SUMMERVILLE GENERAL MERCHANDISING CO., Petitioner, vs. HON. COURT OF APPEALS, HON. JUDGE ANTONIO EUGENIO, CHANG YU SHUI and JULIET LOPEZ, Respondents.

G.R. No. 158767. June 26, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

The Case

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, as amended, seeking to set aside the 13 March 2003 Decision[1] and 18 June 2003 Resolution[2] of the Court of Appeals in CA-G.R. SP No. 73799. The Court of Appeals in its assailed Decision upheld the 10 June 2002 Order[3] of the Regional Trial Court (RTC) of the City of Manila, Branch 24, in Criminal Case No. 02-2623-26, partially granting the Motion to Quash Search Warrant No. 02-2625 filed by herein private respondents, namely Lilian D. Rosales, Marivic Lim, Andy Tang, Chang Yu Shui, Huang Tsung Lian, Ramon Cheng, Diana Lusuan and Mary Chong Victor Uy; and the 18 October 2002 Order,[4] likewise of the RTC, denying the Motion for Reconsideration thereof.

This case stemmed from a letter-complaint[5] by Ang Tiam Chay (Ang), President and General Manager of petitioner Summerville General Merchandising Co. (Summerville), alleging the illegal proliferation of fake Royal brand playing cards filed with the office of the Director, Criminal Investigation and Detection Group (CIDG) of the Philippine National Police (PNP).

The Facts

As synthesized from the records of the case, the facts are:

Petitioner Summerville is a corporation engaged in the business of trading, retailing and exporting/importing a variety of merchandise.[6] It is a holder of a Deed of Assignment[7] executed in its favor by one Norma C. Gabriel, owner/holder of several copyrights and patents over the Royal playing cards, Royal brand playing cards case, design for the case and packaging of a deck of Royal playing cards.[8]

Ang, President and General Manager of petitioner Summerville, personally appeared at the office of the Criminal Investigation and Detective Division (CIDD) of the CIDG, PNP, in Camp Crame, Quezon City, to personally complain and file a letter-complaint against several persons or establishments engaged in the unauthorized manufacturing, distribution and sale of Royal brand playing cards, the design and mark of which are claimed to have been duly patented/copyrighted and registered. Specifically, complainant Ang alleged that the aforesaid actions were violative of Sec. 155[9] in relation to Sec. 170,[10] both of Republic Act No. 8293,[11] otherwise known as the "Intellectual Property Code of the Philippines." Among the establishments identified to be manufacturing and selling playing cards using petitioner Summerville's patented Joker design and plastic container was Arotech International Corporation, owned by private respondents Chang Yu Shui, Juliet B. Lopes (a.k.a. Veronica Lopez), and several John Does.

In consideration of the aforementioned letter-complaint, on 18 January 2002, P/INSP. Romualdo B. Cruz, Team Leader, TM III-CIDD-CIDG, PNP, applied for a search warrant against private respondents, particularly Lilian D. Rosales, Marivic Lim, Andy Tang, Chang Yu Shui, Huang Tsung Lian, Ramon Cheng, Diana Lusuan, Mary Chong and Victor Uy, all of Arotech International Corporation. In the Application for Search Warrant, hereinbelow quoted in full, P/INSP. Cruz alleged:

