

NONITO GO A.K.A. WU YI PO, MICHAEL MANALASTAS AND AMELIA O. MANALSTAS A.K.A. AMELIA P. ONG, PETITIONERS, VS. THE REGIONAL TRIAL COURT OF VALENZUELA CITY, BRANCH 75, AND THE PEO...

Ponente: CORALES, J.

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CORALES, J.:

This is a Petition for Certiorari[1] under Rule 65 of the Rules of Court assailing the March 29, 2010[2] and December 17, 2010[3] Orders of the Regional Trial Court (RTC), Branch 75, Valenzuela City in Crim. Case Nos. 676-V-09 and 677-V-09 for violation of Section 168 of Republic Act No. 8293 (R.A. No. 8293), otherwise known as the Intellectual Property Code, which respectively denied petitioners Nonito Go (Go), Michael Manalastas, Amelia Manalastas and Amelia P. Ong's motion to quash Information[4] and dismiss the cases[5] as well as their subsequent motion for reconsideration.

The Antecedents

On February 11, 2008, Philip N. Coling (Coling), the general manager of Rufino Construction Supply and Tombo Import Export & Manufacturing Co. (Rufino Construction), executed a complaint affidavit[6] to represent Nikko Kabushiki Kaisha (Nikko), a corporation organized under the laws of Japan and the registered owner of “TOMBO” and “Tombo and Device” trademark, in filing criminal cases for trademark infringement and false designation against petitioners. According to Coling, Rufino Construction is the exclusive manufacturer, importer and distributor of Tombo shovel in the Philippines. He learned that petitioners were selling shovels bearing the “TOMBO” and “Tombo and Device” marks to several hardware stores in Metro Manila without authority which would likely cause confusion to the general public as well as damage and prejudice to Nikko.

On the same day, the Executive Judge of RTC, Quezon City issued Search Warrant Nos. 4411 (08)[7] and 4412 (08)[8] directing P/Insp. Rommel G. Macatlang of the Philippine National Police, Criminal Investigation and Detection Group (PNP-CIDG) to conduct a search in petitioners' Manalastas Hardware at 5068 (Independence), Gregorio de Leon Street, Karuhatan, Valenzuela (Manalastas Hardware) and Warehouse No. 20, Plastic City at No. 8 T. Santiago Street, Canumay, Valenzuela City (Warehouse No. 20), respectively. Both search warrants were implemented on February 15, 2008 which led to the recovery of bundles of faked “TOMBO” flat and round head shovels as well as components for making the same.[9]

Consequently, petitioners were charged with violations of Sections 155.1 and 168 in relation to Section 170 of the Intellectual Property Code under four (4) separate Informations raffled to RTC, Branch 75, Valenzeula City, respectively docketed as Crim. Case Nos. 139-V-08[10] and 140-V-08[11] for trademark infringement and Crim. Case Nos. 676-V-09[12] and 677-V-09[13] for unfair competition.

On November 27, 2009, petitioners moved to quash[14] the Informations in Crim. Case Nos. 139-V-08 and 140-V-08 arguing that Nikko has no legal capacity to sue as a foreign corporation doing business in the Philippines without a license; the articles seized by virtue of the search warrants were inadmissible as evidence

because the warrants were issued for more than one specific offense; and there is no probable cause to hold accused for public trial. The RTC denied the motion for lack of merit.[15] Petitioners elevated the matter to this Court via petition for certiorari[16] docketed as CA-G.R. SP No. 114716[17] but the Sixth Division dismissed the same for lack of merit.

In the interim, petitioners filed an Entry of Appearance of Accused's Counsel with Urgent Motion to Quash Informations[18] in Crim. Case Nos. 676-V-09 and No. 677-V-09 insisting that the Informations in all four (4) cases against them charge the same offense, placing them in danger of double jeopardy; Nikko has no legal capacity to maintain an action before Philippine courts because it has no license to do business here; Coling has no written authority allowing him to file any action on behalf of Nikko; the Informations for unfair competition have no leg to stand on because the search warrants and the articles seized pursuant thereto were intended only for the trademark infringement violations; and there is no probable cause for trial for violation of Section 168 of the Intellectual Property Code or unfair competition.

