

DRUGMAKER'S LABORATORIES, INC., PETITIONER, VS. DOMINADOR JOSE Y NAGANO, LLOYD LABORATORIES, INC., AND NIDA BALAJADIA, RESPONDENTS.

G.R. NO. 128766. October 09, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari seeking to reverse the Decision of the Court of Appeals in CA-G.R. SP No. 42747.

The facts are:

Drugmaker's Laboratories, Inc. (Drugmaker), herein petitioner, is a domestic corporation engaged in the manufacture of pharmaceutical products being sold by Dofra Pharmaceuticals (Dofra) and Jasper Enterprises (Jasper). Dofra and Jasper are owned by Dominador Jose, one of herein respondents. They sell drugs like Doframycetin, Ehlormercin, Hisercon, Ampicin, and Dofratus.

Lloyd Laboratories, Inc. (Lloyd), also a respondent, is a domestic corporation likewise engaged in the manufacture of pharmaceutical products for Dofra and Jasper. Lloyd is managed by Nida Balajadia, also a respondent.

The instant controversy stemmed from a complaint for unfair competition^[1] filed with the National Bureau of Investigation (NBI) by petitioner Drugmaker against Lloyd, respondent, Dofra and Jasper. It appears that three former employees of Dofra and Jasper informed petitioner that respondent Lloyd had been paid by Dofra and Jasper to manufacture drugs bearing the same label being used exclusively by petitioner for its own drugs. These drugs so labeled were to be sold by respondent Lloyd to Dofra and Jasper.

Acting on petitioner's complaint, the NBI, on July 7, 1995, sent poseur buyers to the business premises of Dofra and Jasper where they purchased drugs. These were then submitted to Cecille Baylon, petitioner's quality control supervisor, for testing. She found that the samples obtained by the NBI were not manufactured by petitioner.

That same day, NBI Special Investigator Rene Sagun applied for a search warrant with the Regional Trial Court (RTC), Branch 23, Manila, presided by then Executive Judge William Bayhon, now deceased. After conducting searching questions and answers, and finding probable cause to charge respondents for unfair competition, Executive Judge Bayhon issued on that same day Search Warrant No. 95-275.

Immediately, the NBI personnel implemented the search warrant. Seized at the premises of Dofra and Jasper were 40 boxes of drugs manufactured by Lloyd but bearing the labels used by petitioner.

At the instance of petitioner, respondent Dominador Jose was charged with unfair competition before the Metropolitan Trial Court of Manila (MeTC), Branch 5, docketed therein as Criminal Case No. 300410-SA.

Meanwhile, upon motion of the prosecution, Executive Judge Bayhon issued an Order dated June 28, 1996

directing that Search Warrant No. 95-275 be quashed on the ground that the representative of the Bureau of Food and Drug Administration (BFAD), responsible for the testing of drugs, was not present during the hearing of the NBI's application for search warrant. Petitioner filed a motion for reconsideration, but Executive Judge Bayhon denied the same.

Going back to Criminal Case No. 300410-SA before the MeTC, on September 27, 1995, the prosecution filed a motion to dismiss the case for petitioner's failure to prove that its patented drugs have been manufactured by respondent Lloyd. On December 13, 1995, the MeTC dismissed Criminal Case No. 300410-SA. This prompted petitioner to file with the RTC, Branch 15, Manila, a petition for certiorari, alleging that the MeTC, Branch 5 acted with grave abuse of discretion in dismissing Criminal Case No. 300410-SA. However, the RTC dismissed the petition for lack of merit.

Incidentally, petitioner also filed with the BFAD an administrative complaint against respondent Nida Balajadia for manufacturing fake drugs, docketed as BFAD Case No. 006-95. However, the BFAD dismissed the complaint. It found that respondent Lloyd did not manufacture spurious drugs.

Relative to the quashal of Search Warrant No. 95-275, petitioner filed with the Court of Appeals a petition for certiorari alleging that Executive Judge Bayhon committed grave abuse of discretion in quashing Search Warrant No. 95-275.

The Court of Appeals, in its assailed Decision before us, dismissed the petition, holding that certiorari is not a substitute for a lost appeal and that there is no more reason to review the "quashal of the search warrant" as it has "no more practical legal effect."

We agree with the Court of Appeals. Indeed, with the dismissal by the MeTC of Criminal Case No. 300410-SA for unfair competition against respondent Dominador Jose, sustained by the RTC, the issue of whether the quashal of Search Warrant No. 95-275 by Executive Judge Bayhon is with grave abuse of discretion has become moot and academic.

WHEREFORE, we DENY the instant petition. Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Defined and penalized under Article 189 of the Revised Penal Code.

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