> That he has personal knowledge and verily believed that Chang Yu Shui, Huang Tsung Liang, Ramon Cheng, Diana Lusuan and Mary Chong, all Incorporators of AROTECH International Corporation of #90 J.P. Bautista St., Caloocan City, has (sic) in their possession and has (sic) in their control the following property/ies described below to wit:
>
> Crown brand playing cards using copyright plastic container and joker of Royal, Machine used in manufacturing plastic container and joker of Royal; Cliché of Royal joker and casing; other materials being used in the manufacturing of fake Royal copyright joker and plastic container; L-300 van w/ Plate No. WJC - 133 used in the delivery of playing cards. Which they are keeping and concealing in the premise above described.
>
> That the herein undersigned has verified the report and found it to be fact and has therefore reasons to believe that a SEARCH WARRANT should be issued to enable the undersigned to take possession and bring to this Court the following described property/ies.
>
> - Crown brand playing cards using copyright plastic container and joker of Royal
>
> - Machine used in manufacturing plastic container and joker of Royal
>
> - Cliché of Royal Joker and Plastic casing
>
> - Other materials, being used in the manufacture of fake Royal copyright Joker and Plastic container
>
> - L-300 van (White) w/Plate No. WJC - 133 in the delivery of playing cards.
>
> WHEREFORE, the undersigned prays to this Honorable Court to issue a Search Warrant, authorizing him and his agents or any Peace Officer to search the premises described in this application and to seize and bring to this Honorable Court the persons and personal property/ies above described to be dealt with as the law directs.[12]

On 18 January 2002, the Acting Presiding Judge of RTC-Manila, Branch 1, Hon. Antonio M. Eugenio, Jr. issued a search warrant, i.e., Search Warrant No. 02-2625, after finding probable cause to believe that:

> x x x [A] Violation of Sec. 155 in relation to Section 170, RA 8293 has been committed or is being committed and that there are good and sufficient reasons to believe that Chang Yu Shui; Huang Tsung Liang; Ramon Cheng; Diana Lusuan and Mary Chong of Arotech Int'l. Corp. of #90 J.P. Bautista St., Caloocan City have (sic) in their possession, control and custody at the stated address, as per description below and attached sketch, the following:
>
> A) Crown brand playing cards using copyright plastic container and joker of Royal
>
> B) Machine used in manufacturing plastic container and joker of Royal
>
> C) Cliché of Royal Joker and Plastic casing
>
> D) Other materials being used in the manufacture of fake Royal copyright Joker and Plastic container
>
> E) L - 300 van (white) w/ Plate No. WJC 133 used in the delivery of playing cards[13]

Pursuant thereto, elements of the CIDD-CIDG conducted a raid of the premises of Arotech International

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Corporation at #90 J.P. Bautista St., Caloocan City. Per the raiding team's report, specifically, Compliance/Return of Search Warrant,[14] the following were seized:

> a) 910 boxes containing 144 pieces of Crown brand playing cards using copyright/trademark plastic container and Joker of Royal brand;
>
> b) 3 printing machines;
>
> c) 203 boxes of Crown brand playing cards (finished product);
>
> d) 521 Crown playing card sheets (unfinished product); and
>
> e) 7,000 pieces plastic container.[15]

Thereafter, the record of the foregoing incident was forwarded to the City Prosecutor of Caloocan City for the filing of the appropriate criminal charges.[16]

In the interim, in an Order dated 31 January 2002, the RTC-Manila, Branch 1, directed that the custody of the seized items be turned over to Petitioner Summerville, subject to the condition that the key to the said warehouse be turned over to the Deputy Sheriff of the court.

On 4 February 2002, private respondents filed with the RTC-Manila, Branch 1, a Verified Omnibus Motion[17] essentially praying for the 1) reconsideration of the 31 January 2002 Order; 2) quashal of Search Warrant No. 02-2625; 3) return of the seized properties; and 4) declaration that the items seized are inadmissible in evidence against the movants.

The foregoing motion was grounded on the arguments that 1) there was no offense or subject of the offense to speak of, because the Joker found on the Crown brand playing cards, as well as the plastic containers, was registered and licensed in the name of Arotech International Corporation; 2) there was no basis for the finding of probable cause for infringement or the violation of Sec. 155, in relation to Sec. 170 of Republic Act No. 8293 since the playing cards seized were those of the Crown brand and not of the Royal brand; and 3) what was issued was a general search warrant as said warrant failed to describe the things to be seized with particularity.

