



Republic of the Philippines  
 Supreme Court  
 Manila

THIRD DIVISION

**WILLAWARE  
 CORPORATION,**

**PRODUCTS**

**G.R. No. 195549**

Petitioner,

**Present:**

- versus -

VELASCO, JR., J., *Chairperson*,  
 PERALTA,  
 BERSAMIN,\*  
 VILLARAMA, JR., and  
 REYES, JJ.

**JESICHRIS MANUFACTURING  
 CORPORATION,**

**Promulgated:**

Respondent.

September 3, 2014

X-----*[Signature]*-----X

**DECISION**

**PERALTA, J.:**

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking to set aside the Decision<sup>1</sup> dated November 24, 2010 and Resolution<sup>2</sup> dated February 10, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 86744.

The facts, as found by the Regional Trial Court (RTC), are as follows:

[Respondent] Jesichris Manufacturing Company ([respondent] for short) filed this present complaint for damages for unfair competition with prayer for permanent injunction to enjoin [petitioner] Willaware Products

\* Designated as Acting Member in lieu of Associate Justice Francis H. Jardeleza, per Special Order No. 1777 dated September 1, 2014.

<sup>1</sup> Penned by Associate Justice Florito S. Macalino, with Associate Justices Juan Q. Enriquez, Jr. and Ramon M. Bato, Jr., concurring; *rollo*, pp. 128-135.

<sup>2</sup> *Id.* at 145-146.

*[Handwritten Signature]*

Corporation ([petitioner] for short) from manufacturing and distributing plastic-made automotive parts similar to those of [respondent].

[Respondent] alleged that it is a duly registered partnership engaged in the manufacture and distribution of plastic and metal products, with principal office at No. 100 Mithi Street, Sampalukan, Caloocan City. Since its registration in 1992, [respondent] has been manufacturing in its Caloocan plant and distributing throughout the Philippines plastic-made automotive parts. [Petitioner], on the other hand, which is engaged in the manufacture and distribution of kitchenware items made of plastic and metal has its office near that of [respondent].

[Respondent] further alleged that in view of the physical proximity of [petitioner's] office to [respondent's] office, and in view of the fact that some of the [respondent's] employees had transferred to [petitioner], [petitioner] had developed familiarity with [respondent's] products, especially its plastic-made automotive parts.

That sometime in November 2000, [respondent] discovered that [petitioner] had been manufacturing and distributing the same automotive parts with exactly similar design, same material and colors but was selling these products at a lower price as [respondent's] plastic-made automotive parts and to the same customers.

[Respondent] alleged that it had originated the use of plastic in place of rubber in the manufacture of automotive underchassis parts such as spring eye bushing, stabilizer bushing, shock absorber bushing, center bearing cushions, among others. [Petitioner's] manufacture of the same automotive parts with plastic material was taken from [respondent's] idea of using plastic for automotive parts. Also, [petitioner] deliberately copied [respondent's] products all of which acts constitute unfair competition, is and are contrary to law, morals, good customs and public policy and have caused [respondent] damages in terms of lost and unrealized profits in the amount of TWO MILLION PESOS as of the date of [respondent's] complaint.

Furthermore, [petitioner's] tortuous conduct compelled [respondent] to institute this action and thereby to incur expenses in the way of attorney's fees and other litigation expenses in the amount of FIVE HUNDRED THOUSAND PESOS (₱500,000.00).

In its Answer, [petitioner] denies all the allegations of the [respondent] except for the following facts: that it is engaged in the manufacture and distribution of kitchenware items made of plastic and metal and that there's physical proximity of [petitioner's] office to [respondent's] office, and that some of [respondent's] employees had transferred to [petitioner] and that over the years [petitioner] had developed familiarity with [respondent's] products, especially its plastic made automotive parts.

As its Affirmative Defenses, [petitioner] claims that there can be no unfair competition as the plastic-made automotive parts are mere reproductions of original parts and their construction and composition merely conforms to the specifications of the original parts of motor vehicles they intend to replace. Thus, [respondent] cannot claim that it "originated" the use of plastic for these automotive parts. Even assuming for the sake of argument that [respondent] indeed originated the use of

these plastic automotive parts, it still has no exclusive right to use, manufacture and sell these as it has no patent over these products. Furthermore, [respondent] is not the only exclusive manufacturer of these plastic-made automotive parts as there are other establishments which were already openly selling them to the public.<sup>3</sup>

After trial on the merits, the RTC ruled in favor of respondent. It ruled that petitioner clearly invaded the rights or interest of respondent by deliberately copying and performing acts amounting to unfair competition. The RTC further opined that under the circumstances, in order for respondent's property rights to be preserved, petitioner's acts of manufacturing similar plastic-made automotive parts such as those of respondent's and the selling of the same products to respondent's customers, which it cultivated over the years, will have to be enjoined. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the court finds the defendant liable to plaintiff Two Million (₱2,000,000.00) Pesos, as actual damages, One Hundred Thousand (₱100,000.00) Pesos as attorney's fees and One Hundred Thousand (₱100,000.00) Pesos for exemplary damages. The court hereby permanently [enjoins] defendant from manufacturing the plastic-made automotive parts as those manufactured by plaintiffs.

