

Republic of the Philippines
SUPREME COURT
Manila

SECOND DIVISION

G.R. No. 76193 November 9, 1989

UNITED FEATURE SYNDICATE, INC., petitioner,

vs.

MUNSINGWEAR CREATION MANUFACTURING COMPANY, respondent.

*Quasha, Asperilla, Ancheta, Pena and Nolasco for petitioner.
Jaime G. Manzano for private respondent.*

PARAS, J.:

This is a petition for review on certiorari filed by United Feature Syndicate Inc., seeking to set aside the Resolution of the Seventh Division of the Court of Appeals* dated September 16, 1986 dismissing the appeal of petitioner-appellant for having been filed out of time and denying its Motion for Reconsideration for lack of merit in its Resolution dated October 14, 1986.

The Resolution dismissing the appeal, reads as follows:

We agree with the Philippine Patent Office and respondent appellee that the decision of the aforementioned office dated October 2, 1984 had already become final and executory at the time the Notice of Appeal was filed.

Our reasons for these conclusions are borne out by the following facts:

a) On October 2, 1984, the decision sought to be appealed was rendered by the Philippine Patent Office and a copy thereof was received by counsel for petitioner-appellant on *October 3, 1984* — not October 9, 1984 as stated in the Notice of Appeal. There can be no doubt about the decision having been received by petitioner-appellant's counsel on *October 3, 1984* for this is clearly written in the Notice of Decision (p. 61, Original Record), and in point of fact the date of receipt cannot be October 9, 1984, as declared in the Notice of Appeal (p. 1, Rollo), because in the motion for reconsideration subsequently filed by petitioner-appellant it was stated that a copy of the decision was received on *October 4, 1984* (p. 80, Original Record).

b) On October 18, 1984 — as shown in the stamp mark of the Philippine Patent Office (p. 80, Original Record) or on the 15th and last day either for appealing or for moving for reconsideration, petitioner-appellant filed a motion for reconsideration.

Sadly and unexplainably for a veteran law office, said motion did not contain or incorporate a notice of hearing.

c) Possibly realizing the fatal defect in its motion for reconsideration, petitioner-appellant subsequently filed a motion to set for hearing its motion for reconsideration. This was done, however, only on October 31, 1984 (p. 162, Original Record).

The motion for reconsideration filed on the last day, fatally failing as it did to contain a notice of hearing, said pleading did not interrupt the period for appealing, for the motion was nothing but a piece of scrap paper (*Agricultural and Industrial Marketing, Inc. v. Court of Appeals*, 118 SCRA [1982] 492; *Republic Planters Bank v. Intermediate Appellate Court*, 13 SCRA [1984] 631).

This deadly and moral deficiency in the motion for reconsideration, therefore, resulted in the decision of the Philippine Patent Office being final and executory on *October 19, 1984*, the day after the motion for reconsideration was filed, said motion having been filed on the 15th and last day for appealing.

WHEREFORE, the motion of respondent appellee is hereby granted and the appeal dismissed.

SO ORDERED. (Rollo 42-43)

This case arose from petition filed by petitioner for the cancellation of the registration of trademark CHARLIE BROWN (Registration No. SR. 4224) in the name of respondent MUNSINGWEAR in Inter Partes Case No. 1350 entitled "*United Feature Syndicate, Inc. v. Munsingwear Creation Mfg. Co.*", with the Philippine Patent Office alleging that petitioner is damaged by the registration of the trademark CHARLIE BROWN of T-Shirts under Class 25 with the Registration No. SR-4224 dated September 12, 1979 in the name of Munsingwear Creation Manufacturing Co., Inc., on the following grounds: (1) that respondent was not entitled to the registration of the mark CHARLIE BROWN, & DEVICE at the time of application for registration; (2) that CHARLIE BROWN is a character creation or a pictorial illustration, the copyright to which is exclusively owned worldwide by the petitioner; (3) that as the owner of the pictorial illustration CHARLIE BROWN, petitioner has since 1950 and continuously up to the present, used and reproduced the same to the exclusion of others; (4) that the respondent-registrant has no bona fide use of the trademark in commerce in the Philippines prior to its application for registration. (Petition, p. 2, Rollo, p. 8)

On October 2, 1984, the Director of the Philippine Patent Office rendered a decision in this case holding that a copyright registration like that of the name and likeness of CHARLIE BROWN may not provide a cause of action for the cancellation of a trademark registration. (Petition, p. 4; Rollo, p. 10)

Petitioner filed a motion for reconsideration of the decision rendered by the Philippine Patent Office which was denied by the Director of said office on the ground that the Decision No. 84-83 was already final and executory (Petition, Rollo, pp. 11-12).

