

Republic of the Philippines
SUPREME COURT
Manila

FIRST DIVISION

[G.R. Nos. 160054-55. July 21, 2004]

MANOLO P. SAMSON, *petitioner*,

vs.

HON. REYNALDO B. DAWAY, in his capacity as Presiding Judge, Regional Trial Court of Quezon City, Branch 90, PEOPLE OF THE PHILIPPINES and CATERPILLAR, INC., *respondents*.

YNARES-SANTIAGO, J.:

Assailed in this petition for *certiorari* is the March 26, 2003 Order^[1] of the Regional Trial Court of Quezon City, Branch 90, which denied petitioner's – (1) motion to quash the information; and (2) motion for reconsideration of the August 9, 2002 Order denying his motion to suspend the arraignment and other proceedings in Criminal Case Nos. Q-02-108043-44. Petitioner also questioned its August 5, 2003 Order^[2] which denied his motion for reconsideration.

The undisputed facts show that on March 7, 2002, two informations for unfair competition under Section 168.3 (a), in relation to Section 170, of the Intellectual Property Code (Republic Act No. 8293), similarly worded save for the dates and places of commission, were filed against petitioner Manolo P. Samson, the registered owner of ITTI Shoes. The accusatory portion of said informations read:

That on or about the first week of November 1999 and sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, owner/proprietor of ITTI Shoes/Mano Shoes Manufacturing Corporation located at Robinson's Galleria, EDSA corner Ortigas Avenue, Quezon City, did then and there willfully, unlawfully and feloniously distribute, sell and/or offer for sale CATERPILLAR products such as footwear, garments, clothing, bags, accessories and paraphernalia which are closely identical to and/or colorable imitations of the authentic Caterpillar products and likewise using trademarks, symbols and/or designs as would cause confusion, mistake or deception on the part of the buying public to the damage and prejudice of CATERPILLAR, INC., the prior adopter, user and owner of the following internationally: "CATERPILLAR", "CAT", "CATERPILLAR & DESIGN", "CAT AND DESIGN", "WALKING MACHINES" and "TRACK-TYPE TRACTOR & DESIGN."

CONTRARY TO LAW.^[3]

On April 19, 2002, petitioner filed a motion to suspend arraignment and other proceedings in view of the existence of an alleged prejudicial question involved in Civil Case No. Q-00-41446 for unfair competition pending with the same branch; and also in view of the pendency of a petition for review filed with the Secretary of Justice assailing the Chief State Prosecutor's resolution finding probable cause to charge petitioner with unfair competition. In an Order dated August 9, 2002, the trial court denied the motion to suspend arraignment and other proceedings.

On August 20, 2002, petitioner filed a twin motion to quash the informations and motion for reconsideration of the order denying motion to suspend, this time challenging the jurisdiction of the trial court over the offense charged. He contended that since under Section 170 of R.A. No. 8293, the penalty⁵ of imprisonment for unfair competition does not exceed six years, the offense

is cognizable by the Municipal Trial Courts and not by the Regional Trial Court, per R.A. No. 7691.

In its assailed March 26, 2003 Order, the trial court denied petitioner's twin motions.⁶ A motion for reconsideration thereof was likewise denied on August 5, 2003.

Hence, the instant petition alleging that respondent Judge gravely abused its discretion in issuing the assailed orders.

The issues posed for resolution are – (1) Which court has jurisdiction over criminal and civil cases for violation of intellectual property rights? (2) Did the respondent Judge gravely abuse his discretion in refusing to suspend the arraignment and other proceedings in Criminal Case Nos. Q-02-108043-44 on the ground of – (a) the existence of a prejudicial question; and (b) the pendency of a petition for review with the Secretary of Justice on the finding of probable cause for unfair competition?

Under Section 170 of R.A. No. 8293, which took effect on January 1, 1998, the criminal penalty for infringement of registered marks, unfair competition, false designation of origin and false description or representation, is imprisonment from 2 to 5 years and a fine ranging from Fifty Thousand Pesos to Two Hundred Thousand Pesos, to wit:

SEC. 170. *Penalties.* – Independent of the civil and administrative sanctions imposed by law, a criminal penalty of imprisonment from two (2) years to five (5) years and a fine ranging from Fifty thousand pesos (P50, 000.00) to Two hundred thousand pesos (P200, 000.00), shall be imposed on any person who is found guilty of committing any of the acts mentioned in Section 155 [Infringement], Section 168 [Unfair Competition] and Section 169.1 [False Designation of Origin and False Description or Representation].