SO ORDERED.<sup>4</sup>

Thus, petitioner appealed to the CA.

On appeal, petitioner asserts that if there is no intellectual property protecting a good belonging to another, the copying thereof for production and selling does not add up to unfair competition as competition is promoted by law to benefit consumers. Petitioner further contends that it did not lure away respondent's employees to get trade secrets. It points out that the plastic spare parts sold by respondent are traded in the market and the copying of these can be done by simply buying a sample for a mold to be made.

Conversely, respondent averred that copyright and patent registrations are immaterial for an unfair competition case to prosper under Article 28 of the Civil Code. It stresses that the characteristics of unfair competition are present in the instant case as the parties are trade rivals and petitioner's acts are contrary to good conscience for deliberately copying its products and employing its former employees.

In a Decision dated November 24, 2010, the CA affirmed with modification the ruling of the RTC. Relevant portions of said decision read:

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<sup>3</sup> *Id.* at 38-39.

<sup>4</sup> *Id.* at 45.

Despite the evidence showing that Willaware took dishonest steps in advancing its business interest against Jesichris, however, the Court finds no basis for the award by the RTC of actual damages. One is entitled to actual damages as one has duly proven. The testimony of Quejada, who was engaged by Jesichris in 2001 to audit its business, only revealed that there was a discrepancy between the sales of Jesichris from 2001 to 2002. No amount was mentioned. As for Exhibit "Q," which is a copy of the comparative income statement of Jesichris for 1999-2002, it shows the decline of the sales in 2002 in comparison with those made in 2001 but it does not disclose if this pertains to the subject automotive parts or to the other products of Jesichris like plates.

In any event, it was clearly shown that there was unfair competition on the part of Willaware that prejudiced Jesichris. It is only proper that nominal damages be awarded in the amount of Two Hundred Thousand Pesos (₱200,000.00) in order to recognize and vindicate Jesichris' rights. The RTC's award of attorney's fees and exemplary damages is also maintained.

X X X X

**WHEREFORE**, premises considered, the Decision dated April 15, 2003 of the Regional Trial Court of Caloocan City, Branch 131, in Civil Case No. C-19771 is hereby **MODIFIED**. The award of Two Million Pesos (₱2,000,000.00) actual damages is deleted and in its place, Two Hundred Thousand Pesos nominal damages is awarded.

SO ORDERED.<sup>5</sup>

Dissatisfied, petitioner moved for reconsideration. However, the same was denied for lack of merit by the CA in a Resolution dated February 10, 2011.

Hence, the present Petition for Review wherein petitioner raises the following issues for our resolution:

- (1) Whether or not there is unfair competition under human relations when the parties are not competitors and there is actually no damage on the part of Jesichris?
- (2) Consequently, if there is no unfair competition, should there be moral damages and attorney's fees?
- (3) Whether or not the addition of nominal damages is proper although no rights have been established?
- (4) If ever the right of Jesichris refers to its copyright on automotive parts, should it be considered in the light of the said copyrights were considered to be void by no less than this Honorable Court in SC GR No. 161295?

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<sup>5</sup> *Id.* at 134-135. (Emphasis in the original)

(5) If the right involved is “goodwill” then the issue is: whether or not Jesichris has established “goodwill?”<sup>6</sup>

In essence, the issue for our resolution is: whether or not petitioner committed acts amounting to unfair competition under Article 28 of the Civil Code.

Prefatorily, we would like to stress that the instant case falls under Article 28 of the Civil Code on human relations, and not unfair competition under Republic Act No. 8293,<sup>7</sup> as the present suit is a damage suit and the products are not covered by patent registration. *A fortiori*, the existence of patent registration is immaterial in the present case.

The concept of “unfair competition” under Article 28 is very much broader than that covered by intellectual property laws. Under the present article, which follows the extended concept of “unfair competition” in American jurisdictions, the term covers even cases of discovery of trade secrets of a competitor, bribery of his employees, misrepresentation of all kinds, interference with the fulfillment of a competitor’s contracts, or any malicious interference with the latter’s business.<sup>8</sup>

With that settled, we now come to the issue of whether or not petitioner committed acts amounting to unfair competition under Article 28 of the Civil Code.

