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SECOND DIVISION

[G.R. No. 221732, August 23, 2017]

FERNANDO U. JUAN, PETITIONER, V. ROBERTO U. JUAN (SUBSTITUTED BY HIS SON JEFFREY C. JUAN) AND LAUNDROMATIC CORPORATION, RESPONDENTS.

D E C I S I O N

PERALTA, J.:

For this Court's resolution is the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated January 25, 2016, of petitioner Fernando U. Juan that seeks to reverse and set aside the Decision[1] dated May 7, 2015 and Resolution[2] dated December 4, 2015 of the Court of Appeals (CA) dismissing his appeal for failure to comply with the requirements of Section 13, Rule 44 and Section 1, Rule 50 of the Rules of Court.

The facts follow.

Respondent Roberto U. Juan claimed that he began using the name and mark "Lavandera Ko" in his laundry business on July 4, 1994. He then opened his laundry store at No. 119 Alfaro St., Salcedo St., Makati City in 1995. Thereafter, on March 17, 1997, the National Library issued to him a certificate of copyright over said name and mark. Over the years, the laundry business expanded with numerous franchise outlets in Metro Manila and other provinces. Respondent Roberto then formed a corporation to handle the said business, hence, Laundromatic Corporation *(Laundromatic)* was incorporated in 1997, while "Lavandera Ko" was registered as a business name on November 13, 1998 with the Department of Trade and Industry *(DTI)*. Thereafter, respondent Roberto discovered that his brother, petitioner Fernando was able to register the name and mark "Lavandera Ko" with the Intellectual Property Office *(IPO)* on October 18, 2001, the registration of which was filed on June 5, 1995. Respondent Roberto also alleged that a certain Juliano Nacino *(Juliano)* had been writing the franchisees of the former threatening them with criminal and civil cases if they did not stop using the mark and name "Lavandera Ko." It was found out by respondent Roberto that petitioner Fernando had been selling his own franchises.

Thus, respondent Roberto filed a petition for injunction, unfair competition, infringement of copyright, cancellation of trademark and name with/and prayer for TRO and Preliminary Injunction with the Regional Trial Court (RTC) and the case was raffled off at Branch 149, Makati City. The RTC issued a writ of preliminary injunction against petitioner Fernando in Order dated June 10, 2004. On July 21, 2008, due to the death of respondent Roberto, the latter was substituted by his son, Christian Juan *(Christian)*. Pre-trial conference was concluded on July 13, 2010 and after the presentation of evidence of both parties, the RTC rendered a Resolution dated September 23, 2013, dismissing the petition and ruling that neither of the parties had a right to the exclusive use or appropriation of the mark "Lavandera Ko"

because the same was the original mark and work of a certain Santiago S. Suarez *(Santiago)*. According to the RTC, the mark in question was created by Suarez in 1942 in his musical composition called, "Lavandera Ko" and both parties of the present case failed to prove that they were the originators of the same mark. The dispositive portion of the RTC's resolution reads as follows:

> WHEREFORE, premises considered, this court finds both the plaintiff-Roberto and defendant-Fernando guilty of making misrepresentations before this court, done under oath, hence, the Amended Petition and the Answer with their money claims prayed for therein are hereby DISMISSED.
>
> Therefore, the Amended Petition and the Answer are hereby DISMISSED for no cause of action, hence, the prayer for the issuance of a writ of injunction is hereby DENIED for utter lack of merit; and the Writ of Preliminary Injunction issued on June 10, 2004 is hereby LIFTED AND SET ASIDE.
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> Finally, the National Library is hereby ordered to cancel the Certificate of Registration issued to Roberto U. Juan on March 17, 1997 over the word "Lavandera Ko," under certificate no. 97-362. Moreover, the Intellectual Property Office is also ordered to cancel Certificate of Registration No. 4-1995-102749, Serial No. 100556, issued on October 18, 2001, covering the work LAVANDERA KO AND DESIGN, in favor of Fernando U. Juan.
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> The two aforesaid government agencies are hereby requested to furnish this Court of the copy of their cancellation.
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> Cost de oficio.
>
> SO ORDERED.[3]

