines (Exhs. "O" to "-48"). She also allegedly caused the printing of thousands of boxes and literature accompanying the soap with printing companies (Exhs. "P", "Q", "R", "S", "T", "U", "V", "W", and "X" to "X-8"). She also presented a few sales invoices, the earliest of which was issued on November 4, 1959 by the Wonder Commercial Co., Inc., showing sales of the "Wonder Soap." (Exh. "Y"). Another

booklet of sales invoices under the firm name "C.Y. Gabriel" showing sales of the same soap, the earliest of which was August 13, 1960 was also presented (Exhs. "Z" and "AA"). All the while the packages (Exhs. "D" and "E") and literature (Exh. "W") indicate that the soap is known as "Dr. Perez Bleaching Beauty Soap" manufactured by Dr. Jose R. Perez Cosmetic Laboratory and that the exclusive distributor is "Crisanta Y. Gabriel (C.Y Gabriel)", the herein Petitioner.

As further evidence of sale, the Petitioner presented as witness Pedro Alvero, a businessman from San Pablo City who, as alleged dealer in medicinal products, toiletries, etc., testified as having purchased from her "Wonder" soap in 1959 up to 1961 (t.s.n., pp. 43-52, May 23, 1963). (See pp. 13-14, Vol IV, rec.).

I

The determination that Dr. Perez is the rightful owner of the disputed trademark "WONDER" and the consequent denial by the respondent Director of Patents of the petition to cancel certificate of registration No. SR-389 covering said trademark issued to and in the name of Dr. Jose R. Perez, were based mainly on his finding that Dr. Perez had priority of adoption and use of the said trademark. And such finding of fact is conclusive on this Court. As stated by *Justice Fernando in Lim Kiah vs. Kaynee Company* (25 SCRA 485) and reiterated by him in the subsequent case of *Sy Ching vs. Gaw Liu* (44 SCRA 150-151): "It is well-settled that we are precluded from making an inquiry as the finding of facts of the Director of Patents in the absence of any showing that there was grave abuse of discretion is binding on us. As set forth by *Justice Makalintal in Chung Te vs. Ng Kian Giab* (18 SCRA 747): 'The rule is that findings of facts by the Director of Patents are conclusive on the Supreme Court provided that they are supported by substantial evidence.' " In the present case, the findings of fact of the respondent Director of Patents are substantially supported by evidence and no grave abuse of discretion was committed by said respondent.

1. At the time of the analysis of the soap product of private respondent Dr. Jose R. Perez, there was already a label or trademark known as "Dr. Perez' WONDER Beauty Soap" as shown and supported by Exhibit "5" which is a Certificate of Label Approval dated *June 6, 1958* (p. 103, Vol. III, rec.) and Exhibit "6" another Certificate of Label Approval dated *August 10, 1959* (p. 104, Vol. III, rec.) both issued by the Bureau of Health to Dr. Jose R. Perez as manager of the Dr. Jose R. Perez Cosmetic Laboratory. Both certificates identified the product covered as "Dr. Perez' Wonder Beauty Soap" and further indicated that said product emanated from the Dr. Jose R. Perez Cosmetic Laboratory. Furthermore, the certificates show that the Bureau of Health referred to and relied on the said *label or trademark of the product as the basis for its certification that the same (product) "was found not adulterated nor misbranded."*

2. It is not denied that private respondent Dr. Jose R. Perez was the originator, producer and manufacturer of the soap product identified as "DR. JOSE R. PEREZ WONDER BEAUTY SOAP." This fact, furthermore, is clearly shown in Exhibits "5" and "6" which, as already adverted to, point out that said product emanated from the Dr. Jose R. Perez Cosmetic Laboratory. The very boxes-containers used in packing the said product also exhibit this fact (Exhs. "DD", "EE", "LL", "HH" also marked as Exh. "7", "JJ" and "KK", pp. 94-96, 98-101, Vol. III, rec.).

On the other hand, petitioner Crisanta Y. Gabriel appears to be a mere distributor of the product by contract with the manufacturer, respondent Dr. Jose R. Perez (Exhs. "7", "F-1" to "F-2", p. 13, Vol. III, rec.) and the same was only for a term. This fact is also clearly shown by the containers-boxes used in packing the product (Exhs. "E", "D" and "II" also marked as Exh. "8", pp. 10, 11 and 99, Vol. III, rec.) which indicate and describe Crisanta Y. Gabriel as the exclusive distributor of the product.