We find the petition bereft of merit.

Article 28 of the Civil Code provides that “unfair competition in agricultural, commercial or industrial enterprises or in labor through the use of force, intimidation, deceit, machination or any other unjust, oppressive or high-handed method shall give rise to a right of action by the person who thereby suffers damage.”

From the foregoing, it is clear that what is being sought to be prevented is not competition *per se* but the use of unjust, oppressive or high-handed methods which may deprive others of a fair chance to engage in business or to earn a living. Plainly, what the law prohibits is unfair competition and not competition where the means used are fair and legitimate.

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<sup>6</sup> *Id.* at 14-15.

<sup>7</sup> AN ACT PRESCRIBING THE INTELLECTUAL PROPERTY CODE AND ESTABLISHING THE INTELLECTUAL PROPERTY OFFICE, PROVIDING FOR ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES.

<sup>8</sup> Tolentino, *Commentaries and Jurisprudence on the Civil Code of the Philippines*, Vol. 1, p. 117.

In order to qualify the competition as “unfair,” it must have two characteristics: (1) it must involve an injury to a competitor or trade rival, and (2) it must involve acts which are characterized as “contrary to good conscience,” or “shocking to judicial sensibilities,” or otherwise unlawful; in the language of our law, these include force, intimidation, deceit, machination or any other unjust, oppressive or high-handed method. The public injury or interest is a minor factor; the essence of the matter appears to be a private wrong perpetrated by unconscionable means.<sup>9</sup>

Here, both characteristics are present.

*First*, both parties are competitors or trade rivals, both being engaged in the manufacture of plastic-made automotive parts. *Second*, the acts of the petitioner were clearly “contrary to good conscience” as petitioner admitted having employed respondent’s former employees, deliberately copied respondent’s products and even went to the extent of selling these products to respondent’s customers.<sup>10</sup>

To bolster this point, the CA correctly pointed out that petitioner’s hiring of the former employees of respondent and petitioner’s act of copying the subject plastic parts of respondent were tantamount to unfair competition, *viz.:*

The testimonies of the witnesses indicate that [petitioner] was in bad faith in competing with the business of [respondent]. [Petitioner’s] acts can be characterized as executed with mischievous subtle calculation. To illustrate, in addition to the findings of the RTC, the Court observes that [petitioner] is engaged in the production of plastic kitchenware previous to its manufacturing of plastic automotive spare parts, it engaged the services of the then mold setter and maintenance operator of [respondent], De Guzman, while he was employed by the latter. De Guzman was hired by [petitioner] in order to adjust its machinery since quality plastic automotive spare parts were not being made. It baffles the Court why [petitioner] cannot rely on its own mold setter and maintenance operator to remedy its problem. [Petitioner’s] engagement of De Guzman indicates that it is banking on his experience gained from working for [respondent].

Another point we observe is that Yabut, who used to be a warehouse and delivery man of [respondent], was fired because he was blamed of spying in favor of [petitioner]. Despite this accusation, he did not get angry. Later on, he applied for and was hired by [petitioner] for the same position he occupied with [respondent]. These sequence of events relating to his employment by [petitioner] is suspect too like the situation with De Guzman.<sup>11</sup>

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<sup>9</sup> *Id.* at 116-117.

<sup>10</sup> *Rollo*, p. 41.

<sup>11</sup> *Id.* at 133-134.

Thus, it is evident that petitioner is engaged in unfair competition as shown by his act of suddenly shifting his business from manufacturing kitchenware to plastic-made automotive parts; his luring the employees of the respondent to transfer to his employ and trying to discover the trade secrets of the respondent.<sup>12</sup>

Moreover, when a person starts an opposing place of business, not for the sake of profit to himself, but regardless of loss and for the sole purpose of driving his competitor out of business so that later on he can take advantage of the effects of his malevolent purpose, he is guilty of wanton wrong.<sup>13</sup> As aptly observed by the court *a quo*, the testimony of petitioner's witnesses indicate that it acted in bad faith in competing with the business of respondent, to wit:

[Petitioner], thru its General Manager, William Salinas, Jr., admitted that it was never engaged in the business of plastic-made automotive parts until recently, year 2000:

Atty. Bautista: The business name of Willaware Product Corporation is kitchenware, it is (sic) not? Manufacturer of kitchenware and distributor of kitchenware, is it not?

Mr. Salinas: Yes, sir.

