

**SHANGRI-LA INTERNATIONAL HOTEL MANAGEMENT, LTD.,
SHANGRI-LA PROPERTIES, INC., MAKATI SHANGRI-LA HOTEL &
RESORT, INC., AND KUOK PHILIPPINES PROPERTIES, INC.,
PETITIONERS, VS. DEV...**

G.R. NO. 159938. January 22, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

Before the Court is this Motion for Reconsideration filed by respondent Developers Group of Companies, Inc. (DGCI) praying for the reversal of this Court's Decision[1] of March 31, 2006, the dispositive portion of which reads:

WHEREFORE, the instant petition is GRANTED. The assailed Decision and Resolution of the Court of Appeals dated May 15, 2003 and September 15, 2003, respectively, and the Decision of the Regional Trial Court of Quezon City dated March 8, 1996 are hereby SET ASIDE. Accordingly, the complaint for infringement in Civil Case No. Q-91-8476 is ordered DISMISSED.

In its motion, respondent-movant DGCI raises the following grounds:

- The certification of non-forum shopping submitted by petitioners is insufficient;
- The word “Shangri-La” and “S” logo were adopted and used by the Kuok Group as part of their corporate names and the names of their hotels;
- Petitioners' claim of legal and beneficial ownership of mark and logo is baseless and unwarranted;
- Change of theory from owner to one who may be damaged as entitled to relief is not allowable;
- Finding of registration in patent offices in different countries around the world is inaccurate;
- DGCI's registration of the “Shangri-La” mark and the “S” logo is valid because there was at least two months' use thereof prior to application;
- Section 2-A of R.A. No. 166 requires the actual commercial use of trademarks in the Philippines pursuant to the principle of territoriality applicable to trademarks. Hence, petitioners' use of subject marks outside of Philippine territory did not confer on them any ownership rights thereto under Philippine laws;
- The Regional Trial Court and the Court of Appeals' failure to find any bad faith on the part of DGCI is conclusive on the Supreme Court;
- DGCI's use of the subject marks in the Philippines is entitled to protection under the territoriality principle of trademarks.[2]

The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the

decision sought to be reconsidered and that this should not be an obstacle for a reconsideration,[3] the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.

Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.

Movant DGCI would make capital on the alleged danger the subject Decision might wreak upon Philippine trademark law, claiming that the decision in question would render nugatory the protection intended by the trademark law to all Philippine trademark registrants. This assertion is a baseless and sweeping statement. The interpretation of Republic Act No. 166 in the Decision does not in any way diminish the protection afforded to valid trademark registrations made under said law. It was glaringly obvious, however, from the testimony of movant's own witness that DGCI's registration of the subject mark and logo was void due to the existence of bad faith and the absence of the requisite 2-month prior use. Despite movant's melodramatic imputation of an abandonment of the territoriality principle, the Decision actually upholds the principle but found that respondent DGCI was not entitled to protection thereunder due to the double infirmity which attended its registration of the subject mark and logo.

Anent DGCI's assertion of a change of theory on the part of the petitioners, suffice it to say that the latter have never budged from seeking relief as rightful, legal and/or beneficial owners of the mark and logo in dispute. The Decision ruled favorably on the veracity of the petitioners' claim:

xxx It would be a great injustice to adjudge the petitioners guilty of infringing a mark when they are actually the originator and creator thereof.

Nor can the petitioners' separate personalities from their mother corporation be an obstacle in the enforcement of their rights as part of the Kuok Group of Companies and as official repository, manager and operator of the subject mark and logo. Besides, R.A. No. 166 did not require the party seeking relief to be the owner of the mark but "any person who believes that he is or will be damaged by the registration of a mark or trade name." [4] [Emphasis supplied]

Clearly, from the word "Besides" used in the context of the aforequoted paragraph, all that the Decision says is that even if petitioners were not the owners, they would still have a right of action under the law. There was never an attempt on their part at an eleventh-hour change of theory, as movant DGCI wishes to portray.

WHEREFORE, the instant motion for reconsideration is DENIED for lack of merit.

SO ORDERED.

Puno, C.J., (Chairman), Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.

[1] Rollo, pp. 529-553.

[2] Id. at 555.

[3] *Guerra Enterprises Company, Inc. v. Court of First Instance of Lanao del Sur, et al.*, G.R. No. L-28310, April 17, 1970, 32 SCRA 314, 317.

[4] Section 17, R.A. No. 166.

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