

**PATRICK HENRY FRANK AND WILLIAM HENRY GOHN, PLAINTIFFS
AND APPELLEES, VS. CONSTANCIO BENITO, DEFENDANT AND
APPELLANT.***G.R. No. 27793. March 15, 1928*

Ponente: STATEMENT Plaintiffs allege that they are the owners of a patent covering hemp-stripping machine No. 1519579 issued to them by the United States Patent Office on December 16, 1924, and duly registered in the Bureau of Commerce and Industry of the Philippine Islands under the provisions of Act No. 2235 of the Philippine Legislature on March 17, 1925. That the important feature of the machine "is a spindle upon which the hemp to be stripped is wound in the process of stripping." That plaintiffs have for some time been manufacturing the machine under the patent. That the defendant manufactured a hemp-stripping machine in which, without authority from the plaintiffs, he has embodied and used such spindles and their method of application and use, and is exhibiting his machine to the public for the purpose of inducing its purchase. That the use by the defendant of such spindles and the principle of their application to the stripping of hemp is in violation of, and in conflict with, plaintiffs' patent, together with its conditions and specifications. That the defendant's machine is an infringement upon the patent granted the plaintiffs, and plaintiffs pray for an injunction that the defendant be required to account to plaintiffs for any profits he may have made by reason of such infringement, and for a temporary injunction restraining him in the manufacture of other machines of the same kind or its exhibition, and that upon the final hearing, the injunction be made permanent. The defendant demurred to the complaint upon the ground that the facts alleged therein do not constitute a cause of action, that it is ambiguous and vague, and that it was error to make William Henry Gohn plaintiff. After the demurrer was overruled, the defendant filed an answer in which he denied all of the material allegations of the complaint, except those which are hereinafter admitted, and as a special defense alleges: "First. That the defendant has never had at any time nor does he have any knowledge of any suppose invention of the plaintiffs of whatever kind of hemp-stripping machine, whether patented or not, which has circulated or not in the Philippine Islands for the sale thereof or its private exploitation. "Second. That not having had any knowledge of any kind of hemp-stripping machine supposed to have been invented by the plaintiffs, it never occurred to the defendant to imitate the unknown invention of the plaintiffs. "Third. That the hemp-stripping machine of the plaintiffs, known as 'La Constancia,' patent of which is duly registered, has its characteristics and original invention belonging to the defendant which consist of two pinions with horizontal grooves which form the tool for extracting the fibers between a straight knife upon another which is cylindrical and provided with teeth and on the center of said two pinions there is a flying wheel with its transmission belt connecting it with the motor. "As a counterclaim, the defendant alleges: "First. That he reproduces in this paragraph each and every allegation contained in the preceding special defense, as though the same were literally copied here. "Second. That by the filing of the complaint of the plaintiffs and the issuance, as a consequence thereof, of a writ of injunction in this case, unduly obtained by the said plaintiffs through false and fraudulent representations, the defendant has suffered damages in the sum of five thousand pesos (P5,000), Philippine currency. "Wherefore, the defendant prays this court that he be absolved from the herein complaint, and that the plaintiffs be ordered jointly and severally to pay the sum of five thousand pesos (P5,000), Philippine currency, as damages, with legal interest thereon from the filing of this action until fully paid; with the costs of this case, as well as any other remedy that may be proper in law and equity." The lower court rendered judgment in legal effect granting the plaintiffs the injunction prayed for in their complaint, and absolving them from defendant's counterclaim, and judgment against the defendant for costs. The defendant's motion for a new trial was overruled, and on appeal, he contends that the court erred in holding that the spindles used by the parties in this case, though different in material and form, have the same utility and efficiency and that they are the same, and in finding that spindles used by the defendant are an imitation of those of the plaintiffs, and in finding that the defendant

infringed upon plaintiffs' patent, and in not rendering judgment against the plaintiffs, requiring them to pay defendant P5,000 as damages, and in enjoining the appellant from the manufacture, use and sale of his hemp-stripping machine. JOHNS, J.