In an Opposition[18] dated 18 March 2002, petitioner Summerville maintained that the embossed name Arotech International Corporation on the plastic container of Crown brand playing cards is of no moment; that "except for said embossed mark, the plastic container is similarly deceiving in all respects with the container case"[19] of Royal brand playing cards. Moreover, it insisted that private respondents were still liable for unfair competition and patent even though they were the holder of an earlier issued certificate bearing Copyright Registration No. 1-97-247,[20] for their failure to make use of their registered container case design. In other words, it is its contention that the design of the container or case that comes with the Crown brand playing cards is that of petitioner Summerville, and not the one registered and licensed in private respondents' name.

The trial court conducted a clarificatory hearing and required the parties to submit their respective position papers.

On 10 June 2004, the RTC-Manila, Branch 24,[21] issued an Order[22] partially granting the omnibus motion. It ordered that the seized Crown brand playing cards and the three printing machines be released and returned to private respondents; hence, only the containers of the playing cards were left in the custody of the petitioner Summerville. According to the trial court, "from a perusal of both parties' container cases x x x,"[23] it would appear that they are "practically the same in all aspects with the exception of the brand name ARO TECH etched in the dorsal portion of respondents' container x x x."[24]

Further, it ratiocinated that:

> At any rate, since what is violative of private complainant's intellectual property right is limited to the plastic container case, only the said item should have been the subject of the warrant and seized by the enforcement team.
>
> Accordingly, the Motion to Quash filed by respondents is partially granted with respect to the playing cards and the three (3) printing machines.[25]

The Motion for Reconsideration and the Partial Motion for Reconsideration of petitioner Summerville and private respondents respectively, were denied by the trial court in an Order[26] dated 18 October 2002.

Undaunted, petitioner Summerville filed with the Court of Appeals a Petition for Certiorari[27] under Rule 65 of the Rules of Court, as amended. Said petition imputed grave abuse of discretion, amounting to lack or excess of jurisdiction, to the trial court when the latter 1) ordered the release of the Crown brand playing cards and the three printing machines; and 2) denied the Motion for Reconsideration of the assailed order. Petitioner Summerville justified the inclusion of the Crown brand playing cards in the search and seizure order by claiming that the playing cards were part and parcel of the plastic containers, the design of which is claimed by it. The seizure of the Crown brand playing cards was necessary to demonstrate how said cards were masquerading as Royal brand playing cards, thus, allegedly violating petitioner's intellectual property rights. But, with the release of the Crown brand playing cards, petitioner Summerville concluded that it would "not be able to present sufficient evidence for Unfair Competition against private respondents considering that the playing cards with their container cases are the very instruments of Unfair Competition."[28]

In a Decision[29] promulgated on 13 March 2003, the Court of Appeals dismissed the aforementioned petition, the fallo of which reads:

> WHEREFORE, finding no grave abuse of discretion on the part of the public respondent, the petition is hereby DENIED and ordered DISMISSED.

In an extended Resolution[30] dated 18 June 2003, the Court of Appeals denied petitioner Summerville's Motion for Reconsideration[31] and Supplemental Motion for Reconsideration.[32]

The Issues

Hence, this Petition for Review on Certiorari under Rule 45 of the Rules of Court, as amended, predicated on the following issues:[33]

> I.
>
> WHETHER THE SEIZED PLAYING CARDS INSIDE THE INFRINGING PLASTIC CONTAINER CASES MAY LEGALLY BE CONSIDERED "SUBJECT OF THE OFFENSE" FOR INFRINGEMENT AND UNFAIR COMPETITION, AND HENCE MAY BE SUBJECT TO SEIZURE UNDER A SEARCH WARRANT UNDER SECTION 3, RULE 126 OF THE 2000 RULES OF CRIMINAL PROCEDURE;
>
> II.
>
> WHETHER THE TRIAL COURT TRANSGRESSED THE RIGHT OF THE PETITIONER TO DUE PROCESS OF LAW IN QUASHING THE SEARCH WARRANT AND ORDERING THE RETURN OF THE PLAYING CARDS INSIDE THE INFRINGING PLASTIC CONTAINER CASES AND THE THREE PRINTING MACHINES USED IN MANUFACTURING THE INFRINING PLASTIC CONTAINERS BY MAKING ARBITRARY FACTUAL FINDINGS WITHOUT RECEPTION OF EVIDENCE ON THE DISPUTED ISSUES OF FACTS..

