Republic of the Philippines
SUPREME COURT
Manila

THIRD DIVISION

G.R. No. 97343 September 13, 1993

PASCUAL GODINES, petitioner,

vs.

THE HONORABLE COURT OF APPEALS, SPECIAL FOURTH DIVISION and SV-AGRO ENTERPRISES, INC., respondents.

Jesus S. Anonat for petitioner.
Arturo M. Alinio for private respondent.

ROMERO, *J.:*

Through this petition for review in *certiorari* of a decision of the Court of Appeals affirming the decision of the trial court, petitioner Pascual Godines seeks to reverse the adverse decision of the Court *a quo* that he was liable for infringement of patent and unfair competition. The dispositive portion of the assailed decision is hereby quoted to wit:

> WHEREFORE, with the elimination of the award for attorney's fees, the judgment appealed from is hereby AFFIRMED, with costs against appellant.[1]

The patent involved in this case is Letters Patent No. UM-2236 issued by the Philippine Patent Office to one Magdalena S. Villaruz on July 15, 1976. It covers a utility model for a hand tractor or power tiller, the main components of which are the following: "(1) a vacuumatic house float; (2) a harrow with adjustable operating handle; (3) a pair of paddy wheels; (4) a protective water covering for the engine main drive; (5) a transmission case; (6) an operating handle; (7) an engine foundation on the top midportion of the vacuumatic housing float to which the main engine drive is detachedly installed; (8) a frontal frame extension above the quarter — circularly shaped water covering hold (*sic*) in place the transmission case; (9) a V-belt connection to the engine main drive with transmission gear through the pulley, and (10) an idler pulley installed on the engine foundation."[2] The patented hand tractor works in the following manner: "the engine drives the transmission gear thru the V-belt, a driven pulley and a transmission shaft. The engine drives the transmission gear by tensioning of the V-belt which is controlled by the idler pulley. The V-belt drives the pulley attached to the transmission gear which in turn drives the shaft where the paddy wheels are attached. The operator handles the hand tractor through a handle which is inclined upwardly and supported by a pair of substanding pipes and reinforced by a U-shaped G.I. pipe at the V-shaped end."[3]

The above mentioned patent was acquired by SV-Agro Industries Enterprises, Inc., herein private respondent, from Magdalena Villaruz, its chairman and president, by virtue of a Deed of Assignment executed by the latter in its favor. On October 31, 1979, SV-Agro Industries caused the publication of the patent in Bulletin Today, a newspaper of general circulation.

In accordance with the patent, private respondent manufactured and sold the patented power tillers with the patent imprinted on them. In 1979, SV-Agro Industries suffered a decline of more than 50% in sales in its Molave, Zamboanga del Sur branch. Upon investigation, it discovered that power tillers similar to those patented by private respondent were being manufactured and sold by petitioner herein. Consequently, private respondent notified Pascual Godines about the existing patent and demanded that the latter stop selling and manufacturing similar power tillers.

Upon petitioner's failure to comply with the demand, SV-Agro Industries filed before the Regional Trial Court a complaint for infringement of patent and unfair competition.

After trial, the court held Pascual Godines liable for infringement of patent and unfair competition. The dispositive portion of the decision reads as follows:

> WHEREFORE, premises considered, JUDGMENT is hereby rendered in favor of the plaintiff SV-Agro Industries Enterprises, Inc., and against defendant Pascual Godines:
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> 1. Declaring the writ of preliminary injunction issued by this Court against defendant as permanent;
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> 2. Ordering defendant Pascual Godines to pay plaintiff the sum of Fifty Thousand Pesos (P50,000.00) as damages to its business reputation and goodwill, plus the further sum of Eighty Thousand Pesos (P80,000.00) for unrealized profits during the period defendant was manufacturing and selling copied or imitation floating power tiller;
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> 3. Ordering the defendant to pay the plaintiff, the further sum of Eight Thousand Pesos (P8,000.00) as reimbursement of attorney's fees and other expenses of litigation; and to pay the costs of the suit.
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> SO ORDERED.[4]

The decision was affirmed by the appellate court.

Thereafter, this petition was filed. Petitioner maintains the defenses which he raised before the trial and appellate courts, to wit: that he was not engaged in the manufacture and sale of the power tillers as he made them only upon the special order of his customers who gave their own specifications; hence, he could not be liable for infringement of patent and unfair competition; and that those made by him were different from those being manufactured and sold by private respondent.