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STATEMENT

Plaintiffs allege that they are the owners of a patent covering hemp-stripping machine No. 1519579 issued to them by the United States Patent Office on December 16, 1924, and duly registered in the Bureau of Commerce and Industry of the Philippine Islands under the provisions of Act No. 2235 of the Philippine Legislature on March 17, 1925. That the important feature of the machine "is a spindle upon which the hemp to be stripped is wound in the process of stripping." That plaintiffs have for some time been manufacturing the machine under the patent. That the defendant manufactured a hemp-stripping machine in which, without authority from the plaintiffs, he has embodied and used such spindles and their method of application and use, and is exhibiting his machine to the public for the purpose of inducing its purchase. That the use by the defendant of such spindles and the principle of their application to the stripping of hemp is in violation of, and in conflict with, plaintiffs' patent, together with its conditions and specifications. That the defendant's machine is an infringement upon the patent granted the plaintiffs, and plaintiffs pray for an injunction that the defendant be required to account to plaintiffs for any profits he may have made by reason of such infringement, and for a temporary injunction restraining him in the manufacture of other machines of the same kind or its exhibition, and that upon the final hearing, the injunction be made permanent

The defendant demurred to the complaint upon the ground that the facts alleged therein do not constitute a cause of action, that it is ambiguous and vague, and that it was error to make William Henry Gohn plaintiff.

After the demurrer was overruled, the defendant filed an answer in which he denied all of the material allegations of the complaint, except those which are hereinafter admitted, and as a special defense alleges:

"First. That the defendant has never had at any time nor does he have any knowledge of any suppose invention of the plaintiffs of whatever kind of hemp-stripping machine, whether patented or not, which has circulated or not in the Philippine Islands for the sale thereof or its private exploitation.

"Second. That not having had any knowledge of any kind of hemp-stripping machine supposed to have been invented by the plaintiffs, it never occurred to the defendant to imitate the unknown invention of the plaintiffs.

"Third. That the hemp-stripping machine of the plaintiffs, known as 'La Constancia,' patent of which is duly registered, has its characteristics and original invention belonging to the defendant which consist of two pinions with horizontal grooves which form the tool for extracting the fibers between a straight knife upon another which is cylindrical and provided with teeth and on the center of said two pinions there is a flying wheel with its transmission belt connecting it with the motor.

"As a counterclaim, the defendant alleges:

"First. That he reproduces in this paragraph each and every allegation contained in the preceding special defense, as though the same were literally copied here.

"Second. That by the filing of the complaint of the plaintiffs and the issuance, as a consequence thereof, of a writ of injunction in this case, unduly obtained by the said plaintiffs through false and fraudulent representations, the defendant has suffered damages in the sum of five thousand pesos (P5,000), Philippine currency.

"Wherefore, the defendant prays this court that he be absolved from the herein complaint, and that the plaintiffs be ordered jointly and severally to pay the sum of five thousand pesos (P5,000), Philippine currency, as damages, with legal interest thereon from the filing of this action until fully paid; with the costs of this case, as well as any other remedy that may be proper in law and equity."

The lower court rendered judgment in legal effect granting the plaintiffs the injunction prayed for in their complaint, and absolving them from defendant's counterclaim, and judgment against the defendant for costs.

The defendant's motion for a new trial was overruled, and on appeal, he contends that the court erred in holding that the spindles used by the parties in this case, though different in material and form, have the same utility and efficiency and that they are the same, and in finding that spindles used by the defendant are an imitation of those of the plaintiffs, and in finding that the defendant infringed upon plaintiffs' patent, and in not rendering judgment against the plaintiffs, requiring them to pay defendant P5,000 as damages, and in enjoining the appellant from the manufacture, use and sale of his hemp-stripping machine.

JOHNS, J.:

It is conceded that on December 16, 1924, the United States Patent Office issued to the plaintiffs the patent in question No. 1519579, and that it was duly registered in the Bureau of Commerce and Industry of the Philippine Islands on March 17, 1925. After such registration the patent laws, as they exist in the United States for such patent, are then applied to and are in force and effect in the Philippine Islands. (*Vargas vs. F. M. Yaptico & Co.*, 40 Phil., 195.) In the instant case, the original patent is in evidence, and that decision further holds that:

"The burden of proof to substantiate a charge of infringement is with the plaintiff. Where, however, the plaintiff introduces the patent in evidence, if it is in due form, it affords a prima facie presumption of its correctness and validity. The decision of the Commissioner of Patents in granting the patent is always presumed to be correct. The burden then shifts to the defendant to overcome by competent evidence this legal presumption."

