

**HONDA GIKEN KOGYO KABUSHIKI KAISHA, ET AL. PETITIONERS,
VS. HON. LOURDES P. SAN DIEGO, ET AL., RESPONDENTS.***G.R. No. L-22756. March 18, 1966*

Ponente: DIZON, J.

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Petition for certiorari and prohibition seeking judgment declaring that the respondent judges (or either of them) have no jurisdiction to take cognizance of Civil Case No. Q-7864, and restraining them permanently from enforcing the orders issued therein on March 23 and April 7, both of the year 1964.

It appears that the petitioner, hereinafter referred to as Honda, is the manufacturer of the Honda motorcycles and the owner, among others, of the trademarks "HONDA", "HM" and "HM with wings" used in the manufacture and sale of said Honda motorcycles, and that said trademarks have for many years been duly registered in Japan and other countries.

Since the year 1959, respondent Alfred Hahn had been importing into the Philippines the said Honda motorcycles bearing the trademarks just mentioned. In this connection, Hahn's answer to the petition under consideration, while denying that he was a mere importer of the Honda motorcycles, and alleging that since 1956 he had been classified and licensed as producer and not a mere importer of motorcycles, admits that Hahn had received authority from Honda "to introduce and create a market for Honda motorcycles" in the Philippines. It appears, however, that on December 13, 1962, Hahn filed with the Philippines Patent Office a verified petition seeking the registration in his name of the trademark "HM HONDA", alleging under oath therein that "he believes himself to be the lawful owner" of said trademark and that "no other person, partnership, corporation or association, to the best of his knowledge and belief, has the right to use said trademark in the Philippines, either in the identical form or in such mere resemblance thereto as might be calculated to deceive".

Honda opposed said application alleging, inter alia, that it was manufacturing and selling and since long prior to January 1955 had manufactured and sold in the Philippines and elsewhere motorcycles under the trademarks already mentioned before; that it had never abandoned and, in fact, was still using said trademarks as trademarks in commerce with the Philippines and elsewhere.

Respondent Hahn's reply to the opposition contains no clear denial of the facts alleged therein nor did it raise any question whatsoever regarding the personality of the oppositor to appear before the Patent Office.

The application for registration was set for hearing by the Patent Office before petitioner Teofilo P. Velasco, one of its Hearing Officers, on January 20, 1964, but the hearing was postponed to February 6 of the same year on which date Honda presented its evidence. The hearing was continued to February 12, 1964 to give Hahn's counsel a chance to examine the various documents presented by Honda. On that date said counsel registered his opposition to the admission of some of the exhibits on purely technical grounds, but all of them were admitted by the Hearing Officer. Thereupon, counsel for Hahn for the first time questioned the personality of Honda to appear before the Patent Office and asked orally that its opposition be dismissed. After extensive argument the oral

motion to dismiss was denied.

On February 14, 1964, however, Hahn filed a motion for reconsideration alleging therein that Honda's capacity to appear before the Patent Office was a prejudicial question and that since it is not licensed to do business in the Philippines, the Patent Office could not be said to have acquired jurisdiction over the person of said oppositor. This motion notwithstanding, the Hearing Officer set February 26, 1964 for the reception of Hahn's evidence, but on that date, his counsel refused to present any evidence until his motion for reconsideration had been resolved by the Director of Patents. In view of this incident, on March 2, 1964 petitioner Director of Patents issued the following order:

"As prayed for in his 'Motion for Reconsideration and Motion for Issuance of Formal Order or Resolution' filed on February 13, 1964, the Respondent-Applicant, through his counsel, is hereby granted a period of TEN (10) days from receipt of a copy of this order within which to submit the necessary authorities and arguments in further support of his motion to dismiss the opposition. Copy of the said authorities and arguments should be served by Respondent-Applicant on counsel for the Opposer who, within a period of TEN (10) days from receipt thereof, should file its written opposition and supporting authorities. Thereafter, the motion to dismiss shall be deemed submitted for resolution.

"IT IS SO ORDERED."