Herein petitioner elevated the case to the CA through a notice of appeal. In his appeal, petitioner contended that a mark is different from a copyright and not interchangeable. Petitioner Fernando insisted that he is the owner of the service mark in question as he was able to register the same with the IPO pursuant to Section 122 of R.A. No. 8293. Furthermore, petitioner Fernando argued that the RTC erred in giving credence to the article of information it obtained from the internet stating that the Filipino folk song "Lavandera Ko" was a composition of Suarez in 1942 rather than the actual pieces of evidence presented by the parties. As such, according to petitioner, such information acquired by the RTC is hearsay because no one was presented to testify on the veracity of such article.

Respondent Roberto, on the other hand, contended that the appeal should be dismissed outright for raising purely questions of law. He further raised as a ground for the dismissal of the appeal, the failure of the petitioner to cite the page references to the record as required in Section 13, paragraphs (a), (c), (d) and (f) of Rule 44 of the Rules of Court and petitioner's failure to provide a statement of facts. Respondent also argued that assuming that the Appellant's Brief complied with the formal requirements of the Rules of Court, the RTC still did not err in dismissing the petitioner's answer with counterclaim because he cannot be declared as the owner of "Lavandera Ko," since there is prior use of said mark by another person.

The CA, in its Decision dated May 7, 2015, dismissed the petitioner's appeal based on technical grounds, thus:

> WHEREFORE, premises considered, the instant appeal is DISMISSED for failure to comply with the requirements of Section 13, Rule 44 and Section 1, Rule 50 of the Rules of Court.
>
> SO ORDERED.[4]

Hence, the present petition after the denial of petitioner Fernando's motion for reconsideration. Petitioner Fernando raises the following issues:

> A.
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> WHETHER OR NOT THE DISMISSAL OF THE APPEAL BY THE COURT OF APPEALS ON PURELY TECHNICAL GROUNDS WAS PROPER CONSIDERING THAT THE CASE BEFORE IT CAN BE RESOLVED BASED ON THE BRIEF ITSELF.
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> B.
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> WHETHER OR NOT A MARK IS THE SAME AS A COPYRIGHT.
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> C.
>
> WHETHER OR NOT FERNANDO U. JUAN IS THE OWNER OF THE MARK "LAVANDERA KO."
>
> D.
>
> WHETHER OR NOT AN INTERNET ARTICLE IS SUPERIOR THAN ACTUAL EVIDENCE SUBMITTED BY THE PARTIES.[5]

According to petitioner Fernando, the CA should have considered that the rules are there to promote and not to defeat justice, hence, it should have decided the case based on the merits and not dismiss the same based on a mere technicality. The rest of the issues are similar to those that were raised in petitioner's appeal with the CA.

In his Comment[6] dated April 22, 2016, respondent Roberto insists that the CA did not commit an error in dismissing the appeal considering that the formal requirements violated by the petitioner in the Appellant's Brief are basic, thus, inexcusable and that petitioner did not proffer any valid or substantive reason for his non-compliance with the rules. He further argues that there was prior use of the mark "Lavandera Ko" by another, hence, petitioner cannot be declared the owner of the said mark despite his subsequent registration with the IPO.

The petition is meritorious.

Rules of procedure must be used to achieve speedy and efficient administration of justice and not derail it.[7] Technicality should not be allowed to stand in the way of equitably and completely resolving the rights and obligations of the parties.[8] It is, [thus] settled that liberal construction of the rules may be invoked in situations where there may be some excusable formal deficiency or error in a pleading, provided that the same does not subvert the essence of the proceeding and it at

least connotes a reasonable attempt at compliance with the rules.[9] In *Aguam v. CA*,[10] this Court ruled that:

> x x x Technicalities, however, must be avoided. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "A litigation is not a game of technicalities." "Law suits, unlike duels, are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." Litigations must be decided on their merits and not on technicality. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. Thus, dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.

