

BATA INDUSTRIES, LTD., PETITIONER, VS. THE HONORABLE COURT OF APPEALS; TIBURCIO S. EVALLE, DIRECTOR OF PATENTS, NEW OLYMPIAN RUBBER PRODUCTS CO., INC. RESPONDENTS.

G.R. No. 53672. May 31, 1982

Ponente: ABAD SANTOS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-53672/>

ABAD SANTOS, J.:

On October 27, 1980, the petition in this case was denied for lack of merit. Petitioner moved to reconsider and as required, private respondent submitted comments. A hearing on the motion for reconsideration was held on June 7, 1982. This is Our resolution on the motion for reconsideration.

In Inter Partes Case No. 654 of the Philippine Patent Office, New Olympian Rubber Products Co., Inc. sought the registration of the mark BATA for casual rubber shoes. It alleged that it has used the mark since July 1, 1970.

Registration was opposed by Bata Industries, Ltd., a Canadian corporation, which alleged that it owns and has not abandoned the trademark BATA.

Stipulated by the parties were the following:

1. Bata Industries, Ltd. has no license to do business in the Philippines;
2. It is not presently selling footwear under the trademark BATA in the Philippines; and
3. It has no licensing agreement with any local entity or firm to sell its products in the Philippines.

Evidence received by the Philippine Patent Office showed that Bata shoes made by Gerbec and Hrdina of Czechoslovakia were sold in the Philippines prior to World War II. Some shoes made by Bata of Canada were perhaps also sold in the Philippines until 1948. However, the trademark BATA was never registered in the Philippines by any foreign entity. Under the circumstances, it was concluded that "opposer has, to all intents and purposes, technically abandoned its trademark BATA in the Philippines."

Upon the other hand, the Philippine Patent Office found that New Olympian Rubber Products Co., Inc.:

"x x x has overwhelmingly and convincingly established its right to the trademark BATA and consequently, its use and registration in its favor. There is no gainsaying the truth that the respondent has spent a considerable amount of money and effort in popularizing the trademark BATA for shoes in the Philippines through the advertising media since it was lawfully used in commerce on July 1, 1970. It can not be denied, therefore, that it is the respondent-applicant's expense that created the enormous goodwill of the trade-mark BATA in the Philippines and not the opposer as claimed in its opposition to the registration of the BATA mark by the respondent.

"Additionally, on evidence of record, having also secured (three) copyright registrations for the word BATA, respondent-applicant's right to claim ownership of the trademark BATA in the Philippines, which it claims to be a Tagalog word which literally means 'a little child' (Exh. 5), is all the more fortified."

The Philippine Patent Office dismissed the opposition and ordered the registration of the trademark BATA in favor of the domestic corporation.

Appeal from the decision of the Philippine Patent Office was made to the Court of Appeals by Bata Industries, Ltd. In a decision penned by Justice Justiniano P. Cortez dated August 9, 1979, with Justices Mariano Serrano and Jose B. Jimenez concurring, the PPO decision was reversed. A motion for reconsideration filed by New Olympian Rubber Products Co., Inc. was denied on October 17, 1979, by the same justices.

However, in a resolution on a second motion for reconsideration penned by Justice Hugo E. Gutierrez who is now a member of this Court, to which Justices Corazon J. Agrava and Rodolfo A. Nocon concurred (with the former filing a separate opinion), the decision of August 9, 1979, was set aside and that of the Director of Patents was affirmed.

In addition to points of law, Bata Industries, Ltd. questions "the circumstances surrounding the issuance of the questioned resolutions of the respondent Court of Appeals." In effect, it insinuates that there was something wrong when a new set of justices rendered a completely different decision.

It should be stated that there is nothing wrong and unusual when a decision is reconsidered. This is so when the reconsideration is made by a division composed of the same justices who rendered the decision but much more so when the reconsideration is made by a different set of justices as happened in this case. Obviously, the new set of justices would have a fresh perspective unencumbered by the views expressed in the decision sought to be reconsidered. Nor should it be a cause for wonder why Justices Gutierrez, Agrava and Nocon had replaced the original justices. Justice Cortez resigned to become a candidate for the governorship of Cagayan (he was elected), while Justices Serrano and Jimenez retired upon reaching the age of 65.

On the merits, the extended resolution penned by Justice Gutierrez does not have to be fortified by Us. We agree with Mr. Justice Gutierrez when he says:

"We are satisfied from the evidence that any slight goodwill generated by the Czechoslovakian product during the Commonwealth years was completely abandoned and lost in the more than 35 years that have passed since the liberation of Manila from the Japanese troops.

"The applicant-appellee has reproduced excerpts from the testimonies of the opposer-appellant's witnesses to prove that the opposer-appellant was never a user of the trademark BATA either before or after the war, that the appellant is not the successor-in-interest of Gerbec and Hrdina who were not its representatives or agents, and could not have passed any rights to the appellant, that there was no privity of interest between the Czechoslovakian owner and the Canadian appellant and that the Czechoslovakian trademark has been abandoned in Czechoslovakia.

"We agree with the applicant-appellee that more than substantial evidence supports the findings and conclusions of the Director of Patents. The appellant has no Philippine goodwill that would be damaged by the registration of the mark in the appellee's favor. We agree with the decision of the Director of Patents which sustains, on the basis of clear and convincing evidence, the right of the appellee to the registration and protection of its industrial property, the BATA trademark."

WHEREFORE, the motion for reconsideration is hereby denied for lack of merit. No special pronouncement as to costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Guerrero, De Castro, and Escolin, JJ., concur.
Concepcion, Jr., J., on leave.

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.