

**DOLORITO M. FELICIANO AND MAXIMO B. TAPINIO, APPLICANTS
AND APPELLEES. MELITON D. ALBAÑA, PETITIONER AND
APPELLANT, VS. THE DIRECTOR OF PATENTS, RESPONDENT AND
APPELLEE.**

G. R. No. L-4572. May 22, 1953

Ponente: PADILLA, J.

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PADILLA, J.:

An application for patent was filed with the Patent Office.

Pending examination of the application, Meliton D. Albaña filed a motion to intervene claiming that the applicant-inventors had "sold and/or bartered and assigned to him their right to contract or deal the sale of their invention called Fel-Tap Meter Guard and Detector to or through the Corporation that they were then organizing under his direction and to fix and decide on the purchase price of it to at least P200,000 in installments cash and P300,000 in shares of stock of said Corporation * * *" and praying that applicant-inventor Maximo D. Tapinio be compelled to sign a contract (Appendix I) and, together with the other applicant-inventor Dolorito M. Feliciano who had already signed it, to acknowledge it and another contract (Appendix II) before a notary public, to have both contracts recorded in the Patent Office and in the office of the Register of Deeds, and that the patent for the invention be issued in his name and in the name of the inventors.

The motion was denied on the ground that under the provisions of the Patent Law (Republic Act No. 165) the Director of Patents has no jurisdiction or power to decide the question submitted to him.

The movant filed an amended motion to intervene claiming "that he is the assignee of inventors Dolorito M. Feliciano and Maximo Tapinio of the undivided part interests in the invention for whose letter-patent the named petitioners Dolorito M. Feliciano and Maximo Tapinio are herein applying."

The amended motion was denied on the ground that the assignment made to the movant is not one of exclusive right to make, use and sell[1] the electrical contrivance for which patent is applied for; that it is just an authority to act as the selling agent for the inventors of the patent, if granted, and the invention covered thereby and to receive compensation therefor; and that not being entitled to have his name included as one of the patentees, if patent for the invention be granted, the movant has no right to intervene in the proceedings for the grant of the patent.

An exception to and a motion for reconsideration of the preceding order were noted and denied.

From the orders denying his motions to intervene the movant has appealed.[2]

What the appellant attempted to secure by his motion to intervene is clearly beyond the jurisdiction and authority of the Director of Patents to grant. Despite the amendment to the first motion to intervene by which he claims assignment of the invention, still it remains that the alleged assignment is not of the invention but it is an agreement whereby he is to act as selling agent for the inventors of the patent (if granted) and of the invention

covered thereby and to receive compensation therefor. This finding of the Director of Patents is supported by the following clauses found in the contract (Appendix I): "We (the inventors) * * * hereby declare and ratify that both of us are the co-inventors and joint fifty-fifty owners of the 'Fel-Tap Electric Meter Guard & Detector' * * *." "We are now organizing a Corporation under the direction of Mr. Albaña (Meliton D. Albaña) to exploit and industrialize the invention * * * which we promise hereby to sell to said Corporation with its letter-patent * * * except the Royalty Right of the same, * * *." "For and in consideration of the monetary and other helps (help) that said Mr. Meliton D. Albaña * * * has rendered and is rendering us * * * of approaching, interesting and looking for subscribers and payers to the capital stocks (stock) of said Corporation to be * * * we hereby promise and actually pay to said Mr. Albaña in instalments fifty thousand pesos (P50,000) of said P200,000 instalments cash purchase price * * *." The above quoted terms and stipulations of the executory contract clearly show that it was not an assignment of the invention and the patent applied for.

Assignments of patents and inventions covered thereby may be recorded in books and records kept for the purpose in the Patent Office if presented in due form;^[3] but the appellant does not ask for the registration of the alleged agreement between him and the inventors, because as it is not in due form it cannot be recorded, but prays that the Director of Patents compel applicant-inventor Maximo B. Tapinio to sign the contract executed and signed by the other applicant-inventor Dolorito M. Feliciano on 14 March 1950 (Appendix I) and both applicant-inventors to acknowledge it and another document which by all indications refers to the minutes of a meeting of the organizers of the Manufacturing Corporation held on 30 March 1950, before a notary public, and then to have both documents recorded in the Patent Office and in the office of the Registrar of Deeds. Under the provisions of the Patent Law (Republic Act No. 165), the Director of Patents has no power and authority to compel the applicant-inventors to do what the appellant is asking them to perform. What the appellant asked the Director of Patents to do for him is essentially a judicial function which would require the determination or finding by a court of competent jurisdiction as to whether there was a meeting of the minds of the contracting parties before it could compel the applicant-inventors to perform what the appellant prays the court to order them to do. Aside from want of authority and power, the Director of Patents lacks the means to make such determination and finding which would be necessary before he could act on the appellant's motion.

The orders appealed from are affirmed, with costs against the appellant.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo and Bautista Angelo, JJ., concur.

[1] Section 37, Republic Act No. 165.

[2] Section 61, Republic Act No. 165.

[3] Sections, 51, 52 and 53, Republic Act No. 165.

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