

ANDREA TAN, CLARITA LLAMAS, VICTOR ESPINA AND LUISA ESPINA, PETITIONERS, VS. BAUSCH & LOMB, INC. RESPONDENT.

G.R. NO. 148420. December 15, 2005

Ponente: CORONA, J.

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CORONA, J.:

Assailed in this petition for review[1] are the decision[2] and resolution[3] of the Court of Appeals which set aside the December 22, 1998 order[4] of Judge Genis Balbuena of Branch 21, Regional Trial Court (RTC), Cebu City and ordered the transfer of Criminal Case No. CBU-45890 to Branch 9, RTC, Cebu City.

The antecedents follow.

On April 8, 1997, an information[5] for violation of paragraph 1, Article 189 [6] of the Revised Penal Code (RPC) was filed before Branch 21, RTC, Cebu City against petitioners Andrea Tan, Clarita Llamas, Victor Espina and Luisa Espina of Best Buy Mart, Inc. The information read:

That on or about June 27, 1996 and sometime prior or subsequent thereto, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, abovementioned accused, conspiring and mutually helping each other, did then and there willfully, unlawfully and feloniously distribute and sell counterfeit RAY BAN sunglasses bearing the appearance and trademark of RAY BAN in the aforesaid store wherein they have direct control, supervision and management thereby inducing the public to believe that these goods offered by them are those of RAY BAN to the damage and prejudice of BAUSCH AND LOMB, INC., the exclusive owner and user of trademark RAY BAN on sunglasses.[7]

On January 21, 1998, respondent filed a motion to transfer the case to Branch 9, RTC, Cebu City. Administrative Order No. 113-95[8] (A.O. No. 113-95) designated the said branch as the special court in Region VII to handle violations of intellectual property rights.

On March 2, 1998, petitioners filed a motion to quash[9] the information on the ground that the RTC had no jurisdiction over the offense charged against them. The penalty[10] provided by the RPC for the crime was within the jurisdiction of the Municipal Trial Court in Cities (MTCC).

On March 6, 1998, respondent filed an opposition to the motion to quash,[11] explaining that BP 129 had already transferred the exclusive jurisdiction to try and decide violations of intellectual property rights from the MTC and MTCC to the RTC and that the Supreme Court had also issued Administrative Order No. 104-96 (A.O. No. 104-96)[12] deleting and withdrawing the designation of several branches of the MTC and MTCC as special intellectual property courts.

On December 22, 1998, the court a quo denied respondent's motion to transfer the case and granted petitioners' motion to quash. It ruled:

Accused [wa]s charged for violation of Art. 189 of Revised Penal Code the penalty for which is prison correccional in its minimum period or a fine ranging from P500.00 to P2,000.00, or both. Hence, within the

jurisdiction of the metropolitan and municipal trial courts (Sec. 32(2), B.P. Blg. 129, as amended).

Administrative Orders Nos. 113-95 and 104-96, cited by plaintiff, cannot prevail over the express provisions of Batas Pambansa Blg. 129, as amended, jurisdiction of courts being a matter of substantive law.

If this Court has no jurisdiction over the case, the same is true with Branch 9 of the same court, Therefore, the motion to transfer the case to the latter should fail.

WHEREFORE, premises considered, the motion to transfer is denied, while the motion to quash is granted. The case is thus dismissed.

SO ORDERED.[13]

Respondent received the order on January 21, 1999 but filed neither an appeal nor a motion for reconsideration. Rather, it filed a petition for certiorari[14] in the Court of Appeals on March 23, 1999 or one (1) day beyond the period allowed in Section 4, Rule 65[15] of the Rules of Court.

Respondent's procedural lapses notwithstanding, the appellate court gave due course to the petition and set aside the trial court order:

WHEREFORE, the petition is GIVEN DUE COURSE and GRANTED. The assailed Order of December 22, 1998 is VACATED and another is entered ordering the transfer of Crim. Case No. CBU-45890 to Branch 9 of the Regional Trial Court of Cebu City, and directing the public respondent to accordingly transmit the records thereof.

SO ORDERED.[16]

Hence, the present petition for review, centered on the following issues:

- THE COURT OF APPEALS SERIOUSLY ERRED IN NOT DISMISSING THE PETITION OF RESPONDENT THAT IS FRAUGHT WITH FATAL INFIRMITIES.
- THE COURT OF APPEALS SERIOUSLY ERRED IN REVERSING THE CORRECT RULING OF THE TRIAL COURT THAT THE REGIONAL TRIAL COURT HAS NO JURISDICTION OVER THE OFFENSE OF UNFAIR COMPETITION UNDER ARTICLE 189 OF THE REVISED PENAL CODE.[17]

There is no merit in the petition.