Corollarily, Section 163 of the same Code states that actions (including criminal and civil) under Sections 150, 155, 164, 166, 167, 168 and 169 shall be brought before the proper courts with appropriate jurisdiction under existing laws, thus –

SEC. 163. *Jurisdiction of Court.* – All actions under Sections 150, 155, 164 and 166 to 169 shall be brought before the proper courts with appropriate jurisdiction under existing laws. (Emphasis supplied)

The existing law referred to in the foregoing provision is Section 27 of R.A. No. 166 (The Trademark Law) which provides that jurisdiction over cases for infringement of registered marks, unfair competition, false designation of origin and false description or representation, is lodged with the Court of First Instance (now Regional Trial Court) –

SEC. 27. *Jurisdiction of Court of First Instance.* – All actions under this Chapter [V – Infringement] and Chapters VI [Unfair Competition] and VII [False Designation of Origin and False Description or Representation], hereof shall be brought before the Court of First Instance.

We find no merit in the claim of petitioner that R.A. No. 166 was expressly repealed by R.A. No. 8293. The repealing clause of R.A. No. 8293, reads –

SEC. 239. *Repeals.* – 239.1. All Acts and parts of Acts inconsistent herewith, more particularly Republic Act No. 165, as amended; Republic Act No. 166, as amended; and Articles 188 and 189 of the Revised Penal Code; Presidential Decree No. 49, including Presidential Decree No. 285, as amended, are hereby repealed. (Emphasis added)

Notably, the aforequoted clause did not expressly repeal R.A. No. 166 in its entirety, otherwise, it would not have used the phrases “parts of Acts” and “inconsistent herewith;” and it would have simply stated “Republic Act No. 165, as amended; Republic Act No. 166, as

amended; and Articles 188 and 189 of the Revised Penal Code; Presidential Decree No. 49, including Presidential Decree No. 285, as amended are hereby repealed.” It would have removed all doubts that said specific laws had been rendered without force and effect. The use of the phrases “parts of Acts” and “inconsistent herewith” only means that the repeal pertains only to provisions which are repugnant or not susceptible of harmonization with R.A. No. 8293.⁷ Section 27 of R.A. No. 166, however, is consistent and in harmony with Section 163 of R.A. No. 8293. Had R.A. No. 8293 intended to vest jurisdiction over violations of intellectual property rights with the Metropolitan Trial Courts, it would have expressly stated so under Section 163 thereof.

Moreover, the settled rule in statutory construction is that in case of conflict between a general law and a special law, the latter must prevail. Jurisdiction conferred by a special law to Regional Trial Courts must prevail over that granted by a general law to Municipal Trial Courts.⁸

In the case at bar, R.A. No. 8293 and R.A. No. 166 are special laws⁹ conferring jurisdiction over violations of intellectual property rights to the Regional Trial Court. They should therefore prevail over R.A. No. 7691, which is a general law.¹⁰ Hence, jurisdiction over the instant criminal case for unfair competition is properly lodged with the Regional Trial Court even if the penalty therefor is imprisonment of less than 6 years, or from 2 to 5 years and a fine ranging from P50, 000.00 to P200, 000.00.

In fact, to implement and ensure the speedy disposition of cases involving violations of intellectual property rights under R.A. No. 8293, the Court issued A.M. No. 02-1-11-SC dated February 19, 2002 designating certain Regional Trial Courts as Intellectual Property Courts. On June 17, 2003, the Court further issued a Resolution consolidating jurisdiction to hear and decide Intellectual Property Code and Securities and Exchange Commission cases in specific Regional Trial Courts designated as Special Commercial Courts.

The case of *Mirpuri v. Court of Appeals*,¹¹ invoked by petitioner finds no application in the present case. Nowhere in *Mirpuri* did we state that Section 27 of R.A. No. 166 was repealed by R.A. No. 8293. Neither did we make a categorical ruling therein that jurisdiction over cases for violation of intellectual property rights is lodged with the Municipal Trial Courts. The passing remark in *Mirpuri* on the repeal of R.A. No. 166 by R.A. No. 8293 was merely a backgrounder to the enactment of the present Intellectual Property Code and cannot thus be construed as a jurisdictional pronouncement in cases for violation of intellectual property rights.

