

JUNO BATISTIS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 181571. December 16, 2009

Ponente: BERSAMIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-181571/>

BERSAMIN, J.:

On January 23, 2006, the Regional Trial Court (RTC), Branch 24, in Manila convicted Juno Batistis for violations of Section 155 (infringement of trademark) and Section 168 (unfair competition) of the Intellectual Property Code (Republic Act No. 8293).[1]

On September 13, 2007, the Court of Appeals (CA) affirmed the conviction for infringement of trademark, but reversed the conviction for unfair competition for failure of the State to prove guilt beyond reasonable doubt.[2]

Batistis now appeals via petition for review on certiorari to challenge the CA's affirmance of his conviction for infringement of trademark.

We affirm the conviction, but we modify the penalty by imposing an indeterminate sentence, conformably with the Indeterminate Sentence Law and pertinent jurisprudence.

Antecedents

The Fundador trademark characterized the brandy products manufactured by Pedro Domecq, S.A. of Cadiz, Spain.[3] It was duly registered in the Principal Register of the Philippines Patent Office on July 12, 1968 under Certificate of Registration No. 15987,[4] for a term of 20 years from November 5, 1970. The registration was renewed for another 20 years effective November 5, 1990.[5]

Allied Domecq Philippines, Inc., a Philippine corporation exclusively authorized[6] to distribute Fundador brandy products imported from Spain wholly in finished form,[7] initiated this case against Batistis. Upon its request, agents of the National Bureau of Investigation (NBI) conducted a test-buy in the premises of Batistis, and thereby confirmed that he was actively engaged in the manufacture, sale and distribution of counterfeit Fundador brandy products.[8] Upon application of the NBI agents based on the positive results of the test-buy,[9] Judge Antonio M. Eugenio, Jr. of the Manila RTC issued on December 20, 2001 Search Warrant No. 01-2576,[10] authorizing the search of the premises of Batistis located at No.1664 Onyx St., San Andres Bukid, Sta. Ana, Manila. The search yielded 20 empty Carlos I bottles, 10 empty bottles of Black Label whiskey, two empty bottles of Johnny Walker Swing, an empty bottle of Remy Martin XO, an empty bottle of Chabot, 241 empty Fundador bottles, 163 boxes of Fundador, a half sack of Fundador plastic caps, two filled bottles of Fundador brandy, and eight cartons of empty Jose Cuervo bottles.[11]

The Office of the City Prosecutor of Manila formally charged Batistis in the RTC in Manila with two separate offenses, namely, infringement of trademark and unfair competition, through the following information, to wit:

That on or about December 20, 2001, in the City of Manila, Philippines, the said accused, being then in possession of two hundred forty one (241) empty Fundador bottles, one hundred sixty three Fundador boxes,

one half (1/2) sack of Fundador plastic caps, and two (2) Fundador bottles with intention of deceiving and defrauding the public in general and Allied Domecq Spirits and Wines and Allied Domecq Philippines, Inc. represented by Atty. Leonardo P. Salvador, a corporation duly organized and existing under the laws of the Republic of the Philippines and engaged in manufacturing of Fundador Brandy under license of Pedro Domecq, S.A. Cadiz, Spain, and/or copyright owner of the said product, did then and there wilfully, unlawfully and feloniously reproduce, sell and offer for sale, without prior authority and consent of said manufacturing company, the accused giving their own low quality product the general appearance and other features of the original Fundador Brandy of the said manufacturing company which would be likely induce the public to believe that the said fake Fundador Brandy reproduced and/or sold are the real Fundador Brandy produced or distributed by the Allied Domecq Spirits and Wines Limited, U.K. and Allied Domecq Philippines, Inc. to the damage and prejudice of the latter and the public.

Contrary to law.[12]

With Batistis pleading not guilty on June 3, 2003,[13] the RTC proceeded to trial. On January 23, 2006, the RTC found Batistis guilty beyond reasonable doubt of infringement of trademark and unfair competition, viz:

ACCORDINGLY, this Court finds the accused JUNO BATISTIS Guilty Beyond Reasonable Doubt of the crime of Violation of Section 155 of the Intellectual Property Code and hereby sentences him to suffer the penalty of imprisonment of TWO (2) YEARS and to pay a fine of FIFTY THOUSAND (P50,000.00) PESOS.

This Court likewise finds accused JUNO BATISTIS Guilty Beyond Reasonable Doubt of the crime of Violation of Section 168 (sic) penalty of imprisonment of TWO (2) YEARS and to pay a fine of FIFTY THOUSAND (Php50,000.00) PESOS.