Thereafter, petitioners moved for the dismissal of the criminal cases for unfair competition arguing that the RTC has no jurisdiction over these cases because the penalty described for the offense is only two (2) years to five (5) years of imprisonment or a fine ranging from P50,000.00 to P200,000.00 which falls under the exclusive jurisdiction of the Metropolitan Trial Courts (MeTC); and that Sections 168 and 170 of the Intellectual Property Code are unconstitutional for being discriminatory and putting the accused in the danger of double jeopardy.[19]

The Ruling of the RTC

In its March 29, 2010 Order,[20] the RTC denied petitioners' motions and ruled in this wise:

On the basis of the allegations and contention of the parties, this Court resolves that the twin motion filed by the accused failed to impress.

In the instant case, the [I]nformation alleged in no uncertain terms that the accused as owners/proprietors/managers and/or occupants of No. 5068 Independence St., Gen. T. De Leon, Valenzuela City contrary to good faith, distribute, sell, offer for sale, fake and/or counterfeit Tombo brand shovels bearing the trademark "Tombo" which is a false designation of original and pass them off as genuine and with such appearance as likely to deceive (sic) and cause confusion or mistake as to the original tombo brand shovels. Clearly, the accusatory portions constitutes the offense charged.

It is axiomatic that jurisdiction is determined by the averments in the [I]nformation. More than that, jurisdiction is not affected by the pleas or the theories set up by the defendant or respondent in an answer, motion to dismiss or a motion to quash. Otherwise, jurisdiction would become dependent almost entirely upon the whims of defendant or respondent (Serana vs. Sandiganbayan, et, al., G.R. No. 162059, January 22, 2008, Reyes R.T.).

Accused further argues that it is in danger of being prosecuted for the same offense. However, as gleaned from the records, the two (2) separate criminal information(s) constitute different offenses; one for unfair competition under Sec. 168 in relation to Sec. 170 of R.A. 8293 and the other is, for trademark infringement pursuant to Sec. 155 in relation to Sec. 170 of the Intellectual Property Code. Consequently, the offense charged is valid and the contention of the accused has no basis. As to the other issues raised by the accused, this (sic) are evidentiary matters which can be properly ventilated during the trial.

Premises considered the Motion to Quash as well as the Motion to Dismiss filed by the accused is (sic) hereby DENIED for lack of merit.

xxx

Petitioners sought reconsideration[21] in vain. In its December 17, 2010 Order,[22] the RTC upheld the

constitutionality of Sections 168 and 170 of R.A. No. 8293 and ruled that even if the MeTC has exclusive original jurisdiction over offenses punishable with penalties not exceeding six (6) years, jurisdiction for violation of R.A. No. 8293 is still vested with the RTC as explained in the case of *Samson v. Daway*.^[23] The dispositive portion of this Order reads:

WHEREFORE, premises considered the Motion for Reconsideration of the accused is hereby DENIED for utter lack of merit. Let the arraignment of the accused be followed immediately.

Undeterred, petitioners filed the instant petition for certiorari essentially repeating its arguments before the RTC and premised on the following grounds:

I

The respondent court gravely abused its discretion amounting to lack or excess of jurisdiction in rejecting the following arguments presented in the petitioners' Urgent Motion to Quash Informations:

1. The criminal informations before the respondent court each charges the same offense as in each Criminal Case No. 139-V-08 and Criminal Case No. 140-V-08 and puts the petitioners in danger of being tried and punished for the same act twice or more, in violation of their right against double jeopardy enshrined in the Bill of Rights of the Constitution and the International Covenant on Civil and Political Rights (1966). The filing of the Informations in Criminal Case No. 676-V-09 and 677-V-09 violated the rule against forum shopping.
2. Nikko the alleged owner of the trademark "Tombo", is a Japanese corporation doing business in the Philippines without a license issued by the SEC, and for that reason, it has no legal capacity to maintain an action, suit, or proceeding before the Philippine courts.
3. The criminal informations for alleged violation of Section 168 (Unfair Competition) of R.A. 8293 have no leg to stand on and their prosecution is a futile exercise because the search warrants and the articles seized pursuant thereto, which were used as bases for filing the informations, were in connection with the alleged violation of Section 155 (Infringement of Trademark) of R.A. No. 8293.
4. There is no probable cause to hold petitioners for public trial for the alleged violations of Section 168 of R.A. No. 8293.