Anent the second issue, petitioner failed to substantiate his claim that there was a prejudicial question. In his petition, he prayed for the reversal of the March 26, 2003 order which sustained the denial of his motion to suspend arraignment and other proceedings in Criminal Case Nos. Q-02-108043-44. For unknown reasons, however, he made no discussion in support of said prayer in his petition and reply to comment. Neither did he attach a copy of the complaint in Civil Case No. Q-00-41446 nor quote the pertinent portion thereof to prove the existence of a prejudicial question.

At any rate, there is no prejudicial question if the civil and the criminal action can, according to law, proceed independently of each other.¹² Under Rule 111, Section 3 of the Revised Rules on Criminal Procedure, in the cases provided in Articles 32, 33, 34 and 2176 of the Civil Code, the independent civil action may be brought by the offended party. It shall proceed independently of the criminal action and shall require only a preponderance of evidence.

In the case at bar, the common element in the acts constituting unfair competition under Section 168 of R.A. No. 8293 is fraud.¹³ Pursuant to Article 33 of the Civil Code, in cases of defamation, fraud, and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party. Hence, Civil Case No. Q-00-41446, which as admitted¹⁴ by private respondent also relate to unfair competition, is an independent civil action under Article 33 of the Civil Code. As such, it will not operate as a prejudicial question that will justify the suspension of the criminal cases at bar.

Section 11 (c), Rule 116 of the Revised Rules on Criminal Procedure provides –

SEC. 11. *Suspension of arraignment.* – Upon motion by the proper party, the arraignment shall be suspended in the following cases –

x x x

x x x

x x x

(c) A petition for review of the resolution of the prosecutor is pending at either the Department of Justice, or the Office of the President; Provided, that the period of suspension shall not exceed sixty (60) days counted from the filing of the petition with the reviewing office.

While the pendency of a petition for review is a ground for suspension of the arraignment, the aforecited provision limits the deferment of the arraignment to a period of 60 days reckoned from the filing of the petition with the reviewing office. It follows, therefore, that after the expiration of said period, the trial court is bound to arraign the accused or to deny the motion to defer arraignment.

In the instant case, petitioner failed to establish that respondent Judge abused his discretion in denying his motion to suspend. His pleadings and annexes submitted before the Court do not show the date of filing of the petition for review with the Secretary of Justice.¹⁵ Moreover, the Order dated August 9, 2002 denying his motion to suspend was not appended to the petition. He thus failed to discharge the burden of proving that he was entitled to a suspension of his arraignment and that the questioned orders are contrary to Section 11 (c), Rule 116 of the Revised Rules on Criminal Procedure. Indeed, the age-old but familiar rule is that he who alleges must prove his allegations.

In sum, the dismissal of the petition is proper considering that petitioner has not established that the trial court committed grave abuse of discretion. So also, his failure to attach documents relevant to his allegations warrants the dismissal of the petition, pursuant to Section 3, Rule 46 of the Rules of Civil Procedure, which states:

SEC. 3. *Contents and filing of petition; effect of non-compliance with requirements.* — The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto.

x x x

x x x

x x x

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition. (Emphasis added)

WHEREFORE, in view of all the foregoing, the petition is DISMISSED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Carpio, and Azcuna, JJ., concur.

FOOTNOTES:

^[1] Rollo, p. 25. Issued by Judge Reynaldo B. Daway.

^[2] Rollo, p. 26.

^[3] *Id.*, pp. 27-28.

^[5] Imprisonment from two (2) years to five (5) years and a fine ranging from Fifty Thousand Pesos (P50,000.00) to Two Hundred Thousand Pesos (P200,000.00).

^[6] The dispositive portion thereof states: "IN VIEW OF THE FOREGOING, the accused's aforesaid Motion To Quash Information and Motion For Reconsideration Of Order Denying Motion To Suspend is denied for lack of merit." (Rollo, p. 25)

^[7] Agpalo, *The Law on Trademark, Infringement and Unfair Competition*, 2000 Edition, pp. 1-2.

^[8] Manzano v. Valera, G.R. No. 122068, 8 July 1998, 292 SCRA 66, 74.

^[9] Faberge Incorporated v. Intermediate Appellate Court, G.R. No. 71189, 4 November 1992, 215 SCRA 316, 323.

^[10] Manzano v. Valera, supra, p. 73.

^[11] 376 Phil. 628 (1999).

^[12] People v. Consing, Jr., G.R. No. 148193, 16 January 2003, 395 SCRA 366, 371.

^[13] Agpalo, *supra*, p. 234.

^[14] Rollo, p. 47.

^[15] The petition and reply to comment do not disclose whether the issue of probable cause has already been resolved with finality.