Thus, as stated in the decision under review: "Therefore, it cannot be denied that the Respondent is the originator and manufacturer of the so-called "Dr. Perez *Wonder Beauty Soap*," a phrase clearly coined by, and associated with, the Respondent. As such, the connotation in

itself is sufficient to clothe the product as an item or a commodity emanating from a particularly identified source who is none other than Dr. Jose R. Perez. The words serve as an indication of origin, and the product identified by the words can never be regarded as having emanated or originated from another individual, typical of which is the Petitioner, mere distributor." (P. 15, Vol. IV, rec.). Under Section 2 and 2-A of the Trademark Law, Republic Act No. 166, amended, the right to register trademark is based on ownership and a mere distributor of a product bearing a trademark, even if permitted to use said trademark, has right to and cannot register the said trademark (Marvex Commercial Co., Inc. vs. Petra Hawpia & Co., 18 SCR 1178; Operators, Inc. vs. Director of Patents, et al., 15 SCRA 148).

II

1. Petitioner urges that the agreement of exclusive distributorship executed by and between her and respondent vested in her the exclusive ownership of the trademark "WONDER". But a scrutiny of the provisions of said contract does not yield any right in favor of petitioner other than that expressly granted to her — to be the sole and exclusive distributor of respondent Dr. Perez' product.

The fact that paragraph 6 (Exh. "F-2") of the agreement provides that the petitioner "has the exclusive right of ownership of the packages and that said party is responsible for the costs as well as the design and manner of packing the same" did not necessarily grant her the right to the exclusive use of the trademark; because the agreement never mentioned transfer of ownership of the trademark. It merely empowers the petitioner as exclusive distributor to own the package and to create a design at her pleasure, but not the right to appropriate unto herself the sole ownership of the trademark so as to entitle her to registration in the Patent Office. In fact, the agreement does not even grant her the right to register the mark, as correctly stated in the appealed decision, which further held that:

The statute provides that "the owner of a trademark use in commerce may register his trademark" By statutory definition a trademark is "any word, name, symbol or device or any combination thereof *adopted and used* by a manufacture or merchant to identify *his goods* and distinguish them from those manufactured by others. (Emphasis added). There is nothing in the statute which remotely suggests that one who merely sells a manufacturer's goods bearing the manufacturer's mark acquires any rights in the mark; nor is there anything in the statute which suggests that such a person may register a mark which his supplier has adopted and used to identify his goods. *Ex parte E. Leitz, Inc.*, (Comr Pats) 105 USPQ 480. (Pp. 16-17, Vol. IV, rec.).

2. The exclusive distributor does not acquire any proprietary interest in the principal's trademark.

In the absence of any inequitable conduct on the part of the manufacturer, an exclusive distributor who employs the trademark of the manufacturer does not acquire proprietary rights of the manufacturer, and a registration of the trademark by the distributor as such belongs to the manufacturer, provided the fiduciary relationship does not terminate before application for registration is filed. (87 CJS 258-259, citing cases.)

III

It has been repeatedly said that the objects of a trademark are "to point out distinctly the origin or ownership of the goods to which it is affixed, to secure to him, who has been instrumental in bringing into market a superior article of merchandise, the fruit of his industry and skill, and to prevent fraud and imposition. 52 Am. Jur., p. 50, citing cases." (Etepha vs. Director of Patents, et al., 16 SCRA 495). Necessarily, therefore, a trademark can only be used in connection with the sale of the identical article that has been sold under the trademark or tradename to the extent

necessary to establish them as such (Note 1 L.R.A. [N.S.] 704; A.I.M. Percolating Corporation vs. Ferroline Chemical Corporation, et al., 124 S.E. 446).

In this instant case, the trademark "WONDER" has long been identified and associated with the product manufactured and produced by the Dr. Jose R. Perez Cosmetic Laboratory. It would thus appear that the decision under review is but in consonance with the sound purposes or objects of a trademark. Indeed, a contrary ruling would have resulted in the cancellation of the trademark in question and in granting the pending application of herein petitioner to register the same trademark in her favor to be used on her bleaching soap, which is of the same class as that of respondent (bleaching and beauty soap) [see pp. 222, 265-276, Vol. I, rec.; also Exh. "9", p. 105, Vol. III, rec.]. And the effect on the public as well as on respondent Dr. Jose R. Perez would have been disastrous. Such a situation would sanction a false implication that the product to be sold by her (petitioner) is still that manufactured by respondent.