From this decision, petitioner-appellant appealed to the Court of Appeals and respondent court in its resolution dated September 16, 1986 denied the appeal. While the Motion for Reconsideration was filed on time, that is, on the last day within which to appeal, still it is a mere scrap of paper because there was no, date, of hearing stated therein.

Subsequently, petitioner-appellant filed a motion for reconsideration which public respondent denied for lack of merit (Annex "B", Rollo p. 45).

Hence, this petition for review on certiorari.

In the resolution of April 6, 1987, the petition was given due course.

In its petition (Rollo, p. 10) and in its memorandum (Rollo, p. 97), petitioner-appellant raised the following legal issues:

I

WHETHER THE RESPONDENT COURT OF APPEALS ACTED IN EXCESS OF JURISDICTION AND/OR COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT BASED ITS RESOLUTION IN DISMISSING ITS APPEAL ON STRICT TECHNICAL RULES OF PROCEDURE AS ENUNCIATED IN RULE 15 OF THE RULES OF COURT INSTEAD OF RELYING ON THE POLICY OF THE PHILIPPINE PATENT OFFICE AS STRESSED IN RULE 169, AS AMENDED, OF THE RULES OF PRACTICE IN TRADEMARK CASES.

II

WHETHER THE RESPONDENT COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO EXCESS OF JURISDICTION WHEN BY DISMISSING THE APPEAL TO IT FROM THE DECISION OF THE DIRECTOR OF PATENTS, IT KNOWINGLY DISREGARDED ITS OWN DECISION IN AC-GR. SP. NO. 0342, WHICH WAS AFFIRMED BY THIS HONORABLE SUPREME COURT TO THE EFFECT THAT A COPYRIGHTED CHARACTER MAY NOT BE APPROPRIATED AS A TRADEMARK BY ANOTHER UNDER PRESIDENTIAL DECREE NO. 49.

III

WHETHER, ASSUMING ARGUENDO, BUT ONLY ASSUMING, THAT THE DECISION OF THE DIRECTOR OF PATENTS IN THE CASE AT BAR HAD ALREADY BECOME FINAL WHEN IT WAS APPEALED TO THE COURT OF APPEALS, THE LATTER, BY REASON OF THE SUPERVENING FACTS AFTER THE DECISION APPEALED FROM WAS RENDERED, SHOULD HAVE HARMONIZED THE DECISION WITH LAW, THE DEMANDS OF JUSTICE AND EQUITY.

The petitioner is impressed with merit.

Petitioner's contention that the purpose of a notice of hearing to the adverse party is to afford him an opportunity to resist the motion, more particularly the motion for reconsideration filed by its company is well taken. Said purpose was served when Munsingwear filed its opposition thereto on November 20, 1984 and cured the technical defect of lack of notice of hearing complained of (Rollo, p. 52). Otherwise stated such shortcomings of petitioner as to compliance with procedural requirements in taking its appeal cannot be deemed sufficient to deprive it of a chance to secure a review by this court in order to obtain substantial justice; more so where liberality accorded to the petitioner becomes compelling because of the ostensible merit of petitioner's case (Olango v. Court of First Instance of Misamis Oriental, 121 SCRA 338 [1983]).

Moreover, in *Siguenza v. Court of Appeals*, (137 SCRA 570 [1985]) the Court stressed that the right to appeal should not be lightly disregarded by a stringent application of rules of procedure especially where the appeal is on its face meritorious and the interest of substantial justice would be served by permitting the appeal.

