

PHILIPPINE REFINING COMPANY, PLAINTIFF-APPELLEE, VS. HON. ENRICO PALOMAR, IN HIS CAPACITY AS POSTMASTER GENERAL, DEFENDANT-APPELLANT.

G.R. No. L-29062. March 09, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from the decision of the Court of First Instance of Manila in Civil Case No. 72498,[1] entitled "Philippine Refining Company v. Hon. Enrico Palomar", finding that plaintiff-appellee's promotion schemes ("Breeze Easy Money" and "CAMIA Lucky-Key Hunt") were not in the nature of a lottery and enjoining appellant from issuing a "fraud order" on the afore-mentioned schemes of appellee.

It appears that the Philippine Refining Company, herein appellee, resorted to two schemes to promote the sale of its products: Breeze Easy Money and CAMIA Lucky-Key Hunt, both of which envisioned the giving away for free of certain prizes (without additional consideration) for the purchase of Breeze soap and CAMIA cooking oil. In other words, the participants would get the exact value of the price for the goods plus the chance of winning in the scheme. No one would be required to pay more than the usual price of the products.

This Court has consistently ruled that a plan whereby prizes can be obtained without any additional consideration (when a product is purchased) is not a lottery (Uy v. Palomar L-23248, February 28, 1969; U.S. v. Baguio, 39 Phil. 862; Caltex (Phil.) Inc. v. Postmaster-General, 18 SCRA 247). It is thus clear that the schemes in the case at bar are not lotteries.

The allegation that the prohibition by the Postmaster General should have first been appealed to the Department Secretary concerned in view of the doctrine denominated as "the exhaustion of administrative remedies" has no application here because one recognized exception to the doctrine is when the issue raised is purely a legal one.

In view of the foregoing, the Court RESOLVED to DISMISS this appeal and to AFFIRM the assailed decision of the Court of First Instance.

Fernan, (Chairman), Gutierrez, Jr., Padilla, Bidin, and Cortes, JJ., concur.

Alampay, J., on leave.

[1] PENNED by Judge Jesus de Veyra.

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