Accused is further ordered to indemnify the private complainant the sum of TWENTY-FIVE (Php25,000.00) PESOS as actual damages.

The following items recovered from the premises of the accused and subject of the case are hereby ordered destroyed, pursuant to existing rules and regulations:

Twenty (20) empty Carlos 1 bottles
Ten (10) Black Label empty bottles
Two (2) empty bottles of Jhonny (sic) Walker Swing
One(1) empty bottle of Remy Martin XO
One (1) empty bottle of Chabot
Two hundred forty-one (241) empty Fundador bottles
One hundred sixty-three (163) Fundador boxes
One half (1/2 sack of Fundador plastic caps, and
Two (2) filled Fundador bottles
Eight (8) boxes of empty Jose Cuervo bottles

WITH COSTS AGAINST ACCUSED

SO ORDERED.[14]

Batistis appealed to the CA, which, on September 13, 2007, affirmed his conviction for infringement of trademark, but acquitted him of unfair competition,[15] disposing:

WHEREFORE, premises considered, the Appeal of Appellant JUNO BATISTIS is hereby PARTIALLY GRANTED. The challenged Decision is AFFIRMED in so far as the charge against him for Violation of Section 155 of the Intellectual Property Code is concerned.

However, for failure of the prosecution to prove to a moral certainty the guilt of the said Appellant, for

violation of Section 168 of the same code a judgment of ACQUITTAL is hereby rendered in his favor.

SO ORDERED.[16]

After the CA denied his motion for reconsideration, Batistis brought this appeal.

Issue

Batistis contends that:

THE REGIONAL TRIAL COURT ERRED IN CONVICTING THE ACCUSED ON THE BASIS OF THE SELF-SERVING AFFIDAVITS AND TESTIMONIES OF THE POLICE OFFICERS WHO CONDUCTED THE RAID ON THE HOUSE OF THE ACCUSED.

He submits that the only direct proofs of his guilt were the self-serving testimonies of the NBI raiding team; that he was not present during the search; that one of the NBI raiding agents failed to immediately identify him in court; and that aside from the two bottles of Fundador brandy, the rest of the confiscated items were not found in his house.

Ruling

The petition for review has no merit.

1.

Appeal confined only to Questions of Law

Pursuant to Section 3,[17] Rule 122, and Section 9,[18] Rule 45, of the Rules of Court, the review on appeal of a decision in a criminal case, wherein the CA imposes a penalty other than death, reclusion perpetua, or life imprisonment, is by petition for review on certiorari.

A petition for review on certiorari raises only questions of law. Sec. 1, Rule 45, Rules of Court, explicitly so provides, viz:

Section 1. Filing of petition with Supreme Court.—A party desiring to appeal by certiorari from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

Accordingly, we reject the appeal for the following reasons:

Firstly: The petition for review replicates Batistis' appellant's brief filed in the CA,[19] a true indication that the errors he submits for our review and reversal are those he had attributed to the RTC. He thereby rests his appeal on his rehashed arguments that the CA already discarded. His appeal is, therefore, improper, considering that his petition for review on certiorari should raise only the errors committed by the CA as the appellate court, not the errors of the RTC.

Secondly: Batistis' assigned errors stated in the petition for review on certiorari require a re-appreciation and re-examination of the trial evidence. As such, they raise issues evidentiary and factual in nature. The appeal is dismissible on that basis, because, one, the petition for review thereby violates the limitation of the issues to only legal questions, and, two, the Court, not being a trier of facts, will not disturb the factual findings of the CA, unless they were mistaken, absurd, speculative, conflicting, tainted with grave abuse of discretion, or contrary to the findings reached by the court of origin.[20]

Whether a question of law or a question of fact is involved is explained in *Belgica v. Belgica*:^[21]

xxx [t]here exists a question of law when there is doubt on what the law applicable to a certain set of facts is. Questions of fact, on the other hand, arise when there is an issue regarding the truth or falsity of the statement of facts. Questions on whether certain pieces of evidence should be accorded probative value or whether the proofs presented by one party are clear, convincing and adequate to establish a proposition are issues of fact. Such questions are not subject to review by this Court. As a general rule, we review cases decided by the CA only if they involve questions of law raised and distinctly set forth in the petition.^[22]

Thirdly: The factual findings of the RTC, its calibration of the testimonies of the witnesses, and its assessment of their probative weight are given high respect, if not conclusive effect, unless cogent facts and circumstances of substance, which if considered, would alter the outcome of the case, were ignored, misconstrued or misinterpreted.^[23]

To accord with the established doctrine of finality and bindingness of the trial court's findings of fact, we do not disturb such findings of fact of the RTC, particularly after their affirmance by the CA, for Batistis, as appellant, did not sufficiently prove any extraordinary circumstance justifying a departure from such doctrine.