II

The respondent court gravely abused its discretion amounting to lack or excess of jurisdiction in continuing to assert jurisdiction over the cases and in upholding the constitutionality of Section 170 in relation to Section 168 of R.A. No. 8293.

This Court's Ruling

The petition lacks merit.

As a rule, the denial of a motion to quash is an interlocutory order which is neither appealable nor the proper subject of a petition for certiorari which can be used only in the absence of an appeal or any other adequate, plain and speedy remedy. The plain and speedy remedy from the denial of an interlocutory order is to proceed to trial and if a judgment of conviction is rendered, the accused can then raise the denial of his motion to quash on appeal, not only as an error committed by the trial court but as an added ground to overturn the latter's ruling.^[24]

Thus, a direct resort to a special civil action for certiorari is an exception rather than the general rule, and is a recourse that must be firmly grounded on compelling reasons^[25] such as:

(1)

When the court issued the order without or in excess of jurisdiction or with grave abuse of discretion;

(2)

When the interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief;

(3)

In the interest of a more enlightened and substantial justice;

(4)

To promote public welfare and public policy; and

(5)

When the cases have attracted nationwide attention, making it essential to proceed with dispatch in the consideration thereof.[26]

None of these special circumstances were raised and proven in this petition for certiorari. Petitioners failed to discharge their burden of proving that the RTC issued the assailed Orders without or in excess of jurisdiction or with grave abuse of discretion which is defined as an act done in a “capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.” It bears stressing that the writ may be issued only where it is convincingly proved that the lower court committed grave abuse of discretion, or an act too patent and gross as to amount to an evasion of a duty, or to a virtual refusal to perform the duty enjoined or act in contemplation of law, or that the trial court exercised its power in an arbitrary and despotic manner by reason of passion or personal hostility.[27] Such is not the case here.

Most of petitioners' arguments refer to evidentiary matters which should be properly ventilated during trial on the merits of the case and not in a motion to quash Information. Besides, the absence of probable cause, the inadmissibility of the evidence seized by virtue of the search warrants and Nikko's lack of authority to sue in the Philippines are not among the exclusive grounds enumerated under Section 3, Rule 117[28] of the Rules of Court for the quashal of a criminal information. The foregoing contentions are outside the ambit of a motion to quash which only purpose is to assail the validity of the criminal Information or complaint for insufficiency on its face in point of law or for defects which are apparent in the face of the Information.[29]

Moreover, petitioners were charged for criminal offenses and in such cases, the offended party is the state and the private complainants are mere witnesses for the prosecution.[30] Thus, as a mere witness, Nikko's capacity to sue is a non-issue in this case. Be that as it may, R.A. No. 8293 grants to a foreign corporation, domiciled in a country which is a party to any convention, treaty or agreement relating to intellectual property rights, the right to bring action for the enforcement and protection of trademark even if it is not licensed to do business in the Philippines.[31] We also note that the cases relied upon by petitioners are not in all fours with the case at bench. *The Mentholatum Co., Inc. v. Mangaliman*[32] is a civil case for trademark infringement and unfair competition which was decided before the passage of R.A. No. 8293 while the *Wang Laboratories, Inc. v. Mendoza*[33] and *Hutchison Ports Philippines v. Subic Bay Metropolitan Authority*[34] are not even about infringement or unfair competition. The *Wang Laboratories* case is about service of summons in connection with a civil case for breach of contract and the *Hutchison Ports* case is about the concession agreement between Hutchison Ports and the Subic Bay Development Authority.

The RTC's disquisitions as to the absence of double jeopardy, constitutionality of R.A. No. 8293 and jurisdiction over criminal cases of unfair competition were also in accord with law and established jurisprudence; thus, no grave abuse of discretion can be attributed to the court a quo.