The Court's Ruling

At the core of the subject controversy is the issue respecting the propriety of the release and return of the seized Crown brand playing cards and the printing machines.

In dismissing the petition, the Court of Appeals articulated that:

> Records reveal that the application for a Search Warrant sought for the seizure of, among others, "Crown brand playing cards using copyright plastic container and joker of Royal, Machine used in manufacturing plastic container and joker of Royal; Cliché of Royal joker and casing; other materials being used in the manufacturing of fake Royal copyright joker and plastic container." x x x
>
> x x x x
>
> Certainly, the seized Crown playing cards are not the subject of the offense, fruits of the offense or used or intended to be used as means of committing an offense. Said seized Crown playing cards are genuine and the trademark is registered and owned by private respondents. There is no reason to justify their seizure just because the same are inside the alleged infringed plastic container case.
>
> Petitioner's allegation of the "indivisibility" of the Crown playing cards and the alleged infringed plastic container case is absurd. To assent to the said theory will be tantamount to taking of one's property without due process of law. Under the circumstances of the case, the law permits the seizure of a personal property if the same is the subject of the offense, fruit of the offense, or used or about to be used in committing an offense. Insofar as the Crown playing cards are concerned, the private respondents are very much entitled to the recovery of the same.
>
> x x x x.
>
> In the matter of the three (3) printing machines seized, there was no grave abuse of discretion in quashing the warrant insofar as these machines are concerned. x x x.
>
> The use of the printing machines in the manufacture or printing of fake Joker, is unsubstantiated. Since the private respondents are engaged in the printing and manufacture of Crown playing cards, it is only normal and expected that printing machines be found in their possession. x x x
>
> x x x x
>
> The facts presented in the application of the search warrant of the printing machines' character in the offense of unfair competition, is wanting. This is obviously the absence of personal knowledge on the part of the applicant regarding the use of the printing machines in the commission of the offense. Competent proof of the printing machines' use in the commission of the offense, must be made in order to ascertain probable cause.[34] (Citation omitted.) [Emphasis supplied.]

Additionally, in denying petitioner Summerville's motions for reconsideration, the appellate court had this to say, viz:

> Petitioner alleges that the individuality of Crown Playing Cards is subsumed or lost in the identity of petitioner's Royal plastic container.
>
> Petitioner should be reminded that the matter of who owns the design of the contested plastic container manufactured or used by private respondents, (sic) is still the subject of inquiry before the lower court. Hence, petitioner can not (sic) prematurely claim ownership over the said plastic container.
>
> As stated in this Court's decision, the subject matter complained of is the plastic container and not the Crown Playing Cards belonging to private respondents. Public respondent correctly ordered the release of the said cards.

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> x x x x
>
> WHEREFORE, premises considered, the Motion for Reconsideration and Supplemental Motion for Reconsideration are DENIED for lack of merit.[35]

Pending the disposition of this case, private respondents filed a Motion to Dismiss[36] on the ground that the RTC-Caloocan City Branch 123, in an Order[37] dated 10 December 2004, provisionally dismissed Criminal Case No. C-67456, the main case filed against private respondents for the prosecution of the trademark infringement, for failure to prosecute.[38] Petitioner Summerville, in its Comment,[39] does not controvert such dismissal, or deny the finality of such dismissal; thus, it may be reasonably concluded that the dismissal of the criminal complaint for trademark infringement against private respondents had become final, and no other criminal case is pending or has been filed pursuant to Search Warrant No. 02-2625. Furthermore, there is no record of any civil case having been filed in connection with the seized articles. Since there is no pending criminal or civil case in connection with the articles seized, the return of the said articles to private respondents are but a matter of course.

