

**LOTHAR SCHUARTZ, FRIEDEL VERDERBERG, UDOLF KUEHNE,
DIETER FISCHER, JOHN BERNARD WATKINS, HARRY GREAVES,
CHEN WOO CHIN, YOSHIMI IWASAKI, FABIO CARLI, MORTIMER
THOMPSON, MALCOLM J...**

G.R. No. 113407. July 12, 2000

Ponente: PARDO, J.

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PARDO, J.:

On different dates, petitioners applied to the Bureau of Patents, Trademarks and Technology Transfer for registration of patents. They hired the law firm Siguion Reyna, Montecillo and Ongsiako to process their patent applications in the Philippines, respectively identified as follows:

Applicant

Serial No.

(1) Michibazu Ochi, Kenji Shigematsu and
Eni Shinozaki- Issuance of letters patent for
“Hackling Drum Room or Chamber at the
Self-Feeding Equipment for Threshing of
Upper Hackling System”

23354[2]

(2) Robert Cabi-Akman, Arthur Sprenger
and Remy Simond- Issuance of letters patent
for “Colour Value Measurement”

29630[3]

(3) Heinrich Evbergger- Issuance of letters
patent for “Tool for Moulding the Top Past
of a Plastic Container”

29898[4]

(4) Mortimer Thompson- Issuance of letters
patent for “Tamper Evident Closures and Packages”

30112[5]

(5) Yoshimi Iwasaki- Issuance of letters patent for
“Method Generation for Hot Gas by Incinerators”

30548[6]

(6) John Bernard Watkins, Harry Greaves
and Chen Woo Chin- Issuance of letters
patent for “Preservation Composition”

30819[7]

(7) Fabio Carli- Issuance of letters patent
for “Pharmaceutical Compositions”

31968[8]

(8) Lothar Schuartz, Friedel Verderberg,
Rudolf Kuehne, and Dieter Fischer- Issuance
of letters patent for “Process for Producing
Copper-Laminated Base Material for Printed
Circuit Boards”

31974[9]

(9) Malcolm John Law- Issuance of letters
patent for “Electrodeposition of Chromium and
Chromium Bearing Alloys.” [11]

32050[10]

Petitioners’ patent applications lacked certain requirements and the Bureau informed the law firm about it, through correspondences called Office Actions. As petitioners’ law firm did not respond to these office actions within the prescribed time, notices of abandonment were sent on the following dates:

Serial Nos.

Date of Office Action

Date of Abandonment

(1) 23354

March 20, 1987

July 21, 1987

(2) 29630

June 18, 1986

October 21, 1986

(3) 29898

June 11, 1987

June 22, 1987

(4) 30112

June 3, 1987

August 6, 1987

(5) 30548

June 10, 1987

August 18, 1987

(6) 30819

January 28, 1987

July 28, 1987

(7) 31968

January 14, 1987

July 15, 1987

(8) 31974

July 23, 1987

September 24, 1987

(9)32050

March 31, 1987

June 1, 1987[12]

On December 7, 1987, two employees of the law firm, George Bangkas and Rafael Rosas were dismissed from employment. Prior to the dismissal, these employees worked with the patent group of the law firm and had the duty, among others, of getting the firm's letters and correspondence from the Bureau of Patents.

Immediately after their dismissal, the law firm conducted an inventory of all the documents entrusted to them. It was then that the firm learned about the notices of abandonment.

Thereafter, petitioners, through the law firm, filed with the Bureau of Patents separate petitions for revival of the patent applications on the following dates:

Serial Nos. Date Petition Filed

(1) 23354 March 3, 1988

(2) 29630 March 3, 1988

(3) 30122 January 15, 1988/February 29, 1988

(4) 30548 January 25, 1988/March 1, 1988

(5) 30819 May 27, 1988/July 15, 1988

(6) 31968 January 21, 1988/March 1, 1988

(7) 31974 March 14, 1988

(8) 32050 March 17, 1988

For Serial No. 29898, the applicant abandoned his application, for which reason no petition for revival was filed.[13]

On January 31, 1991, Director Luis M. Duka, Jr. of the Bureau of Patents denied all the petitions for revival because they were filed out of time. The dispositive portion specifically provides:

“WHEREFORE, in consideration of the foregoing premises, all the petitions for revival of the above-captioned abandoned applications bearing Serial Nos. 23354, 29630, 29898, 30112, 30548, 30819, 31968, 31974, and 32050, are hereby denied and no further petitions nor requests for reconsideration hereof shall be entertained hereafter.

“SO ORDERED.

“Makati, Metro Manila, Philippines, this 31st day of January 1991.

LUIS M. DUKA, JR.