To substantiate a claim for double jeopardy, the accused has the burden of demonstrating the following requisites: (1) a first jeopardy must have attached prior to the second; (2) the first jeopardy must have been validly terminated; and (3) the second jeopardy must be for the same offense as in the first. A first jeopardy attaches only (a) after a valid indictment; (b) before a competent court; (c) after arraignment, (d) when a valid plea has been entered; and (e) when the accused was acquitted or convicted, or the case was dismissed or otherwise terminated without his express consent. Meanwhile, the test for the third element is whether one offense is identical with the other or is an attempt to commit it or a frustration thereof; or whether the second offense includes or is necessarily included in the offense charged in the first information.[35]

Here, there is no showing that the first jeopardy already attached. The records of the case are bereft of any indication that the petitioners have already been arraigned, entered their respective pleas or that any of the pending cases were dismissed or otherwise terminated without their consent. Hence, the first requisite for the existence of double jeopardy is clearly absent.

Petitioners' contention that they are in the danger of being placed in double jeopardy because the Informations in the trademark infringement and unfair competition cases charge the same offenses is likewise unmeritorious. In Crim. Case Nos. 139-V-08 and 140-V-08 for trademark infringement, petitioners stand accused of using the registered "TOMBO" and "Tombo and Device" marks to manufacture fake shovels while in Crim. Case Nos. 676-V-09 and 677-V-09 for unfair competition, they are accused of selling shovels passed off to be Tombo brand shovels to the confusion of the general public and to the detriment of Nikko, the owner of the "TOMBO" and "Tombo and Device" mark. Even though the two acts seem related, they are punished under separate provisions of law and can be prosecuted separately.

In *Braza v. The Honorable Sandiganbayan*,[36] citing the landmark case of *Suero v. People*,[37] the Supreme Court clarified that the same criminal act may give rise to two or more separate and distinct offenses; and that no double jeopardy attaches as long as there is variance between the elements of the two offenses charged. In this case, the trademark infringement and unfair competition cases definitely stemmed from the seizure of faked "Tombo" shovels but a comparison of the elements of these offenses would show that there is neither identity nor inclusion between the two offenses. The elements of infringement are as follows: 1) the trademark being infringed is registered in the Intellectual Property Office; however, in infringement of trade name, the same need not be registered; 2) the trademark or trade name is reproduced, counterfeited, copied, or colorably imitated by the infringer; 3) the infringing mark or trade name is used in connection with the sale, offering for sale, or advertising of any goods, business or services; or the infringing mark or trade name is applied to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used upon or in connection with such goods, business or services; 4) the use or application of the infringing mark or trade name is likely to cause confusion or mistake or to deceive purchasers or others as to the goods or services themselves or as to the source or origin of such goods or services or the identity of such business; and 5) it is without the consent of trademark or trade name owner or the assignee thereof.[38]

On the other hand, the essential elements of an action for unfair competition are (1) confusing similarity in the general appearance of the goods and (2) intent to deceive the public and defraud a competitor. The confusing similarity may or may not result from similarity in the marks, but may result from other external factors in the packaging or presentation of the goods. The intent to deceive and defraud may be inferred from the similarity of the appearance of the goods as offered for sale to the public.[39]

Clearly, the essential elements of trademark infringement are not included among or do not form part of those enumerated in unfair competition. For double jeopardy to exist, the elements of one offense should ideally encompass or include those of the other. What the rule of double jeopardy prohibits refers to identity of elements in the two offenses. There is simply no double jeopardy when the subsequent information charges another and different offense, although arising from the same act or set of acts. Prosecution for the same act is not prohibited. What is forbidden is the prosecution for the same offense.[40]

To stress, trademark infringement and unfair competition are two (2) different offenses as have been differentiated in the case of *Del Monte Corporation v. Court of Appeals*,[41] thus:

1. Infringement of trademark is the unauthorized use of trademark, whereas unfair competition is the passing off of one's goods as those of another.
2. In infringement of trademark, fraudulent intent is unnecessary, whereas in unfair competition fraudulent intent is essential.
3. In infringement of trademark, the prior registration of the trademark is a prerequisite to the action, whereas in unfair competition registration is not necessary.