As enunciated in the case of *Castro v. Court of Appeals* (123 SCRA 782, [1983]) the importance and real purpose of the remedy of appeal was stressed as follows:

An appeal is an essential part of our judicial system. We have advised the courts to proceed with caution so as not to deprive a party of the right to appeal. (National Waterworks and Sewerage Authority v. Municipality of Libmanan, 97 SCRA 138) and instructed that every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause,

freed from the constraints of technicalities. (A-One Feeds, Inc. v. Court of Appeals, 100 SCRA 590).

The rules of procedure are not to be applied in a very rigid and technical sense. The rules of procedure are used only to help secure not override substantial justice. (Gregorio v. Court of Appeals, 72 SCRA 120), therefore, we ruled in Republic v. Court of Appeals (83 SCRA 453) that a six day delay in the perfection of the appeal does not warrant its dismissal. And again in Ramos v. Bagaso, 96 SCRA 395, this Court held that the delay of four (4) days in filing a notice of appeal and a motion for extension of time to file a record on appeal can be excused on the basis of equity.

It was further emphasized that we allowed the filing of an appeal in some cases where a stringent application of the rules would have denied it, or when to do so would serve the demands of *substantial justice and in the exercise of our equity jurisdiction* (Serrano v. Court of Appeals, 139 SCRA 179 [1085].)

In the case at bar, the petitioner's delay in filing their record on appeal *should not be strictly construed as to deprive them of the right to appeal especially since on its face the appeal appears to be impressed with merit.* (Emphasis supplied). All aforementioned cases are cited in G.R. No. 76595, *Pacific Asia Overseas Shipping Corporation v. NLRC, et al.*, May 6, 1988.

Procedural technicality should not prevail over substantive rights of a party to appeal (NEA v. CA, 126 SCRA 394).

Moreover, a judgment of the Court of Appeals that become final by reason of the mistake of the herein petitioner's lawyer may still be reviewed on appeal by the Supreme Court particularly where the Supreme Court already gave due course to the petition for review (Ernesto v. Court of Appeals, 116 SCRA 755 [1982]).

Where strong considerations of substantial justice are manifest in the petition, this Court may relax the stringent application of technical rules in the exercise of equity jurisdiction. In addition to the basic merits of the main case, such petition usually embodies justifying circumstances which warrant our heeding the petitioner's cry for justice, in spite of the earlier negligence of counsel (Serrano v. Court of Appeals et al., 139 SCRA 179 [1985]).

In a number of cases, this Court in the exercise of equity jurisdiction decided to disregard technicalities in order to resolve the case on its merits based on the evidence (St. Peter Memorial Park, Inc. et al. v. Cleofas, 121 SCRA 287, [1983]; Helmuth, Jr. v. People of the Philippines, 112 SCRA 573 [1983]).

This case was brought before this Court for the resolution of the dismissal of the appeal filed by petitioner-appellant from the decision of the Director of the Philippines Patent Office for being filed out of time. The normal action to take thereafter, would be to remand this case to the Court of Appeals for further proceedings. However, in line with jurisprudence, such time consuming procedure may be properly dispensed with to resolve the issue (Quisumbing v. Court of Appeals, 122 SCRA 709 [1983]) where there is enough basis to end the basic controversy between the parties here and now. In the case at bar dispensing with such procedural steps would not anyway affect substantially the merits of their respective claims as held in Velasco v. Court of Appeals, (95 SCRA 621 [1980] cited in Ortigas & Co. Ltd. v. Ruiz, 148 SCRA [1987] hence the need for this Court to broaden its inquiry in this case and decide the same on the merits rather than merely resolve the procedural question raised (Dorado v. Court of Appeals, 153 SCRA 420 [1987]; De Lima v. Laguna Tayabas Co., 160 SCRA 70 [1988]).

Petitioner contends that it will be damaged by the registration of the trademark CHARLIE BROWN & DEVICE in favor of private respondent and that it has a better right to CHARLIE BROWN & DEVICE since the likeness of CHARLIE BROWN appeared in periodicals having

worldwide distribution and covered by copyright registration in its name which antedates the certificate of registration of respondent issued only on September 12, 1979. (Petition, Rollo, p. 21).