Atty. Bautista: And you said you have known the [respondent] Jesichris Manufacturing Co., you have known it to be manufacturing plastic automotive products, is it not?

Mr. Salinas: Yes, sir.

Atty. Bautista: In fact, you have been (sic) physically become familiar with these products, plastic automotive products of Jesichris?

Mr. Salinas: Yes, sir.

How [petitioner] was able to manufacture the same products, in terms of color, size, shape and composition as those sold by Jesichris was due largely to the sudden transfer of Jesichris' employees to Willaware.

Atty. Bautista: Since when have you been familiar with Jesichris Manufacturing Company?

Mr. Salinas: Since they transferred there (sic) our place.

Atty. Bautista: And that was in what year?

Mr. Salinas: Maybe four (4) years. I don't know the exact date.

Atty. Bautista: And some of the employees of Jesichris Manufacturing Co. have transferred to your company, is it not?

Mr. Salinas: Yes, sir.

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<sup>12</sup> *Id.* at 44.

<sup>13</sup> *Supra* note 8.

Atty. Bautista: How many, more or less?

Mr. Salinas: More or less, three (3).

Atty. Bautista: And when, in what year or month did they transfer to you?

Mr. Salinas: First, November 1.

Atty. Bautista: Year 2000?

Mr. Salinas: Yes sir. And then the other maybe February, this year. And the other one, just one month ago.

That [petitioner] was clearly out to take [respondent] out of business was buttressed by the testimony of [petitioner's] witness, Joel Torres:

Q: Are you familiar with the [petitioner], Willaware Product Corporation?

A: Yes, sir.

Q: Will you kindly inform this court where is the office of this Willaware Product Corporation (sic)?

A: At Mithi Street, Caloocan City, sir.

Q: And Mr. Witness, sometime second Saturday of January 2001, will you kindly inform this court what unusual even (sic) transpired between you and Mr. Salinas on said date?

A: There was, sir.

Q: What is that?

A: Sir, I was walking at that time together with my wife going to the market and then I passed by the place where they were having a drinking spree, sir.

Q: You mentioned they, who were they who were drinking at that time?

A: I know one Jun Molina, sir.

Q: And who else was there?

A: William Salinas, sir.

Q: And will you kindly inform us what happened when you spotted upon them drinking?

A: Jun Molina called me, sir.

Q: And what happened after that?

A: At that time, he offered me a glass of wine and before I was able to drink the wine, Mr. Salinas uttered something, sir.

Q: And what were those words uttered by Mr. Salinas to you?

A: "O, ano naapektuhan na kayo sa ginaya (sic) ko sa inyo?"



Q: And what did you do after that, after hearing those words?

A: And he added these words, sir. "sabihin mo sa amo mo, dalawang taon na lang pababagsakin ko na siya."

Q: Alright, hearing those words, will you kindly tell this court whom did you gather to be referred to as your "amo"?

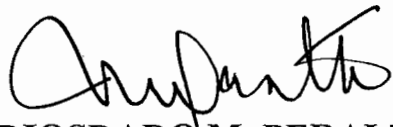
A: Mr. Jessie Ching, sir.<sup>14</sup>

In sum, petitioner is guilty of unfair competition under Article 28 of the Civil Code.


However, since the award of Two Million Pesos (₱2,000,000.00) in actual damages had been deleted and in its place Two Hundred Thousand Pesos (₱200,000.00) in nominal damages is awarded, the attorney's fees should concomitantly be modified and lowered to Fifty Thousand Pesos (₱50,000.00).

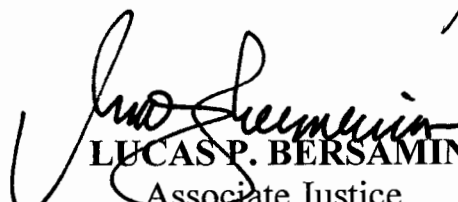
**WHEREFORE**, the instant petition is **DENIED**. The Decision dated November 24, 2010 and Resolution dated February 10, 2011 of the Court of Appeals in CA-G.R. CV No. 86744 are hereby **AFFIRMED** with **MODIFICATION** that the award of attorney's fees be lowered to Fifty Thousand Pesos (₱50,000.00).


**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice


<sup>14</sup> Rollo, pp. 41-44. (Citations omitted)



**BIENVENIDO L. REYES**  
Associate Justice

### ATTESTATION

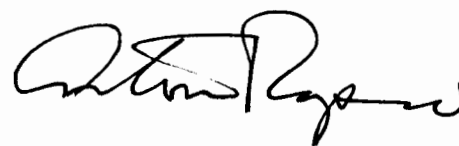
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Acting Chief Justice