With respect to the jurisdiction of the RTC over criminal cases for unfair competition, this has already been settled by the Supreme Court in the *Samson* case[42] which was reiterated in *Samson v. Cabanos*. [43] In these cases, the Supreme Court categorically ruled that R.A. No. 8293 did not repeal Section 27 of Republic Act No. 166 (R.A. No. 166),[44] thus:

In the case at bar, R.A. No. 8293 and R.A. No. 166 are special laws conferring jurisdiction over violations of intellectual property rights to the Regional Trial Court. They should therefore prevail over R.A. No. 7691, which is a general law. Hence, jurisdiction over the instant criminal case for unfair competition is properly lodged with the Regional Trial Court even if the penalty therefor is imprisonment of less than 6 years, or from 2 to 5 years and a fine ranging from P50,000.00 to P200,000.00.

In fact, to implement and ensure the speedy disposition of cases involving violations of intellectual property rights under R.A. No. 8293, the Court issued A.M. No. 02-1-11-SC dated February 19, 2002 designating certain Regional Trial Courts as Intellectual Property Courts. On June 17, 2003, the Court further issued a Resolution consolidating jurisdiction to hear and decide Intellectual Property Code and Securities and Exchange Commission cases in specific Regional Trial Courts designated as Special Commercial Courts.

The case of *Mirpuri v. Court of Appeals*, invoked by petitioner finds no application in the present case. Nowhere in *Mirpuri* did we state that Section 27 of R.A. No. 166 was repealed by R.A. No. 8293. Neither did we make a categorical ruling therein that jurisdiction over cases for violation of intellectual property rights is lodged with the Municipal Trial Courts. The passing remark in *Mirpuri* on the repeal of R.A. No. 166 by R.A. No. 8293 was merely a backgrounder to the enactment of the present Intellectual Property Code and cannot thus be construed as a jurisdictional pronouncement in cases for violation of intellectual property rights.[45]

The foregoing judicial decisions applying and interpreting R.A. No. 8293 in relation to R.A. No. 166 form part of the legal system of the Philippines[46] and must be given effect unless expressly repealed by the Supreme Court. The principle of *stare decisis* enjoins adherence by lower courts to doctrinal rules established by the Supreme Court in its final decisions. It is based on the principle that once a question of law has been examined and decided it should be deemed settled and closed to further argument.[47]

We also sustain the RTC's disquisition upholding the constitutionality of Section 170 of R.A. No. 8293. When confronted with a constitutional question, it is elementary that every court must approach it with grave care and considerable caution bearing in mind that every statute is presumed valid and every reasonable doubt should be

resolved in favor of its constitutionality. The policy of our courts is to avoid ruling on constitutional questions and to presume that the acts of the political departments are valid in the absence of a clear and unmistakable showing to the contrary. The theory is that as the joint act of Congress and the President of the Philippines, a law has been carefully studied, crafted and determined to be in accordance with the fundamental law before it was finally enacted.[48] Thus, the burden of proof is on the party alleging that there is a clear and unequivocal breach of the Constitution.[49] Here, petitioners failed to substantiate its attack against the constitutionality of Section 170 of R.A. No. 8293. They merely hinted that said provision provided insufficient standards to fix the penalty and that it was a mere “rider” to the law but did not raise any legal argument, whatsoever, on the unconstitutionality of the assailed provision. In short, petitioners failed to show that there was a clear and unequivocal breach of the Constitution.

Lastly, petitioners' argument as to the existence of forum shopping does not warrant any consideration. To constitute forum shopping, there must be an identity of issue, parties and subject matter.[50] Indeed, Crim. Case Nos. 676-V-09 and 677-V-09 are both for unfair competition but it must be pointed out that the former covers only the fake shovels and materials recovered from Manalastas Hardware[51] while the latter is for the fake shovels and materials seized from Warehouse No. 20.[52] These are both distinct and separate cases which involve different subject matters, hence, there is no forum shopping.