2.

Findings of fact were even correct

A review of the decision of the CA, assuming that the appeal is permissible, even indicates that both the RTC and the CA correctly appreciated the evidence against the accused, and correctly applied the pertinent law to their findings of fact.

Article 155 of the Intellectual Property Code identifies the acts constituting infringement of trademark, viz:

Section 155. Remedies; Infringement. — Any person who shall, without the consent of the owner of the registered mark:

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

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.

Harvey Tan, Operations Manager of Pedro Domecq, S.A. whose task involved the detection of counterfeit products in the Philippines, testified that the seized Fundador brandy, when compared with the genuine product, revealed several characteristics of counterfeiting, namely: (a) the Bureau of Internal Revenue (BIR) seal label attached to the confiscated products did not reflect the word tunay when he flashed a black light against the BIR label; (b) the "tamper evident ring" on the confiscated item did not contain the word Fundador; and (c) the word Fundador on the label was printed flat with sharper edges, unlike the raised, actually embossed, and finely printed genuine Fundador trademark.^[24]

There is no question, therefore, that Batistis exerted the effort to make the counterfeit products look genuine to deceive the unwary public into regarding the products as genuine. The buying public would be easy to fall for the counterfeit products due to their having been given the appearance of the genuine products, particularly with the difficulty of detecting whether the products were fake or real if the buyers had no experience and the tools for detection, like black light. He thereby infringed the registered Fundador trademark by the colorable imitation of it through applying the dominant features of the trademark on the fake products, particularly the two bottles filled with Fundador brandy.[25] His acts constituted infringement of trademark as set forth in Section 155, supra.

3.

Penalty Imposed should be an

Indeterminate Penalty and Fine

Section 170 of the Intellectual Property Code provides the penalty for infringement of trademark, to wit:

Section 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) to Two hundred thousand pesos (P200,000), 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).

The CA affirmed the decision of the RTC imposing the "the penalty of imprisonment of TWO (2) YEARS and to pay a fine of FIFTY THOUSAND (P50,000.00) PESOS."

We rule that the penalty thus fixed was contrary to the Indeterminate Sentence Law,[26] as amended by Act No. 4225. We modify the penalty.

Section 1 of the Indeterminate Sentence Law, as amended, provides:

Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

The straight penalty the CA imposed was contrary to the Indeterminate Sentence Law, whose Section 1 requires that the penalty of imprisonment should be an indeterminate sentence. According to *Spouses Bacar v. Judge de Guzman, Jr.*,[27] the imposition of an indeterminate sentence with maximum and minimum periods in criminal cases not excepted from the coverage of the Indeterminate Sentence Law pursuant to its Section 2[28] is mandatory, viz:

The need for specifying the minimum and maximum periods of the indeterminate sentence is to prevent the unnecessary and excessive deprivation of liberty and to enhance the economic usefulness of the accused, since he may be exempted from serving the entire sentence, depending upon his behavior and his physical, mental, and moral record. The requirement of imposing an indeterminate sentence in all criminal offenses whether punishable by the Revised Penal Code or by special laws, with definite minimum and maximum terms, as the Court deems proper within the legal range of the penalty specified by the law must, therefore, be deemed mandatory.

Indeed, the imposition of an indeterminate sentence is mandatory. For instance, in *Argoncillo v. Court of Appeals*,[29] three persons were prosecuted for and found guilty of illegal fishing (with the use of explosives) as

defined in Section 33, Presidential Decree No. 704, as amended by Presidential Decree No. 1058, for which the prescribed penalty was imprisonment from 20 years to life imprisonment. The trial court imposed on each of the accused a straight penalty of 20 years imprisonment, and the CA affirmed the trial court. On appeal, however, this Court declared the straight penalty to be erroneous, and modified it by imposing imprisonment ranging from 20 years, as minimum, to 25 years, as maximum.