In this case, this Court finds that a liberal construction of the rules is needed due to the novelty of the issues presented. Besides, petitioner had a reasonable attempt at complying with the rules. After all, the ends of justice are better served when cases are determined on the merits, not on mere technicality.[11]

The RTC, in dismissing the petition, ruled that neither of the parties are entitled to use the trade name "Lavandera Ko" because the copyright of "Lavandera Ko", a song composed in 1942 by Santiago S. Suarez belongs to the latter. The following are the RTC's reasons for such ruling:

> The resolution of this Court - NO ONE OF THE HEREIN PARTIES HAS THE RIGHT TO USE AND ENJOY "LAVANDERA KO"!
>
> Based on the date taken from the internet - References: CCP encyclopedia of Philippine art, vol. 6 http://www.himig.coin.ph (http://kahimyang.info / kauswagan/articles/1420/today - in - philippine -history this information was gathered: "In 1948, Cecil Lloyd established the first Filipino owned record company, the Philippine Recording System, which featured his rendition of Filipino folk songs among them the "Lavandera ko" (1942) which is a composition of Santiago S. Suarez". Thus, the herein parties had made misrepresentation before this court, to say the least, when they declared that they had coined and created the subject mark and name. How can the herein parties have coined and created the subject mark and work when these parties were not yet born; when the subject mark and work had been created and used in 1942.
>
> The heirs of Mr. Santiago S. Suarez are the rightful owners of subject mark and work - "Lavandera ko".

Therefore, the writ of injunction issued in the instant case was quite not proper, hence the same shall be lifted and revoked. This is in consonance with the finding of this court of the origin of the subject mark and work, *e.g*., a music composition of one Santiago S. Suarez in 1942.

Moreover, Section 171.1 of R.A. 8293 states: "Author" is the natural person who has created the work." And, Section 172.1 of R.A. No. 8293 provides: Literary and artistic works, hereinafter referred to as "works", are original intellectual creations in the literary and artistic domain protected from the moment of their creation and shall include in particular:

(d) Letters;

(f) Musical compositions, with or without words;”

Thus, the subject mark and work was created by Mr. Santiago S. Suarez, hence, the subject mark and work belong to him, alone.

The herein parties are just false claimants, done under oath before this court (paragraph 4 of Roberto's affidavit, Exhibit A TRO, page 241, Vol. I and paragraph 2 of Fernando's affidavit, Exhibit 26 TRO, page 354, Vol. I), of the original work of Mr. Santiago S. Suarez created in 1942.

Furthermore, Section 21 of R.A. 8293 declares: "Patentable Inventions - any technical solution of a problem in any field of human activity which is new, involves an inventive step and is industrially applicable shall be patentable. It may be, or may relate to, a product, or process, or an improvement of any of the foregoing." Thus, the herein subject mark and work can never be patented for the simple reason that it is not an invention. It is a title of a music composition originated from the mind of Mr. Santiago S. Suarez in 1942.

Thus, the proper and appropriate jurisprudence applicable to this instant case is the wisdom of the High Court in the case of Pearl & Dean (Phil.), Incorporation v. Shoemart, Incorporated (G.R. No. 148222, August 15, 2003), the Supreme Court ruled: "The scope of a copyright is confined to literary and artistic works which are original intellectual creations in the literary and artistic domain protected from the moment of their creation." The Supreme Court concluded: "The description of the art in a book, though entitled to the benefit of copyright, lays no foundation for an exclusive claim to the art itself. The object of the one is explanation; the object of the other is use. The former may be secured by copyright. The latter can only be secured, if it can be secured at all, by letters patent." (Pearl & Dean v. Shoemart, supra., citing the case of Baker v. Selden, 101 U.S. 99; 1879 U.S. Lexis 1888; 25 L. Ed. 841; 11 Otto 99, October, 1879 Term).

It is noted that the subject matter of Exhibit "5" (Annex 5) Of Fernando (IPO certificate of registration) and Exhibit B of Roberto (Certificate of Copyright Registration) could not be considered as a literary and artistic work emanating from the creative mind and/or hand of the herein parties for the simple reason that the subject work was a creation of the mind of Mr. Santiago S. Suarez in 1942. Thus, neither of the herein parties has an