The Court is also mindful that the instant petition is not the only special civil action for certiorari filed by petitioners in the series of infringement and unfair competition cases against them in connection with the manufacture, distribution and selling of shovels marked with the “TOMBO” and “Tombo and Device” mark. As shown by the records, there are at least three (3) similar petitions which practically repeat and rehash the grounds alleged here. Further, the present recourse to this Court is not only an improper remedy but is also anchored on frivolous grounds, as discussed earlier at length. We reiterate that it is only in the presence of extraordinary circumstances where a resort to a petition for certiorari is proper. Given these circumstances, it is evident that this petition is a mere attempt to abuse and misuse the extraordinary remedy of certiorari and a dilatory maneuver which deserve sanction[53] pursuant to Section 8 of Rule 65, as amended by A.M. No. 07-7-12-SC, viz.:

However, the court may dismiss the petition if it finds the same patently without merit or prosecuted manifestly for delay, or if the questions raised therein are too unsubstantial to require consideration. In such event, the court may award in favor of the respondent treble costs solidarily against the petitioner and counsel, in addition to subjecting counsel to administrative sanctions under Rules 139 and 139-B of the Rules of Court.

The Court may impose *motu proprio*, based on *res ipsa loquitor*, other disciplinary sanctions or measures on erring lawyers for patently dilatory and unmeritorious petitions for certiorari.

WHEREFORE, the instant petition for certiorari is DISMISSED for lack of merit. Accordingly, the March 29, 2010 and December 17, 2010 Orders of the Regional Trial Court (RTC), Branch 75, Valenzuela City in Crim. Case Nos. 676-V-09 and 677-V-09 are hereby AFFIRMED. Treble cost against the petitioners.

SO ORDERED.

Villon (Chairperson) and Macalino, JJ., concur.

[1] Petition for Certiorari (With Prayer for Preliminary Prohibitory Injunction and Temporary Restraining Order), rollo, pages 4-34.

[2] Penned by Acting Presiding Judge Jose C. Fortunio, *ibid.*, pages 110-112.

- [3] Ibid., pages 120-121.
- [4] See Entry of Appearance of Accused's Counsel With Urgent Motion to Quash Informations, *ibid.*, pages 68-89.
- [5] See Urgent Motion to Dismiss Cases, *ibid.*, pages 90-93.
- [6] Ibid., pages 55-58.
- [7] Ibid., pages 49-50.
- [8] Ibid., pages 51-52.
- [9] See separate receipt of property seized from Manalastas Hardware and Warehouse #20, *ibid.*, pages 53 and 54, respectively.
- [10] See Amended Information for Violation of Section 155.1 of RA 8293, *ibid.*, pages 64-65.
- [11] See Amended Information for Violation of Section 155.1 of RA 8293, *ibid.*, pages 66-67.
- [12] See Information for Violation of Section 168 in relation to Section 170 RA 8293, *ibid.*, pages 60-61.
- [13] See Information for Violation of Section 168 in relation to Section 170 RA 8293, *ibid.*, pages 62-63.
- [14] See Urgent Motion to Quash Informations, *ibid.*, pages 222-235.
- [15] See March 29, 2010 Order of the RTC, *ibid.*, pages 242-243.
- [16] Petition for Certiorari (With Prayer for Preliminary Prohibitory Injunction and Temporary Restraining Order), *ibid.*, pages 244-266.
- [17] See page 12 of OSG's Comment, *ibid.*, page 144.
- [18] *Supra*, at note 4.
- [19] See Urgent Motion to Dismiss the Case, *supra*, at note 5.
- [20] *Supra*, at note 2.
- [21] See Urgent Motion for Reconsideration, *rollo*, pages 113-119.
- [22] *Supra*, at note 3.
- [23] G.R. No. 160654-55. July 21, 2004.
- [24] See *Galzote v. Briones*, G.R. No. 164682. September 14, 2011.
- [25] *Ibid.*
- [26] *Querijero v. Palmes-Limitar*, G.R. No. 166467. September 17, 2012 citing *Zamoranos v. People*, G.R. Nos. 193902, 193908 and 194075. June 1, 2011.
- [27] *Yu v. Hon. Reyes-Carpio*, G.R. No. 189207. June 15, 2011.
- [28] SEC. 3. Grounds. - The accused may move to quash the complaint or information on any of the following grounds:
- (a) That the facts charged do not constitute an offense;
 - (b) That the court trying the case has no jurisdiction over the offense charged;

- (c) That the court trying the case has no jurisdiction over the person of the accused;
- (d) That the officer who filed the information had no authority to do so;
- (e) That it does not conform substantially to the prescribed form;
- (f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law;
- (g) That the criminal action or liability has been extinguished;
- (h) That it contains averments which, if true, would constitute a legal excuse or justification; and
- (i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

[29] *People v. Odtuhan*, G.R. No. 191566. July 17, 2013.

