



OFFICE OF THE DIRECTOR GENERAL

MA. SHARMAINE R. MEDINA/  
RACKEY CRYSTAL TOP CORP.,  
Appellants,

APPEAL NO. 14-2013-0050  
IPC No. 14-2006-00121

-versus-

GLOBAL QUEST VENTURES, INC.,  
Appellee.

Application No. 4-2005-004181  
Date Filed: 9 May 2005  
Trademark: MR. GULAMAN

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ORDER

On 5 November 2013, the Appellant filed an "APPEAL (With Prayer for TRO / Preliminary Injunction)" appealing the Orders<sup>1</sup> issued by the Director of the Bureau of Trademarks ("Director"). In its "PREPARATORY STATEMENT", the Appellant states in part that:

"This is an Appeal seeking to set aside the: (1) 30 April 2013 Order of the Director of the Bureau of Trademarks of the Intellectual Property Office (IPO), which ordered the execution pending appeal of the 28 May 2012 Decision of the Director General, affirming the 08 August 2008 Decision of the Bureau of Legal Affairs (BLA), which cancelled Petitioner's Certificate of TM Registration No. 4-2005-004181; and the (2) 23 October 2013 Order of the Director of the Bureau of Trademarks in so far as it DENIED the Petitioner's Motion for Reconsideration of its Order dated 30 April 2013."

Records show that on 30 April 2013, the Director ordered the annotation on the Appellant's certificate of registration and the electronic database the cancellation of the registration of the mark "Mr. Gulaman". The Appellant filed on 22 May 2013 a motion for reconsideration which was denied by the Director in her Order dated 23 October 2013. Hence, this appeal.

The appeal must be dismissed outright.

Sections 1 and 5 (b) of the Uniform Rules on Appeal, as amended,<sup>2</sup> provide that:

Section 1. Title and Coverage. - These Rules shall be known as the Uniform Rules on Appeal." These Rules shall cover decisions or final orders rendered by the Director of the Documentation, Information and Technology Transfer Bureau (DITTB), the Director of the Bureau of Legal Affairs (BLA), the Director of the Bureau of Patents (BOP) and the Director of the Bureau of Trademarks (BOT). Interlocutory orders, however, shall not be appealable to the Director General.

<sup>1</sup> Dated 30 April 2013 and 23 October 2013.

<sup>2</sup> Office Order No. 12, series of 2009. Republic of the Philippines

Section 5. Action on the Appeal Memorandum.-xxx

xxx

- b) The appeal shall be dismissed outright on any of the following grounds:
1. the appeal is filed out of time;
  2. the subject appeal is an interlocutory order, or is not a decision or final order;
  3. the appeal fee and the other applicable fees are not paid within the reglementary period.

Accordingly, only decisions or final orders issued by a Bureau Director may be appealed to the Director General. A final order has been defined as one, which disposes of the subject matter in its entirety or terminates a particular proceeding or action and leaves nothing else to be done but to enforce by execution what has been determined by the court. On the other hand, an interlocutory order is one which does not dispose of a case completely, but leaves something more to be adjudicated upon<sup>3</sup>

In this instance, the appealed orders of the Director are not decisions or final orders. They were issued in connection to a letter by the Appellee requesting the implementation of the Decision issued by the Office of the Director General affirming the decision of the Bureau of Legal Affairs canceling the certificate of registration of the Appellant's mark for "MR. GULAMAN".

In one case, the Supreme Court of the Philippines ruled that:

Interlocutory orders are those that determine incidental matters which do not touch on the merits of the case or put an end to the proceedings. It is well-settled that a petition for certiorari under Rule 65, not Rule 45, is the proper remedy to question an imprudent order granting execution pending appeal and thereby relieve the adverse party from the immediate effects thereof. The same principle applies to a stay of such execution.<sup>4</sup>

Wherefore, premises considered, the instant appeal is hereby dismissed. Let a copy of this Decision be furnished to the Director of the Bureau of Trademarks and the Director of the Bureau of Legal Affairs for their guidance and information. Let a copy of this Decision be furnished also the library of the Documentation, Information and Technology Transfer Bureau for its information and records purposes.

SO ORDERED.

DEC 16 2013 , Taguig City

  
**RICARDO R. BLANCAFLOR**  
Director General

<sup>3</sup> Bañares II vs. Balising, G.R. No. 132624, 13 March 2000.

<sup>4</sup> Diesel Construction Company, Inc. vs. Jollibee Foods Corporation, G.R. No. 136805, 28 January 2000.