Be that as it may, despite such dismissal, which has rendered moot or academic the core issue of the subject petition, the matter of whether or not the RTC-Manila, Branch 24 acted with grave abuse of discretion amounting to lack or excess of discretion when it partially granted the motion to quash the Warrants of Search and Seizure and released the Crown brand playing cards as well as the three printing machines seized, needs to be addressed.

In assailing the decision of the Court of Appeals, petitioner Summerville contends that:

> The Crown (brand) playing cards encased and wrapped inside the Royal plastic container cases intended to be passed off as Royal (brand) playing cards are `the subject of the offense' of infringement of the registered trademark of the petitioner inasmuch as using such `packages' or `wrappers' intended for commerce or in connection with the sale x x x is likely to cause confusion, or to cause mistake or to deceive' (sic) which is a criminal offense under section 155.2 in relation to Section 170 of RA 8293.
>
> The intention of the private respondents to pass off their merchandise as Royal (brand) Playing Cards and not as Crown (brand) Playing Cards is very evident in the fact that when inside the Royal (brand) plastic container, the Crown (brand) Playing Cards are to be mistaken by the buying public as Royal (brand) Playing Cards likewise belonging to petitioner.
>
> Such deception in passing off their goods for those of the petitioner who has established a goodwill renders the private respondents criminally liable for unfair competition under Section 168.2 and 168.3 (a) (in relation to Sec.) 170 of RA 8293.[40]

In contrast, private respondents assert that the use of the term "Registered Mark" in Sec. 155 of Republic Act No. 8293 specifically requires that only owners of registered marks can sue for infringement of trademarks.[41] Petitioner Summerville, however, has yet to produce evidence to buttress its claim in order to sustain the issued search warrant.[42] With respect to the allegation of the crime of copyright infringement, private respondents aver that petitioner failed to establish an essential element of the said crime, i.e., goodwill.[43] They claim that no iota of evidence was ever presented to show that the Royal brand plastic container has already acquired goodwill in accordance with current jurisprudence.[44]

The petition has no merit.

Petitioner Summerville's assertion that the Crown brand playing cards are "subject of the offense" is erroneous, bearing in mind the distinctive circumstances of this case, i.e., that private respondents are the owners of the registered Crown brand. The articles seized - hundreds of Crown brand playing cards, among other articles - had

little, if any, evidentiary value for the criminal action of trademark infringement relating to the use of the plastic containers, which petitioner Summerville filed before the RTC-Caloocan City, Branch 123; or even one for unfair competition also respecting the use of such plastic containers.

In the case at bar, petitioner Summerville does not dispute that the design and/or mark of the Crown brand playing cards is owned by private respondents. In fact, there is no allegation that the design and/or mark of such Crown brand playing cards is a reproduction, counterfeit, copy, or colorable imitation of another registered mark legally owned by another; hence, no crime of trademark infringement appears to have been committed or perpetrated to warrant the inference that the Crown brand playing cards are "subject of the offense" as contemplated by Sec. 4 of Rule 126 of the Rules of Court. All the more telling is the contention of petitioner Summerville that it is the plastic container/case and its marking that bear the reproduction, counterfeit, copy, or colorable imitation of its registered mark. In other words, it is the design of the plastic container/case that is alleged to have been utilized by private respondents to deceive the public into believing that their Crown brand playing cards are the same as those manufactured by petitioner Summerville.