As to the first assigned error, petitioners contend that the Court of Appeals erred in giving due course to the petition for certiorari because respondent failed to appeal or file a motion for reconsideration of the trial court's order granting the motion to quash. Worse, respondent filed the petition in the appellate court one day after the reglementary period expired.

Needless to state, the acceptance of a petition for certiorari as well as the grant of due course thereto is, in general, addressed to the sound discretion of the court.[18]

Besides, the provisions of the Rules of Court, which are technical rules, may be relaxed in certain exceptional situations.[19] Where a rigid application of the rule that certiorari cannot be a substitute for appeal will result in a manifest failure or miscarriage of justice, it is within our power to suspend the rules or exempt a particular case from its operation.[20]

Under certain special circumstances,[21] a petition for certiorari may be given due course notwithstanding that no motion for reconsideration was filed in the lower court. The exception applies in this case since the order of the trial court was, as will be discussed later, a patent nullity.

Likewise, the one-day delay in the filing of the petition may be excused on the basis of equity to afford respondent the chance to prove the merits of the complaint.

In *Yao v. Court of Appeals*,^[22] we held:

In the interest of substantial justice, procedural rules of the most mandatory character in terms of compliance may be relaxed. In other words, if strict adherence to the letter of the law would result in absurdity and manifest injustice or where the merit of a party's cause is apparent and outweighs consideration of non-compliance with certain formal requirements, procedural rules should definitely be liberally construed. A party-litigant is to be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on mere technicalities.

Hence, the only relevant issue left for our resolution is whether or not the jurisdiction over the crime allegedly committed by petitioners is vested on the RTC.

Section 5 (5) of the 1987 Constitution empowers the Supreme Court to promulgate rules concerning pleading, practice and procedure in all courts. The limitations to this rule-making power are the following: the rules must (a) provide a simplified and inexpensive procedure for the speedy disposition of cases; (b) be uniform for all courts of the same grade and (c) not diminish, increase or modify substantive rights.^[23] As long as these limits are met, the argument used by petitioners that the Supreme Court, through A.O. Nos. 113-95 and 104-96, transgressed on Congress' sole power to legislate, cannot be sustained.

A.O. No. 113-95 designated special intellectual property courts to promote the efficient administration of justice and to ensure the speedy disposition of intellectual property cases.

A.O. No. 104-96,^[24] on the other hand, was issued pursuant to Section 23 of BP 129^[25] which transferred the jurisdiction over such crimes from the MTC and MTCC to the RTC and which furthermore gave the Supreme Court the authority to designate certain branches of the RTC to exclusively handle special cases in the interest of the speedy and efficient administration of justice. Accordingly, the RTC was vested with the exclusive and original jurisdiction to try and decide intellectual property cases.

The transfer of jurisdiction from the MTC and MTCC to the RTC did not in any way affect the substantive rights of petitioners. The administrative orders did not change the definition or scope of the crime of unfair competition with which petitioners were charged.

Both administrative orders therefore have the force and effect of law, having been validly issued by the Supreme Court in the exercise of its constitutional rule-making power. The trial court, being a subordinate court, should have followed the mandate of the later A.O. 104-96 which vested jurisdiction over the instant case on the RTC. Thus, the appellate court correctly found that the court a quo committed grave abuse of discretion.

Furthermore, the order of the trial court was a patent nullity. In resolving the pending incidents of the motion to transfer and motion to quash, the trial court should not have allowed petitioners to collaterally attack the validity of A.O. Nos. 113-95 and 104-96. We have ruled time and again that the constitutionality or validity of laws, orders, or such other rules with the force of law cannot be attacked collaterally. There is a legal presumption of validity of these laws and rules. Unless a law or rule is annulled in a direct proceeding, the legal presumption of its validity stands.^[26] The trial court's order was consequently null and void.

The transfer of this case to Branch 9, RTC, Cebu City, however, is no longer possible. A.M. No. 03-03-03-SC^[27] consolidated the intellectual property courts and commercial SEC courts in one RTC branch in a particular locality to streamline the court structure and to promote expediency. The RTC branch so designated will try and decide cases involving violations of intellectual property rights, and cases formerly cognizable by the Securities

and Exchange Commission. It is now called a special commercial court. In Region VII, the designated special commercial court is Branch 11, RTC, Cebu City. The transfer of this case to that court is therefore warranted.