We are aware that an exception was enunciated in *People v. Nang Kay*,^[30] a prosecution for illegal possession of firearms punished by a special law (that is, Section 2692, Revised Administrative Code, as amended by Commonwealth Act 56 and Republic Act No. 4) with imprisonment of not less than five years nor more than ten years. There, the Court sustained the straight penalty of five years and one day imposed by the trial court (Court of First Instance of Rizal) because the application of the Indeterminate Sentence Law would be unfavorable to the accused by lengthening his prison sentence. Yet, we cannot apply the *Nang Kay* exception herein, even if this case was a prosecution under a special law like that in *Nang Kay*. Firstly, the trial court in *Nang Kay* could well and lawfully have given the accused the lowest prison sentence of five years because of the mitigating circumstance of his voluntary plea of guilty, but, herein, both the trial court and the CA did not have a similar circumstance to justify the lenity towards the accused. Secondly, the large number of Fundador articles confiscated from his house (namely, 241 empty bottles of Fundador, 163 Fundador boxes, a half sack full of Fundador plastic caps, and two filled bottles of Fundador Brandy) clearly demonstrated that Batistis had been committing a grave economic offense over a period of time, thereby deserving for him the indeterminate, rather than the straight and lower, penalty.

ACCORDINGLY, we affirm the decision dated September 13, 2007 rendered in C.A.-G.R. CR No. 30392 entitled *People of the Philippines v. Juno Batistis*, but modify the penalty to imprisonment ranging from two years, as minimum, to three years, as maximum, and a fine of P50,000.00.

The accused shall pay the costs of suit.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio Morales, Leonardo-De Castro, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 35-44.

[2] *Id.*, pp. 11-29.

[3] Records, p. 35.

[4] *Id.*, p. 71.

[5] *Id.*, p. 31 (certification of the Chief, Patent/Trademark Registry Division, Intellectual Property Office).

[6] *Id.*, pp. 180-184 (Agreement for the Distribution in Philippines of Jerez Wines and Brandies Domecq).

[7] *Id.*, p. 186.

[8] *Id.*, pp. 16, 18-19, 20.

[9] *Id.*, pp. 51-52.

[10] *Id.*, pp. 49-50.

[11] *Id.*, pp. 39-40 (return of the search warrant); p. 37 (receipt/inventory of property/item seized).

[12] Id., p. 1.

[13] Id., p. 225.

[14] Id., pp. 419-420.

[15] Id., p. 28.

[16] Id., p. 28.

[17] Section 3. How appeal taken. -

x x x.

(e) Except as provided in the last paragraph of section 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on certiorari under Rule 45. (3a)

[18] Sec. 9. Rule applicable to both civil and criminal cases. -- The mode of appeal prescribed in this Rule shall be applicable to both civil and criminal cases, except in criminal cases where the penalty imposed is death, reclusion perpetua or life imprisonment. (n)

[19] CA Rollo, pp. 28-37.

[20] Philip Morris, Inc. v. Fortune Tobacco Corporation, G.R. No. 158589, June 27, 2006, 493 SCRA 333, 345; Sampayan v. Court of Appeals, G.R. No. 156360, January 14, 2005, 448 SCRA 220; The Insular Life Assurance Company, Ltd. v. Court of Appeals, G.R. No. 126850, April 28, 2004, 428 SCRA 79; Langkaan Realty Development, Inc. v. United Coconut Planters Bank, G.R. No. 139437, December 8, 2000, 347 SCRA 542, 549.

[21] G.R. No. 149738, August 28, 2007, 531 SCRA 331.

[22] Id., p. 336.

[23] Pelonia v. People, G.R. No. 168997, April 13, 2007, 521 SCRA 207.

[24] TSN, April 13, 2004, pp. 23-33.

[25] Exhibits H-8 and H-9.

[26] Act No. 4103.

[27] A.M. No. RTJ-96-1349, April 18, 1997, 271 SCRA 328.

[28] Section 2. This Act shall not apply to persons convicted of offenses punished with death penalty or life imprisonment; to those convicted of treason, conspiracy or proposal to commit treason; to those convicted of misprision of treason, rebellion, sedition or espionage; to those convicted of piracy; to those who are habitual delinquents; to those who shall have escaped from confinement or evaded sentence; to those who having been granted conditional pardon by the Chief Executive shall have violated the terms thereof; to those whose maximum term of imprisonment does not exceed one year; nor to those already sentenced by final judgment at the time of approval of this Act, except as provided in Section 5 hereof. (as amended by Act No. 4225, Aug. 8, 1935)

[29] G.R. No. 118806, July 10, 1998, 292 SCRA 313, 330-331.

[30] 88 Phil. 515, 520 (1951).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.