As succinctly put by the Court of Appeals:

> Certainly, the seized Crown playing cards are not the subject of the offense, fruits of the offense or used or intended to be used as means of committing an offense. Said seized Crown playing cards are genuine and the trademark is registered and owned by private respondents. There is no reason to justify their seizure just because the same are inside the alleged infringed plastic container case.[45]

Furthermore, assuming for the sake of argument that the Crown brand playing cards can be considered "subject of the offense," a sample or two are more than enough to retain, should there have been a need to examine them along with the plastic container/case. There was no need to hold the hundreds of articles seized. It is alleged in the Affidavits executed pursuant to the application for the search warrant that as part of the investigation conducted by the CIDD-CIDG, PNP, sample purchases were made. Said samples, therefore, are fairly sufficient to represent the hundreds of articles that were seized.

More to the point, during the presentation of the seized Crown brand playing cards at trial, the prosecution need not present each and every seized pack of playing cards in order to show or prove the point that Crown brand playing cards bear the reproduction, counterfeit, copy, or colorable imitation of petitioner Summerville's mark - the rest would just be surplus to requirement. The trial court will not allow the presentation of superfluous evidence. Given the availability of actual samples, there was no need for the court to take custody of the countless articles seized.

With respect to the release of the three printing machines, the foregoing arguments equally hold true. This Court finds no error in the actions of the trial court. The record of the case is bereft of any finding as to the use of the printing machines in the production of the subject plastic containers. Absent any connection between the two, no amount of intellectual calisthenics will substantiate portraying the printing machines as "subject of the offense," "fruit of the offense" or used or intended to be used as means of committing an offense.

All things considered, it should be noted that there is no law prohibiting the trial court from returning the articles seized before a case is actually filed in court and even before the final determination by the prosecutor or the DOJ of whether a case should be filed in court. It is true that in most cases, the release of the articles seized would be unjustified. However, in the case at bar, the return of the playing cards and the printing machines would better serve the purposes of justice and expediency.

There exists a constitutional safeguard against unreasonable searches and seizures,[46] which refers to the immunity of one's person from interference by the government, included in which is his residence, his papers and

other possessions.[47] The Constitution, however, does not provide a blanket prohibition against all searches and seizures; rather, the fundamental protection accorded by the search and seizure clause is that, between persons and the police, there must stand the protective authority of a magistrate clothed with the power to issue or refuse such search warrant.[48] Yet, the responsibilities of the magistrate do not end with the granting of the warrant, but extends to the custody of the articles seized.[49] In exercising custody over these articles, the property rights of the owner should be balanced with the social need to preserve evidence, which will be used in the prosecution of a case.[50]

In the present petition, the criminal action for the prosecution of the crime of trademark infringement has already been dismissed. Thus, the RTC-Manila, Branch 24, would have been left with the custody of depreciable items. More importantly, the Crown brand playing cards would have been non-essential if presented as evidence for the following reasons: 1) private respondents have already admitted that they are the owners of the Crown brand, which made use of the plastic containers in dispute; 2) petitioner Summerville does not deny private respondents' ownership of the Crown brand; and 3) what is in dispute is the design of plastic containers/cases of playing cards and not the playing cards per se. Actual samples of the impugned plastic containers/cases of Crown brand playing cards are already in the possession of the trial court. Where the articles seized have already been found not to be the "subject of the offense" and the purpose of presenting them as evidence is no longer served, there is no justification for severely curtailing the rights of a person to his property.

By and large, in ordering the return of the articles seized, the RTC-Manila, Branch 24, merely exercised its discretion in determining from the circumstances of the case what constitutes a reasonable and an unreasonable search and seizure. The belief that to value the privacy of home and person and to afford its constitutional protection against the long reach of the government are no less than to value human dignity; and this privacy must not be disturbed except in the overriding social need, and then only under the stringent procedural rules.[51]

WHEREFORE, premises considered, the instant petition is hereby DENIED. The assailed 13 March 2003 Decision and 18 June 2003 Resolution both of the Court of Appeals in CA-G.R. SP No. 73799, are hereby AFFIRMED. Costs against petitioner Summerville General Merchandising Company.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Nachura, JJ., concur.