Director III” [14]

On February 14, 1991, petitioners appealed the above resolution of the Bureau of Patents to the Court of Appeals.[15]

On August 13, 1992, the Court of Appeals dismissed the consolidated appeal for being filed beyond the 15-day reglementary period to appeal. There was an unreasonable delay before the petitions to revive applications were filed. Moreover, petitioners’ patent applications could not be a proper subject of a consolidated appeal because they covered separate and distinct subjects and had been treated by the Bureau of Patents as separate and individual applications. Specifically the decision provides:

“WHEREFORE, for reasons above stated and in the light of the applicable law on the matter, this petition for review on appeal from the order/decision of the Director of Bureau of Patents is hereby DISMISSED with costs against the appellants.

SO ORDERED.” [16]

On September 14, 1992, petitioners moved for reconsideration of the Court of Appeals’ decision, which the court denied on January 7, 1994. The appellate court found no cogent reason to justify the reversal or modification of its decision.[17]

Aggrieved, petitioners filed the instant petition for review on certiorari.[18]

At issue is the validity of the Court of Appeals’ dismissal of the consolidated appeal of petitioners from the Director of Patents’ denial of the revival of their patent applications.

Petitioners contend that the Court of Appeals committed grave abuse of discretion when it held that the consolidated appeal was filed out of time. They were appealing from the resolution of the Director of Patents dated January 31, 1991, which denied the petition for revival of the patent applications. They received a copy of the resolution, through their patent attorneys, on February 7, 1991, and filed the consolidated appeal seven (7) days after, or on February 14, 1991. According to petitioners, these dates clearly established that their appeal was seasonably filed.

The contention is not meritorious. If the facts above-mentioned were the sole basis of determining whether the appeal was filed on time, petitioners’ argument would be correct. However, petitioners lost sight of the fact that

the petition could not be granted because of laches. Prior to the filing of the petition for revival of the patent application with the Bureau of Patents, an unreasonable period of time had lapsed due to the negligence of petitioners' counsel. By such inaction, petitioners were deemed to have forfeited their right to revive their applications for patent.

Facts show that the patent attorneys appointed to follow up the applications for patent registration had been negligent in complying with the rules of practice prescribed by the Bureau of Patents. The firm had been notified about the abandonment as early as June 1987, but it was only after December 7, 1987, when their employees Bangkas and Rosas had been dismissed, that they came to know about it. This clearly showed that petitioners' counsel had been remiss in the handling of their clients' applications.[19]

"A lawyer's fidelity to the cause of his client requires him to be ever mindful of the responsibilities that should be expected of him. A lawyer shall not neglect a legal matter entrusted to him." [20] In the instant case, petitioners' patent attorneys not only failed to take notice of the notices of abandonment, but they failed to revive the application within the four-month period, as provided in the rules of practice in patent cases. These applications are deemed forfeited upon the lapse of such period.[21]

Hence, we can not grant the present petition.[22] The Court of Appeals did not err or gravely abuse its discretion in dismissing the petition for review.

WHEREFORE, the Court DENIES the petition for lack of merit. The Court AFFIRMS the decision of the Court of Appeals in CA-G. R. SP No. 24175.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G. R. SP No. 24175, promulgated on August 13, 1992 by the Special Fifth Division, Justice Campos, Jr., ponente, and Justices Guingona and Montoya, concurring; Rollo, pp. 44-48.

[2] Patent application filed on December 3, 1979.

[3] Patent application filed on September 29, 1983.

[4] Patent application filed on November 28, 1983.

[5] Patent application filed on January 18, 1984.

[6] Patent application filed on April 15, 1984.

[7] Patent application filed on June 15, 1984.

[8] Patent application filed on October 2, 1986.

[9] Patent application filed on March 12, 1985.

[10] Patent application filed on March 26, 1985.

[11] Rollo, pp. 3-4.

[12] Rollo, pp. 5-6.

[13] Rollo, p. 7.

[14] Bureau Resolution, Rollo, pp. 50-55.

[15] Rollo, p. 46.

[16] In CA-G. R. SP No. 24175, Rollo, pp. 44-48.

[17] Rollo, p. 42.

[18] Filed on January 31, 1994. Rollo, pp. 2-40. On December 04, 1996, we gave due course to the petition (Rollo, p. 102).

[19] Government Service Insurance System vs. Court of Appeals, 287 SCRA 204 [1998]; Sumbad vs. Court of Appeals, 308 SCRA 575 [1999].

[20] Villafuerte vs. Cortez, 288 SCRA 687 [1998].

[21] “Section 111. Abandonment for failure to respond within time limit.

(a) If an applicant fails to prosecute his application within four months after the date when the last official notice of any action by the Office was mailed to him, or within such shorter time as may be fixed (Rule 112), the application will become abandoned.

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“Section 113. Revival of abandoned application.- An application abandoned for failure to prosecute may be revived as a pending application within four months from the date of abandonment upon good cause shown, upon the payment of the required fee and upon tender of the proposed response to the last office action. An application not revived within the specified period shall be deemed forfeited.” (Rules of Practice in Patent Cases, cited in Solicitor General’s Memorandum, Rollo, pp. 145-168, at p. 159)

[22] Diaz-Duarte vs. Ong, 298 SCRA 388 [1998].

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