We find no merit in his arguments. The question of whether petitioner was manufacturing and selling power tillers is a question of fact better addressed to the lower courts. In dismissing the first argument of petitioner herein, the Court of Appeals quoted the findings of the court, to wit:

> It is the contention of defendant that he did not manufacture or make imitations or copies of plaintiff's turtle power tiller as what he merely did was to fabricate his floating power tiller upon specifications and designs of those who ordered them. However, this contention appears untenable in the light of the following circumstances: 1) he admits in his Answer that he has been manufacturing power tillers or hand tractors, selling and distributing them long before plaintiff started selling its turtle power tiller in Zamboanga del Sur and Misamis Occidental, meaning that defendant is principally a manufacturer of power tillers, not upon specification and design of buyers, but upon his own specification and design; 2) it would be unbelievable that defendant would fabricate power tillers similar to the turtle power tillers of plaintiff upon specifications of buyers without requiring a job order where the specification and designs of those ordered are specified. No document was (*sic*) ever been presented showing such job orders, and it is rather unusual for defendant to manufacture something without the specification and designs, considering that he is an engineer by profession and proprietor of the Ozamis Engineering shop. On the other hand, it is also highly unusual for buyers to order the fabrication of a power tiller or hand tractor and allow defendant to manufacture them merely based on their verbal instructions. This is contrary to the usual business and manufacturing practice. This is not only time consuming,

> but costly because it involves a trial and error method, repeat jobs and material wastage. Defendant judicially admitted two (2) units of the turtle power tiller sold by him to Policarpio Berondo.[5]

Of general acceptance is the rule imbedded in our jurisprudence that ". . . the jurisdiction of the Supreme Court in cases brought to it from the Court of Appeals in a petition for *certiorari* under Rule 45 of the Rules of Court is limited to the review of errors of law, and that said appellate court's findings of fact are conclusive upon this Court."[6]

The fact that petitioner herein manufactured and sold power tillers without patentee's authority has been established by the courts despite petitioner's claims to the contrary.

The question now arises: Did petitioner's product infringe upon the patent of private respondent?

Tests have been established to determine infringement. These are (a) literal infringement; and (b) the doctrine of equivalents.[7] In using literal infringement as a test, ". . . resort must be had, in the first instance, to the words of the claim. If accused matter clearly falls within the claim, infringement is made out and that is the end of it."[8] To determine whether the particular item falls within the literal meaning of the patent claims, the court must juxtapose the claims of the patent and the accused product within the overall context of the claims and specifications, to determine whether there is exact identity of all material elements.[9]

The trial court made the following observation:

> Samples of the defendant's floating power tiller have been produced and inspected by the court and compared with that of the turtle power tiller of the plaintiff (see Exhibits H to H-28). In appearance and form, both the floating power tillers of the defendant and the turtle power tiller of the plaintiff are virtually the same. Defendant admitted to the Court that two (2) of the power inspected on March 12, 1984, were manufactured and sold by him (see TSN, March 12, 1984, p. 7). The three power tillers were placed alongside with each other. At the center was the turtle power tiller of plaintiff, and on both sides thereof were the floating power tillers of defendant (Exhibits H to H-2). Witness Rodrigo took photographs of the same power tillers (front, side, top and back views for purposes of comparison (see Exhibits H-4 to H-28). Viewed from any perspective or angle, the power tiller of the defendant is identical and similar to that of the turtle power tiller of plaintiff in form, configuration, design and appearance. The parts or components thereof are virtually the same. Both have the circularly-shaped vacuumatic housing float, a paddy in front, a protective water covering, a transmission box housing the transmission gears, a handle which is V-shaped and inclined upwardly, attached to the side of the vacuumatic housing float and supported by the upstanding G.I. pipes and an engine base at the top midportion of the vacuumatic housing float to which the engine drive may be attached. In operation, the floating power tiller of the defendant operates also in similar manner as the turtle power tiller of plaintiff. This was admitted by the defendant himself in court that they are operating on the same principles. (TSN, August 19, 1987, p. 13)[10]

Moreover, it is also observed that petitioner also called his power tiller as a floating power tiller. The patent issued by the Patent Office referred to a "farm implement but more particularly to a turtle hand tractor having a vacuumatic housing float on which the engine drive is held in place, the operating handle, the harrow housing with its operating handle and the paddy wheel protective covering."[11] It appears from the foregoing observation of the trial court that these claims of the patent and the features of the patented utility model were copied by petitioner. We are compelled to arrive at no other conclusion but that there was infringement.

Petitioner's argument that his power tillers were different from private respondent's is that of a drowning man clutching at straws.