IV

Petitioner would also anchor her claim of exclusive ownership of the trademark in question on the fact that she defrayed substantial expenses in the promotion of respondent's soap as covered by the trademark "WONDER" and the printing of the packages which she further claimed have been designed thru her efforts as she was the one who hired the services of an artist who created the designed of the said packages and trademark. Such claim was disposed correctly by respondent Director of Patents, thus:

Petitioner's act in defraying substantial expenses in the promotion of the Respondent's goods and the printing of the packages are the necessary or essential consequences of Paragraph 6 of the agreement because, anyway, those activities are normal in the field of sale and distribution, as it would redound to her own benefit as distributor, and those acts are incumbent upon her to do. While it may be argued that sale by the Petitioner may be regarded as trademark use by her, nevertheless it should also be regarded that such sale is a consequence of the "Exclusive Distributorship Agreement" and it inured to the benefit of the Respondent because it was his trademark that was being used. But this does not result in the Respondent's surrender in her favor of the right to register the trademark in her own name. What would happen if the first five years' period terminates and the Respondent decide not to continue with the agreement under Paragraph 1 thereof? What trademark would he use if he himself assumes the distribution thereof or if he contracts with another, entity or person for exclusive distributorship? (P. 17, Vol. IV, rec.).

It is true that she has been dealing with the product "Wonder Soap" even before the execution of the Exclusive Distributorship Agreement on *September 1, 1959*, evidence by her agreement with Grace Trading Co., Inc. dated *June 23, 1959* for the printing of boxes-containers for the "Wonder Soap" and the literature accompanying the same (Exhs. "Q" and "W", pp. 58, 68, Vol. III, rec.), as well as by another contract dated *July 22, 1959* with the Philippine Broadcasting Corporation for spot announcement of the product "Wonder Soap" showing her as the sponsor (Exh. "I-1" or "5-A", p. 18, Vol. III, rec.). But this was because Manserco, Inc., which handled first the distribution of the product "Wonder Soap" from January, 1959 to July, 1959, employed her (petitioner) to help precisely in the marketing and distribution of the said product, she being the sister of Mariano Yangga who was then the general manager of said Manserco, Inc., as testified to by Mr. Augusto Cesar Espiritu, who, as earlier adverted to, was the organizer and one of the incorporators of the Manserco, Inc.(pp. 480-481, Vol. III, rec.).

V

From the records, it further appears that pursuant to the Exclusive Distributorship Agreement between petitioner and respondent, the latter manufactured "WONDER" soap and delivered them to the former who in turn handled the distribution thereof. This continued for sometime until

January, 1961, when the arrangement was stopped because as claimed and alleged by herein respondent, he discovered that petitioner began manufacturing her own soap and placed them in the boxes which contained *his name and trademark*, and for which reason respondent Dr. Perez filed an unfair competition case against her (petitioner) [see pp. 29-31, Vol. I, rec.; pp. 379-380, Vol. II, rec.] with the Court of First Instance of Bulacan, which issued a writ of preliminary injunction against her. These claims of respondent were never denied, much less refuted by petitioner in her rebuttal testimony. Earlier in her direct testimony, petitioner stated that her occupation was merchant and manufacturer of bleaching soap (p. 222, Vol. II, rec.) and on cross-examination she stated that she manufactured Marvel and Dahlia Bleaching Beauty Soap as well as C.Y. GABRIEL WONDER BEAUTY SOAP, although she claimed to have manufactured the same only from February, 1961 to September, 1961 (pp. 265-270, Vol. II, rec.). Her use of the mark "Wonder" on the soap manufactured by her is patently shown by Exhibit "9" consisting of a cake of soap with the inscription C.Y. GABRIEL WONDER SPECIAL and an accompanying literature wherein appear, among others, the following words: C.Y. Gabriel — WONDER MEDICATED Beauty Soap, Manufactured by: C.Y. GABRIEL COSMETIC LABORATORY (see Exh. "9", p. 105, Vol. III, rec.; pp. 440-441, Vol. II, rec.).

VI

OUR examination of the entire records of the present case likewise revealed petitioner's disregard of the rudiments of fair dealing. Mr. Justice Fernando, in behalf of the Court, stated in *Lim Kiah vs. Kaynee Company*, thus:

... The decision of the Director of Patents is not only sound in law but also commendable for its consonance with the appropriate ethical standard which by no means should be excluded from the business world as alien, if not a hostile, force. While in the fierce competitive jungle which at time constitutes the arena of commercial transactions, shrewdness and ingenuity are at a premium, the law is by no means called upon to yield invariably its nod of approval to schemes frowned upon by the concept of fairness. Here, petitioner engaged in manufacturing and selling the same kind of products would rely on a trademark, which undeniably was previously registered abroad and which theretofore had been used and advertised extensively by one of the leading department stores in the Philippines. (25 SCRA 490.)

To our mind, the situation of herein petitioner is worse.

WHEREFORE, THE DECISION SOUGHT TO BE REVIEWED IS HEREBY AFFIRMED AND THE PETITION IS HEREBY DISMISSED. WITH COSTS AGAINST PETITIONER.

Makalintal, C.J., Castro, Teehankee, Esguerra and Muñoz Palma, JJ., concur.