[30] See *Rodriguez v. Gadiane*, G.R. No. 152903. July 17, 2006. *People v. CA*, G.R. No. 187409. November 16, 2011.

[31] See Section 160 of R.A. No. 8293 in relation to Section 3 thereof, which reads:

Section 160. Right of Foreign Corporation to Sue in Trademark or Service Mark Enforcement Action. - Any foreign national or juridical person who meets the requirements of Section 3 of this Act and does not engage in business in the Philippines may bring a civil or administrative action hereunder for opposition, cancellation, infringement, unfair competition, or false designation of origin and false description, whether or not it is licensed to do business in the Philippines under existing laws.

Section 3. International Conventions and Reciprocity. - Any person who is a national or who is domiciled or has a real effective industrial establishment in a country which is a party to any convention, treaty or agreement relating to intellectual property rights or the repression of unfair competition, to which the Philippines is also a party, or extends reciprocal rights to nationals of the Philippines by law, shall be entitled to benefits to the extent necessary to give effect to any provision of such convention, treaty or reciprocal law, in addition to the rights to which any owner of an intellectual property right is otherwise entitled by this Act.

[32] G.R. No. L-47701. June 27, 1941.

[33] G.R. No. 72147. December 1, 1987.

[34] G.R. No. 131367. August 31, 2000.

[35] *Braza v. The Honorable Sandiganbayan*, G.R. No. 195032. February 20, 2013.

[36] *Ibid*.

[37] G.R. No. 156408. January 31, 2005.

[38] See *Societe des Produits Nestle v. Dy*, G.R. No. 172276. August 8, 2010.

[39] See *In-N-Out Burger, Inc., v. Sehwan, Inc.*, G.R. No. 179127. December 24, 2008.

[40] *Braza v. The Honorable Sandiganbayan*, *supra*, at note 35.

[41] G.R. No. L-78325. January 25, 1990.

[42] *Supra*, at note 23.

[43] G.R. No. 161693. June 28, 2005.

[44] SEC. 27. Jurisdiction of Court of First Instance. - All actions under this Chapter [V – Infringement] and Chapters VI [Unfair Competition] and VII [False Designation of Origin and False Description or Representation],

hereof shall be brought before the Court of First Instance.

[45] Samson v. Daway, *ibid.*, citing Faberge Incorporated v. IAC, G.R. No. 71189. November 4, 1992. Manzano v. Valera, G.R. No. 122068. July 8, 1998, and Mirpuri v. CA, G.R. No. 114508. November 18, 1999.

[46] See New Civil Code. Article 8.

[47] City Government of Baguio v. Atty. Masweng, G.R. No. 188913. February 19, 2014, citing Ting v. Velez-Ting, G.R. No. 166562. March 31, 2009.

[48] See People v. Siton, G.R. No. 169364. September 18, 2009, citing Lacson v. Executive Secretary, G.R. No. 128096. January 20, 1999, and Macasiano v. National Housing Authority, G.R. No. 107921. July 1, 1993.

[49] See Fariñas v. Executive Secretary, G.R. No. 147387. December 10, 2003, as cited in Lamp v. DBM, G.R. No. 164987. April 24, 2012.

[50] Yap v. Court of Appeals, G.R. No. 186730. June 13, 2012.

[51] See Information in Crim. Case No 676-V-09 for Violation of Section 168 in relation to Section 170 R.A. No. 8293, *supra*, at note 12.

[52] See Information in Crim. Case No 677-V-09 for Violation of Section 168 in relation to Section 170 R.A. No. 8293, *supra*, at note 13.

[53] See Galzote v. Briones, *supra*, at note 24.

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