Recognizing that the logical fallback position of one in the place of defendant is to aver that his product is different from the patented one, courts have adopted the doctrine of equivalents which recognizes that minor modifications in a patented invention are sufficient to put the item beyond the scope of literal infringement.[12] Thus, according to this doctrine, "(a)n infringement also occurs when a device appropriates a prior invention by incorporating its innovative concept and, albeit with some modification and change, performs substantially the same function in substantially the same way to achieve substantially the same result."[13] The reason for the doctrine of equivalents is that to permit the imitation of a patented invention which does not copy any literal detail would be to convert the protection of the patent grant into a hollow and useless thing. Such imitation would leave room for — indeed encourage — the unscrupulous copyist to make unimportant and insubstantial changes and substitutions in the patent which, though adding nothing, would be enough to take the copied matter outside the claim, and hence outside the reach of the law.[14]

In this case, the trial court observed:

> Defendant's witness Eduardo Cañete, employed for 11 years as welder of the Ozamis Engineering, and therefore actually involved in the making of the floating power tillers of defendant tried to explain the difference between the floating power tillers made by the defendant. But a careful examination between the two power tillers will show that they will operate on the same fundamental principles. And, according to establish jurisprudence, in infringement of patent, similarities or differences are to be determined, not by the names of things, but in the light of what elements do, and substantial, rather than technical, identity in the test. More specifically, it is necessary and sufficient to constitute equivalency that the same function can be performed in substantially the same way or manner, or by the same or substantially the same, principle or mode of operation; but where these tests are satisfied, mere differences of form or name are immaterial. . . . [15]

It also stated:

> To establish an infringement, it is not essential to show that the defendant adopted the device or process in every particular; Proof of an adoption of the substance of the thing will be sufficient. "In one sense," said Justice Brown, "it may be said that no device can be adjudged an infringement that does not substantially correspond with the patent. But another construction, which would limit these words to exact mechanism described in the patent, would be so obviously unjust that no court could be expected to adopt it. . . .
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> The law will protect a patentee against imitation of his patent by other forms and proportions. If two devices do the same work in substantially the same way, and accomplish substantially the same result, they are the same, even though they differ in name, form, or shape.[16]

We pronounce petitioner liable for infringement in accordance with Section 37 of Republic Act No. 165, as amended, providing, *inter alia*:

> Sec. 37. *Right of Patentees*. — A patentee shall have the exclusive right to make, use and sell the patented machine, article or product, and to use the patented process for the purpose of industry or commerce, throughout the territory of the Philippines for the terms of the patent; *and such making, using, or selling by any person without the authorization of the Patentee constitutes infringement of the patent*. (Emphasis ours)

As far as the issue regarding unfair competition is concerned, suffice it to say that Republic Act No. 166, as amended, provides, *inter alia*:

> Sec. 29. *Unfair competition, rights and remedies*. — . . .
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> xxx xxx xxx
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> In particular, and without in any way limiting the scope of unfair competition, the following shall be deemed guilty of unfair competition:
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> (a) Any person, who in selling his goods shall give them the general appearance of goods of another manufacturer or dealer, either as to the goods themselves or in the wrapping of the packages in which they are contained, or the devices or words thereon, or in any other feature of their appearance, which would be likely to influence purchasers that the goods offered are those of a manufacturer or dealer other than the actual manufacturer or dealer, or who otherwise clothes the goods with such appearance as shall deceive the public and defraud another of his legitimate trade. . . .
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> xxx xxx xxx

Considering the foregoing, we find no reversible error in the decision of the Court of Appeals affirming with modification the decision of the trial court.

WHEREFORE, premises considered, the decision of the Court of Appeals is hereby AFFIRMED and this petition DENIED for lack of merit.

Bidin, Melo and Vitug, JJ., concur.
Feliciano, J., is on leave.

FOOTNOTES:

1 *Rollo*, p. 33.
2 *Rollo*, p. 19.
3 *Ibid*.
4 *Rollo*, p. 25.
5 *Rollo*, pp. 31-32.
6 Ronquillo v. Court of Appeals, G.R. No. 43346, March 20, 1991, 195 SCRA 433.
7 Studiengesellschaft Kohle mbH v. Eastman Kodak Company, 616 F. 2d 1315, at 1324 (1980).
8 *Ibid*.
9 Johnson and Johnson v. W.L. Gore and Assoc. Inc., 436 F. Supp. 704 at 728 (1977).
10 *Rollo*, p. 21.
11 *Rollo*, p. 12.
12 Studiengesellschaft Kohle mbH v. Eastman Kodak Company, *supra*.
13 Continental Oil Company v. Cole, 634 F. 2d 188 at 191 (1981).
14 AGBAYANI, COMENTARIES AND JURISPRUDENCE ON THE COMMERCIAL LAWS OF THE PHILIPPINES, 489 (Vol. 2, 1986).
15 *Rollo*, pp. 21-22.
16 *Rollo*, p. 20-21.