

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. BIENVENIDO A. TAN, AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA AND LIM HOA ALIAS LIM HOA TING, RESPONDENTS.

G.R. No. 16014. May 23, 1961

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an original action for prohibition and certiorari, with preliminary injunction, to restrain respondent, Hon. Bienvenido A. Tan, as Judge of the Court of First Instance of Manila "to cease and desist from further proceeding in Criminal Case No. 32401" of said court, entitled "People of the Philippines vs. Lim Hoa, alias Lim Hoa Ting", and to annul a given order of said court.

Respondent Lim Hoa, the defendant in said case, is charged with unfair competition, in violation of Article 189 of the Revised Penal Code. It is alleged in the information therein:

"That on or about the 12th day of May, 1954, and for sometime prior and subsequent thereto, in the City of Manila, Philippines, the said accused, being then the owner and manager of business establishment named Ting Lian Hong located at 339-341-Ylang-Ylang street, in said City, did then and there willfully, unlawfully and feloniously engage in unfair competition for the purpose of deceiving or defrauding A. Tung Chingco Trading, an authorized representative of Barrelson Inc., of its legitimate trade and/or the public in general and sell his goods, the Lantern Brand Food Seasoning by then and there giving it the general appearance of a product named Oak Barrel Brand Food Seasoning being sold and distributed by said A. Tung Chingco Trading as follows: the same sizes of the bottle containers, the yellow background color of the labels, the grouping or letterings in English and Chinese characters, the identical wording and listing of ingredients and instructions for the use of the product, the use of a lantern symbol closely resembling an oak barrel, the red seal on the neck of the bottle, the white top cover, the same color scheme of the letterings, all of which induced the public to believe that the said Lantern Brand Food Seasoning is that of an Oak Barrel Brand Food Seasoning, which fact would be likely to induce the public to believe that the said products made in the Philippines is that of an Oak Barrel Brand Food Seasoning made in the United States, and thereby giving other persons a chance to do the same with a like purpose, and likewise caused to be affixed or used in his labels a false designation of origin or any false description or representation, such as, 'VESO LANTERN BRAND SEASONING AGENCY L.H. TINGS IMPORTER—PACKED BY CHANS PRODUCT CO., SAN FRANCISCO, CALIF., and offered such goods to the public, to the damage and prejudice of said Oak Barrel Brand Food Seasoning's distributor, A. Tung Chingco Trading, and the public interest as a whole."

Upon arraignment, Lin Hoa entered a plea of not guilty, but, subsequently, he was allowed to withdraw such plea. Then, he moved to quash the information upon the ground that the facts therein set forth do not constitute any offense upon which a valid judgment or conviction may be based. In an order dated March 23, 1956, this motion was granted, over the objection of the prosecution. The latter appealed to the Supreme Court, in which the case was docketed as G. R. No. L-10612. In a decision promulgated on May 30, 1958, we reversed the order of respondent Judge granting said motion to quash and the record of the case was, accordingly, remanded to the

court of origin for further proceedings, not inconsistent with said decision.

Soon after receipt of said record in the lower court, the prosecution moved that the case be transferred to another branch of said court, for arraignment and trial, in view of the opinion stressed by respondent Judge in its order of March 23, 1956, upholding the motion to quash, but the motion was denied in an order dated November 24, 1958. A motion for reconsideration of this order had the same fate. In due course, thereafter, said case was called for trial, in the course of which the prosecution began to introduce its evidence. One of its witnesses, who testified on September 8, 1959, was Illuminado F. Reyno, a Food Health Inspector of the Bureau of Health, from whom the prosecution sought to elicit testimony to the effect that the label on the products of Lim Hoa contains a false statement of the Ingredients thereof. The defense objected to said evidence, upon the ground that it did not seek to establish any of the allegations of the information. As counsel for the prosecution maintained that the evidence objected to was proper in a criminal case for unfair competition, respondent Judge stated that the theory of the prosecution implied that Lim Hoa was "accused on several counts", and that, "if the prosecution insisted on that", he (respondent Judge) would "dismiss the case". When the prosecution argued that the evidence was pertinent owing to the nature of the charge against him (Lim Hoa), respondent Judge sustained the aforementioned objection of the defense and added that he would "not allow the witness to testify further". Alleging that the foregoing attitude and actuations of respondent Judge exhibited "nothing but his undeniable bias against the prosecution and in favor of the accused", the prosecution instituted the present action for the purposes stated above. Soon after the commencement of this action we issued the writ of preliminary injunction prayed for by the prosecution, without bond.

As regards the prayer that respondent Judge be restrained from hearing this case, the issue thus raised is now a moot question, respondent Judge having retired already from the Bench.

With respect to the order of the lower court barring the prosecution from introducing evidence to the effect that the ingredients of the products manufactured by Lim Hoa do not tally with the description given in the label of said products, it is not proper to determine the admissibility of said evidence in this special civil action for prohibition and certiorari. Indeed, even if we consider the view taken thereon by respondent Judge—on which we need not and do not express any opinion—as hypothetically erroneous, said view would connote a mere mistake of judgment, not constituting an abuse of discretion, much less a grave one, to affect the jurisdiction of the lower court, and warrant our intervention by writ of certiorari. Besides, the trial of the main case will now have to be resumed before another member of the Bench who might not share the view of respondent Judge. Hence, petitioner has another plain, adequate and speedy remedy in the ordinary course of law.

Wherefore, the petition herein is dismissed, without special pronouncement as to costs. It is so ordered.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Paredes, Dizon, De Leon, and Natividad, JJ., concur.

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