

**GERARDO SAMSON, JR., PETITIONER, VS. FELIPE TARROZA AND
DIRECTOR OF PATENTS, RESPONDENTS.***G.R. No. L-20354. July 28, 1969*

Ponente: FERNANDO, J.

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With the statutory recognition of patentability based on the "practical utility" concept[1] thus rendering clear that a patent is not solely to be earned under the "flash of genius" theory,[2] this petition for the cancellation of a utility model patent for a Side Tilting-Dumping Wheelbarrow granted to respondent Felipe A. Tarroza was correctly denied by respondent Director of Patents. Petitioner Gerardo Samson, Jr., himself the grantee of a utility model patent for a Dumping and Detachable Wheelbarrow, lacked any legal justification for such a plea. So respondent Director ruled. Not satisfied, petitioner elevated the matter to us for review. There is no reason why a different outcome is to be expected. His appeal must fail.

Petitioner was, on May 22, 1958, awarded Utility Model Patent No. 27 for the above type of wheelbarrow which, as noted in the decision, "consists of a wheeled carriage base and an upper pivoted and detachable carrying tray. The carriage base is comprised of a wheel and two equal lengths of continuous pipes bent to provide wheel forks at the front and at the rear to support the back portion of the tray, with the ends of the pipes being adopted as the carrying handles for the wheelbarrow. The two pipes thus bent are joined together by cross braces in the front and at the rear. The tray is removably pivoted at its front end through hook catches at its bottom corners, to the forward cross brace, and its rear end rests solidly over the rear portion of the legs. To dump the load the user pulls a dumping handle at the back end to cause the tray to pivot upwardly about the front brace to a position of about 45 degrees with the horizontal and with its front end panel being supported by the wheel."[3]

Respondent's Side Tilting-Dumping Wheelbarrow, on the other hand, consists "of a wheeled carriage made of tubular frames essentially as in petitioner's. Welded transversely to the parallel frames are two brackets provided with holes designed to complement similar holes on brackets provided on the tray. The brackets on the tray are so placed that with the provision of a bolt through the openings the tray may be tilted approximately 170 degrees to the left or to the right of the wheelbarrow with its axis running longitudinally through the center of the bottom face of the tray."[4]

There is an express recognition under the Patent Law, as already noted, that any new model of implements or tools or of any industrial product even if not possessed of the quality of invention but which is of "practical utility" is entitled to a "patent for a utility model." From the above description of the side tilting-dumping wheelbarrow, the product of respondent's ingenuity and industry, it is quite apparent that it has a place in the market and possesses what the statute refers to as "practical utility." The requirement explicitly set forth in the statute has thus been met. Respondent Tarroza is entitled to its benefits. The grant to him of a patent for a utility model is in accordance with law. There was no reason, therefore, for its cancellation. So it was held by the Director of Patents. That decision as already noted should stand.

Moreover, in appeals from a decision of the Director of Patents, only questions of law may be reviewed, findings of facts being conclusive unless unsupported by substantial evidence. So it was decided in *Che v. Philippines Patent Office*.^[5] As was emphasized in *Bagano v. Director of Patents*: "It is almost trite to state here that in cases of the nature as the one at bar, only questions of law are to be raised in order that this Court could exercise its appellate jurisdiction and review the decision."^[6] The above well-settled doctrines suffice to demonstrate that this petition for review, as noted at the outset, is without merit. It was not error then, to reiterate, for the respondent Director of Patents to deny the cancellation of the utility patent granted respondent Tarroza. To borrow from the language of the *Che* opinion: "Even on the sole issue alone, the petition for review must fail."

Another alleged error was imputed to respondent Director of Patents. It would find fault with his failing to hold that respondent Tarroza "was not the true and actual" author of the mechanical contrivance for which he was granted a utility model patent. This is what the appealed decision has to say on this point: "Petitioner's theory with respect to the second ground for cancellation, to wit: that respondent is not the true and actual inventor or designer of the utility model is premised on the fact that because of the proximity of the two, the petitioner and the respondent being brothers-in-law, and living in adjoining residential lots, the latter has had ample time and opportunity to observe and copy the former's wheelbarrow. But the testimonial evidence thus presented is not clear, satisfactory, and free from doubt, in the face of allegations to the contrary by the respondent."^[7] The futility of such an assignment of error is thus apparent. Again, it is factual in character. It is not for us, as noted above, to review or revise the same, there being no showing of a lack of substantial evidence in support thereof.

WHEREFORE, the decision of April 13, 1962 of respondent Director of Patents denying the petition for the cancellation of Utility Model Letters Patent No. 62 in favor of respondent Tarroza is hereby affirmed. With costs against petitioner.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Capistrano, Teehankee and Barredo, JJ., concur.

[1] Section 55 of Republic Act No. 165, as amended by Republic Act No. 864, reads thus: "Design patents and patents for utility models. - (a) Any new, original, and ornamental design for an article of manufacture and (b) any new model of implements or tools or of any industrial product, or of part of the same, which does not possess the quality of invention, but which is of practical utility by reason of its form, configuration, construction or composition, may be protected by the author thereof, the former by a patent for a design and the latter by a patent for a utility model, in the same manner and subject to the same provisions and requirements as relate to patents for inventions in so far as they are applicable, except as otherwise herein provided." (1953)

[2] Cf. "That is to say the new device, however useful it may be, must reveal the flash of creative genius not merely the skill of the calling. If it fails, it has not established its right to a private grant on the public domain." *Cuno Engineering Corp. v. Automatic Devices Corp.*, 314 US 84, 91 (1941).

[3] Decision of the Director of Patents, Brief for the Petitioner-Appellant, pp. 20-21.

[4] *Ibid*, p. 21.

[5] L-18337, Jan. 30, 1965.

[6] L-20170, Aug. 10, 1965.

[7] Decision of the Director of Patents, Brief for the Petitioner-Appellant, pp. 32-33.

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