That is to say, the patent, which in the instant case is in due form, having been introduced in evidence, "affords a prima facie presumption of its correctness and validity." Hence, the only question presented is whether or not there was an infringement of plaintiffs' patent rights by the defendant. It is not claimed that the defendant has a patent. Hence, this is not a case of a conflict between two different patents. In the recent case of *Temco Electric Motor Co. vs. Apco Mfg. Co.*, decided by the Supreme Court of the United States on January 3, 1928, *Advance Sheet No. 5*, p. 192, the syllabus says:

"An improver cannot appropriate the basic patent of another, and if he does so without license he is an infringer, and may be sued as such."

And on page 195 of the opinion, it is said:

"It is well established that an improver cannot appropriate the basic patent of another and that the improver without a license is an infringer and may be sued as such."

Citing a number of Federal decisions.

The plans and specifications upon which the patent was issued recite:

"Our invention relates to hemp stripping machines and it consists in the combinations, constructions and arrangements herein described and claimed.

"An object of our invention is to provide a machine affording facilities whereby the operation of stripping hemp leaves may be accomplished mechanically, thereby obviating the strain incident to the performance of hemp stripping operations manually."

And on page 3 of the application for patent, it is said:

"Obviously, our invention is susceptible of embodiment in forms other than that illustrated herein and we therefore consider as our own all modifications of the form of device herein disclosed which fairly fall within the spirit and scope of our invention as claimed.

"We claim:

"1. In a hemp stripping machine, a stripping head having a supporting portion on which the hemp leaves may rest and having also an upright bracket portion, a lever of angular formation pivotally attached substantially at the juncture of the arms thereof to the bracket portion of the stripping head, whereby one arm of the lever overlies the supporting portion of the stripping head, a blade carried by said one arm of the lever for cooperating with said supporting portion, means connected with the other arm of the lever and actuating the latter to continuously urge the blade toward said supporting portion of the stripping head, and a rotatable spindle positioned adjacent to said stripping head, said spindle being adapted to be engaged by hemp leaves extending across said supporting portion of the stripping head underneath said blade and being operable to draw said hemp leaves in the direction of their length between said supporting portion of the stripping head and said blade.

"2. In a hemp stripping machine, a stripping head having a horizontal table portion, a rest supported upon said table portion, a stripping knife supported upon the table for movement into and out of position to cooperate with the rest to strip hemp leaves drawn between the knife and the rest, and power driven means adapted to be engaged with said hemp leaves and to pull the latter between the knife and rest, said power driven means including a rotating spindle, said spindle being free at one end and tapering regularly toward its free end.

"3. In a hemp stripping machine, a stripping head having a horizontal table portion and an upright bracket portion, a rest holder adjustably secured on the table portion, a rest resiliency supported by the holder, a knife carrying lever of angular formation and being pivotally attached substantially at the juncture of the arms thereof to the bracket portion of the stripping head, whereby one arm of the lever overlies the rest, a blade adjustably supported on said one arm, for cooperating with said rest and gravity means connected with the other arm of the lever and actuating the latter to continuously urge the blade toward the rest."

The spindle upon which the patent was obtained, together with the spindle upon which the defendant relies are exhibits in the record and were before the court at the time this case was argued. The spindle of the plaintiffs was made of wood, conical in shape and with a smooth surface. That of the defendant was somewhat similar in shape, but was made of metal with a rough surface, and the defendant claims that his spindle was more effective and would do better work than that of the plaintiffs. Be that as it may, the plaintiffs have a patent for their machine, and the defendant does not have a patent, and the basic principle of plaintiffs' patent is the spindle upon which they rely, together with its specified manner and mode of operation, and in the final analysis, it must be conceded that the basic principle of the spindle upon which the defendant relies is founded upon the basic principle of the spindle for which the plaintiffs have a patent. Assuming, without deciding, that the defendant's spindle is an improvement upon and is a better spindle than that of the plaintiffs, yet, under the authority above cited, the defendant had no legal right to appropriate the basic principle upon which the plaintiffs obtained their patent. The plaintiffs having obtained their patent, which was duly registered in the Philippine islands, the defendant cannot infringe upon its basic principle.

The defendant contends that the basic principle of the spindle was a very old one in mechanics, and that there was nothing new or novel in the application of it by the plaintiffs. Be that as it may, the plaintiffs applied for and obtained their patent with its specifications which are attached to, and made a part of, the patent, and the proof is conclusive that the defendant is infringing upon the basic principle of the spindle as it is defined and specified in plaintiffs' patent.

The judgment of the lower court is affirmed, with costs. So ordered.

Johnson, Malcolm, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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