Petitioner further stresses that Decision No. 84-83 (TM) promulgated by the Philippine Patent Office on October 2, 1984 which held that "the name likeness of CHARLIE BROWN may not provide a cause of action for the cancellation of a trademark registration," was based in the conclusion made in the case of "Children's Television Workshop v. touch of Class" earlier decided by the Director of Patent Office on May 10, 1984. However, when the latter case was appealed to the then Intermediate Appellate Court, docketed as A.C. G.R. SP No. 03432, the appellate court reversed the decision of the Director holding said appealed decision as illegal and contrary to law. This reversal was affirmed by this Court on August 7, 1985 in G.R. No. 71210 by denying the petition of respondent Touch of Class.

The Court of Appeals in reversing the Director of Patent's decision in Touch of Class, Inc. succinctly said:

The Patents Office ruled that a trademark, unlike a label, cannot be copyrighted. The "Cookie Monster" is not, however, a trademark. It is a character in a TV series entitled "Sesame Street." It was respondent which appropriated the "Cookie Monster" as a trademark, after it has been copyrighted. We hold that the exclusive right secured by PD 49 to the petitioner precludes the appropriation of the "Cookie Monster" by the respondent.

Pertinently, Section 2 of Presidential Decree No. 49, otherwise known as the "Decree on Intellectual Property", provides:

Section 2. The rights granted by this Decree shall, from the moment of creation, subsist with respect to any of the following classes of works:

xxx xxx xxx

(O) Prints, pictorial illustrations, advertising copies, labels, tags and box wraps. ...

Therefore, since the name "CHARLIE BROWN" and its pictorial representation were covered by a copyright registration way back in 1950 the same are entitled to protection under PD No. 49.

Aside from its copyright registration, petitioner is also the owner of several trademark registrations and application for the name and likeness of "CHARLIE BROWN" which is the duly registered trademark and copyright of petitioner United Feature Syndicate Inc. as early as 1957 and additionally also as TV SPECIALS featuring the "PEANUTS" characters "CHARLIE BROWN" (Memorandum, Rollo p. 97 [211]).

An examination of the records shows that the only appreciable defense of respondent-registrant is embodied in its answer, which reads:

It uses, the trademark "CHARLIE BROWN" & "DEVICE" on children's wear such as T-shirts, undershirts, sweaters, brief and sandos, in class 25; whereas "CHARLIE BROWN" is used only by petitioner as character, in a pictorial illustration used in a comic strip appearing in newspapers and magazines. It has no trademark significance and therefore respondent-registrant's use of "CHARLIE BROWN" & "DEVICE" is not in conflict with the petitioner's use of "CHARLIE BROWN" (Rollo, p. 97 [21]).

It is undeniable from the records that petitioner is the actual owner of said trademark due to its prior registration with the Patent's Office.

Finally, in *La Chemise Lacoste S.A. v. Hon. Oscar Fernandez & Gobindram Hemandas Sujanani v. Hon. Roberto V. Ongpin, et al.* 129 SCRA 373 [1984]), the Court declared.

In upholding the right of the petitioner to maintain the present suit before our courts for unfair competition or infringement of trademarks of a foreign corporation, we are moreover recognizing our duties and the rights of foregoing states under the Paris Convention for the Protection of Industrial Property to which the Philippines and (France) U.S. are parties. We are simply interpreting a solemn international commitment of the Philippines embodied in a multilateral treaty to which we are a party and which we entered into because it is in our national interest to do so.

PREMISES CONSIDERED, the Resolutions of the Court of Appeals dated September 16, 1985 and October 14, 1986 dismissing petitioner's appeal are hereby SET ASIDE and Certificate of Registration no. SR-424 issued to private respondent dated September 12, 1979 is hereby CANCELLED.

SO ORDERED.

Padilla, Sarmiento and Regalado, JJ., concur.
Melencio-Herrera (Chairperson), J., is on leave.

Footnotes

* Penned by Justice Jose A.R. Melo and concurred in by Justices Nathanael P. de Pano, Jr. and Segundino G. Chua.