However, instead of complying with the above order, Hahn commenced Civil Case No. Q-7864 in the Court of First Instance of Rizal, Branch IX, Q.C., which was a petition for certiorari against all the herein petitioners for the annulment of the order of the Patent Office denying his motion to dismiss Honda's opposition, mainly on the ground that, in accordance with Sections 68 and 69 of Act 1459, as amended, and the pertinent provisions of Act 3883, as amended, registration with the Bureau of Commerce and a license from the Securities and Exchange Commission is sine qua non to have capacity to become a party "applicant or oppositor" to an inter partes proceeding in the Philippines Patent Office. On March 7, 1964, the respondent Judge Lourdes P. San Diego issued an order requiring the parties to maintain the status quo pending resolution of the petition for a writ of preliminary injunction, which was set for hearing on March 21 of the same year.

On March 11, 1964, Honda appeared in Civil Case No. Q-7864 and opposed the petition for the issuance of a writ of preliminary injunction and filed a motion to dismiss the petition for certiorari on the ground firstly, that the Court of First Instance of Rizal had no jurisdiction to issue injunctive relief against the Philippine Patent Office and secondly, on the ground that the petition did not allege facts sufficient to constitute a cause of action against the therein respondents.

On March 20 of the same year, the Director of Patents and the other respondents in said case also filed a motion to dismiss the petition for certiorari together with an opposition to the issuance of a writ of preliminary injunction upon similar grounds.

On March 23, 1964, the respondent judge Lourdes P. San Diego, notwithstanding the oppositions and motions to dismiss referred to above, issued an order granting the petition for the issuance of a writ of preliminary injunction and pursuant thereto, on April 2, 1964, the other respondent judge Damaso S. Tengco, then acting as vacation judge presiding over Branch IX, issued the corresponding writ of preliminary injunction restraining the Director of Patents and Hearing Officers Teofilo P. Velasco and Amando Marquez "from extending further recognition to the capacity of respondents Honda and Daihatsu and/or compelling petitioner to enter into a trial on the merits with said respondents foreign corporation and/or accepting and giving due course to any opposition filed by unlicensed and unregistered foreign corporation, pending the final determination of this petition".

Thereupon, the present petition for certiorari and prohibition was filed for the annulment of the orders of March

23 and April 2, both of the year 1964, issued by the respondent judges upon the ground that in issuing them they acted without or in excess of their jurisdiction or with grave abuse of discretion.

Upon the facts set forth above, the petition under consideration must be granted because the respondent judges—the one as permanent presiding judge of Branch IX of the Court of First Instance of Rizal, and the other as vacation judge presiding over said court—had no jurisdiction to issue the orders complained of.

The rule is well settled—so well settled indeed that it requires no citation of authorities to support it—that a writ of injunction or of prohibition or of certiorari may be issued against a court only by another court superior in rank to the former.

The law in this jurisdiction vests upon Us the authority to review final orders and decisions of the Public Service Commission. In *Iloilo Commercial etc. vs. Public Service Commission* (56 Phil. 28), in denying jurisdiction to the trial court to issue injunctive relief against the Public Service Commission, We held:

"Any order made by the Commission may be reviewed on the application of any person or public service affected thereby, by certiorari in appropriate cases or by petition, to the Supreme Court, and the Supreme Court is given jurisdiction to review any order of the Commission and to modify or set it aside (Sec. 35). x x x In the absence of a specific delegation of jurisdiction to the Court of First Instance to grant injunctive relief against orders of the Public Service Commission, it would appear that no court, other than the Supreme Court, possesses such jurisdiction."

On the other hand, under Rule 44 of the Revised Rules of Court and Section 33 of Republic Act No. 166, as amended, appeals from orders and decisions of the Director of the Patent Office must likewise be taken to Us. It is, therefore, undeniable that the Philippines Patent Office and the Public Service Commission are similarly situated and that both are, to say the least, of the same rank or category as Courts of First Instance. Consequently, no one of the latter has jurisdiction to issue a writ of injunction against them.

Wherefore, the writs prayed for are granted and the orders complained of are hereby set aside, with costs against the respondents, except the respondent judges.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Regala, Makalintal, Bengzon, J. P., Zaldivar, and Sanchez, JJ., concur.

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