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[1] Penned by Court of Appeals Associate Justice Remedios A. Salazar-Fernando with Associate Justices Ruben T. Reyes and Edgardo F. Sundiam, concurring; Annex "A" of the Petition; rollo, pp. 26-37.

[2] Annex "E" of the Petition; id. at 56-57.

[3] CA rollo, pp. 14-16.

[4] Id. at 19.

[5] Records of Search Warrant No. 02-2623, p. 6.

[6] Id.

[7] Id. at 18-21.

[8] Id. at 22-41.

[9] SEC. 155. Remedies; Infringement. - Any person who shall, without the consent of the owner of the registered

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mark:

Sec. 155.1. Use in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark or the same container or a dominant feature thereof in connection with the sale, offering for sale, distribution, advertising of any goods or services including other preparatory steps necessary to carry out the sale of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive; or

Sec. 155.2. Reproduce, counterfeit, copy or colorably imitate a registered mark or a dominant feature thereof and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive, shall be liable in a civil action for infringement by the registrant for the remedies hereinafter set forth: Provided, That the infringement takes place at the moment any of the acts stated in Subsection 155.1 or this subsection are committed regardless of whether there is actual sale of goods or services using the infringing material.

[10] SEC. 170. Penalties. - Independent of the civil and administrative sanctions imposed by law, a criminal penalty of imprisonment from two (2) years to five (5) years and a fine ranging from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00), shall be imposed on any person who is found guilty of committing any of the acts mentioned in Section 155, Section 168 and Subsection 169.1 (Arts. 188 and 189, Revised Penal Code).

[11]AN ACT PRESCRIBING THE INTELLECTUAL PROPERTY CODE AND ESTABLISHING THE INTELLECTUAL PROPERTY OFFICE, PROVIDING FOR ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES.

[12] CA rollo, p. 93.

[13] Id. at 95.

[14] Id. at 102 - 103.

[15] Compliance/Return of Search Warrant dated 19 January 2002, accomplished by P/INSP Romualdo B. Cruz, id.

[16] Letter dated 22 January 2001; id. at 104.

[17] Id. at 106-123.

[18] Id. at 135 - 140.

[19] Id. at 138-139.

[20] 28 May 1997.

[21] The case was re-raffled from Branch 1 to Branch 24 presided over by the same judge, Hon. Antonio M. Eugenio, Jr.

[22] Rollo, pp. 85 - 87.

[23] Id. at 86.

[24] Id.

[25] d.

[26] CA rollo, p. 19.

[27] Id. at 2-12.

[28] Id. at 9.

[29] Annex "A" of the Petition; rollo, pp. 25 - 37.

[30] Annex "E" of the Petition; id at 55 - 57.

[31] Annex "B" of the Petition; id at 38 - 40.

[32] Annex "C" of the Petition; id at 41 - 43.

[33] Petitioner's Memorandum, p. 9; id. at 114.

[34] Id. at 34-37.

[35] Id. at 56-57.

[36] Id. at 123 - 125.

[37] Annex "A" of respondent's Motion to Dismiss dated 21 March 2005, filed before the Court on 29 March 2005; Id. at 126.

[38] Id. In view of the foregoing, and considering that this case has been pending for a considerable length of time, in violation of the right of the accused to a speedy trial, let this case be DISMISSED PROVISIONALLY with the express consent of the accused and their counsel.

[39] Id. at 154-159.

[40] Id. at 114-115.

[41] Id. at 137.

[42] Id.

[43] Id. at 140.

[44] Id. at 141.

[45] Id. at 35.

[46]Caterpillar, Inc. v. Samson, G.R. No. 164605, 27 October 2006, 505 SCRA 704, 714.

[47] Id. citing Villanueva v. Querubin, 150-C Phil. 519, 524 (1972).

[48] Id. citing People v. Libnao, G.R. No. 136860, 20 January 2003, 395 SCRA 407, 413.

[49] Id.

[50] Id.

[51] Caterpillar, Inc. v. Samson, supra note 46 at 715.

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