WHEREFORE, the Court of Appeals decision dated October 20, 2000 is hereby AFFIRMED with the MODIFICATION that Criminal Case No. CBU-45890 shall be transferred to Branch 11, RTC, Cebu City. Let the records of the case be transmitted thereto and the case tried and decided with dispatch.

Costs against petitioners.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Carpio-Morales, and Garcia, JJ., concur.

[1] Under Rule 45 of the Revised Rules of Court.

[2] Penned by Associate Justice Roberto A. Barrios and concurred in by Associate Justices Ramon Mabutas, Jr. and Eriberto U. Rosario, Jr. of the Eighth Division of the Court of Appeals; dated October 20, 2000; Rollo, pp. 51-56.

[3] The resolution denied the motion for reconsideration; dated May 21, 2001; Id., pp. 70-71.

[4] Id., pp. 32-33.

[5] Filed by State Prosecutor Zenaida M. Lim; docketed as Criminal Case No. CBU-45890; Id., pp. 22-23.

[6] Unfair competition.

[7] Id., pp. 22-23.

[8] Re: Designation of Special Courts for Intellectual Property Rights; issued on October 2, 1995.

[9] Dated February 17, 1998; Id., pp. 24-26.

[10] Penalty for violation of Article 189, RPC: prision correccional in its minimum period or fine ranging from P500 to P2,000, or both.

[11] Id., pp. 27-30.

[12] Re: Designation of Special Courts for Kidnapping, Robbery, Carnapping, Dangerous Drugs Cases and other Heinous Crimes, Intellectual Property Rights Violations and Jurisdiction in Libel Cases; Issued on October 21, 1996.

[13] See note 4.

[14] Under Rule 65 of the Rules of Court.

[15] Sec. 4, Rule 65. When and where petition filed. – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. x x x

[16] See note 2.

[17] Id., p. 10.

[18] Serrano v. Galant Maritime Services, Inc, et al., G.R. No. 151833, 7 August 2003; 408 SCRA 523.

[19] Mercado-Fehr v. Fehr, G.R. No. 152716, 23 October 2003, 414 SCRA 288.

[20] *Nala v. Barroso, Jr.*, G.R. No. 153087, 7 August 2003, 408 SCRA 529.

[21] The following are the instances when a special civil action for certiorari may be given due course even if no motion for reconsideration has been filed: (1) the issue raised is purely one of law; (2) public interest is involved; (3) the matter is one of urgency; (4) the question of jurisdiction was squarely raised, submitted to, met and decided by the lower court; and (5) the order is a patent nullity. (*Far East Bank and Trust Co., v. Toh, Sr.*, G.R. No. 144018, 23 June 2003, 404 SCRA 590).

[22] G.R. No. 132428, 24 October 2000, 344 SCRA 202.

[23] Nachura, *OUTLINE REVIEWER IN POLITICAL LAW*, 2002 Edition, p. 242.

[24] A.O. No. 104-96 (B) Violations of intellectual property rights such as, but not limited to, violations of Art. 188 of the RPC (substituting and altering trademarks, trade names, or service marks), Art. 189 of the RPC (unfair competition, fraudulent registration of trademarks, trade names, or service marks, fraudulent designation of origin, and false description) P.D. No. 49 (protection of intellectual property rights), P.D. No. 87 (an act creating the videogram regulatory board), R.A. No. 165 as amended (the trademark law) shall be tried exclusively by the RTC in accordance with the established raffle scheme except those covered by AO No. 113-95 dated October 2, 1995, in which case, the designated RTC shall continue to observe the provisions therein.

Considering that jurisdiction for violations of intellectual property rights hereinbefore mentioned is now confined exclusively to the RTC, the designation of MTC and MTCC under AO No. 113-95 is deleted and withdrawn. (emphasis ours)

[25] SEC. 23. Special Jurisdiction to try special cases. – The Supreme Court may designate certain branches of the Regional Trial Courts to handle exclusively criminal cases, juvenile and domestic relations cases, agrarian cases, urban land reform cases which do not fall under the jurisdiction of quasi-judicial bodies and agencies, and /or such other special cases as the Supreme Court may determine in the interest of a speedy and efficient administration of justice.

[26] *Olsen and Co. v. Aldanese*, 43 Phil 259 (1922); *San Miguel Brewery v. Magno*, 128 Phil. 328 (1967).

[27] Issued on June 23, 2003.

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