

Title: Manuel T. Zulueta vs. Cyma Greek Taverna Co.

**\*\*Facts:\*\***

Petitioner Manuel T. Zulueta claimed to have conceptualized the Greek restaurant “Cyma” and, with Raoul Roberto P. Goco, opened its first branch in Boracay in 2005. They formed the “Cyma Greek Taverna Company” (respondent) which was registered with the SEC in 2006. Zulueta filed a trademark application for “CYMA & LOGO” in 2006. While in the US in 2006, a Deed of Assignment supposedly from Zulueta to Maria Anna Eugenia P. Goco was executed without his actual participation, assigning his partnership interests, which he later claims as fraudulent. Five months after Zulueta’s application, the partnership filed its own application for the trademark. Following publication for opposition, the Cyma Partnership opposed Zulueta’s application, claiming prior creation and use of the trademark. Zulueta’s application was eventually rejected by IPOPHL-BLA, a decision which was affirmed by both the IPOPHL-ODG and the CA, on the ground of the partnership’s prior use and Zulueta’s non-use in business, despite his being the first to file.

**\*\*Issues:\*\***

1. Whether Zulueta’s prior filing of the trademark application accords him a priority right over the Cyma Partnership, given the subsequent filing and registration by the partnership.
2. Whether the IPOPHL and CA correctly determined the rightful ownership of the “CYMA” trademark based on prior use and the concept of bad faith in filing trademark applications.

**\*\*Court’s Decision:\*\***

The Supreme Court denied the petition, affirming the decisions of the Court of Appeals, IPOPHL-ODG, and IPOPHL-BLA. The Court held that ownership of a mark is acquired by registration in accordance with the Intellectual Property Code, with a first-to-file rule. However, a trademark application made in bad faith or with knowledge of a prior user’s rights does not confer priority. The Court found that Zulueta’s application was made in bad faith as he was aware of the partnership’s use and Raoul Goco’s creation of the mark. Thus, despite being the first to file, Zulueta’s application did not merit approval, and the partnership’s subsequent registration was upheld as valid.

**\*\*Doctrine:\*\***

1. Ownership of a trademark is acquired through proper registration under the Intellectual Property Code of the Philippines, with the first-to-file rule applied.
2. Bad faith in trademark application, defined as the applicant’s knowledge of another’s prior use, creation, or registration, nullifies any right to the trademark despite first filing.

**\*\*Class Notes:\*\***

1. **\*\*Trademark Registration:\*\*** A mark must be registered validly under the Intellectual Property Code to acquire ownership. Prior use of the mark is not mandatory for registration but is crucial when assessing the bad faith of applicants.
2. **\*\*First-to-File Rule vs. Bad Faith Applications:\*\*** The first-to-file rule is not absolute; applications filed with bad faith, evidenced by knowledge of another's prior use or creation of a similar or identical trademark, are inherently unregistrable.
3. **\*\*Separate Legal Personality of Partnerships:\*\*** Partners do not own the assets of a partnership individually; a partnership has a separate juridical personality, which affects rights to intellectual property created or used in the name of the partnership.

**\*\*Historical Background:\*\***

This case illustrates the complexities of trademark registration within the context of partnerships and the significance of the first-to-file rule tempered by the principle of good faith. It underscores the evolving jurisprudence around intellectual property, emphasizing that the protection of trademarks serves not just the interests of business entities but also those of consumers, by preventing confusion and ensuring the integrity of market transactions.