

SECOND DIVISION

[G.R. No. 194872, June 09, 2014]

**SAHAR INTERNATIONAL TRADING, INC., PETITIONER, VS.
WARNER LAMBERT CO., LLC AND PFIZER, INC. (PHILIPPINES),
RESPONDENTS.**

R E S O L U T I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated April 22, 2010 and the Resolution^[3] dated December 21, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 106455 which annulled and set aside the Orders^[4] dated August 5, 2008 and September 25, 2008 of the Regional Trial Court of Makati City, Branch 149 (RTC), thereby directing the said court to issue a writ of preliminary injunction enjoining petitioner Sahar International Trading, Inc. (Sahar), its agents, representatives, and assigns, during the pendency of Civil Case No. 08-424, from making, using or offering for sale, or distributing *Atorvastatin* or *Atorvastatin Calcium* products to various hospitals, drugstores, or to any other individual or entity in the Philippines, or from otherwise infringing the patents of respondent Warner Lambert Co., LLC (Warner Lambert) over the foregoing drugs.

The Facts

Warner Lambert, a foreign corporation, is the registered owner of three (3) Philippine patents, namely: (a) Letters Patent (LP) No. 26330 for the pharmaceutical substance *Atorvastatin* valid until April 29, 2009; (b) LP No. 29149 for the pharmaceutical substance *Atorvastatin Calcium* valid until September 26, 2012;^[5] and (c) LP No. 1-1996-53719 for the pharmaceutical substance *Atorvastatin Calcium* in crystalline form valid until October 23, 2019 (subject patents).^[6] In general, *Atorvastatin* blocks the production of cholesterol in the body and is used to reduce the amounts of LDL (bad cholesterol), total cholesterol, triglycerides (another type of fat), and *apolipoprotein B* (a protein needed to make cholesterol) in a person's blood.^[7] *Atorvastatin* is also used to increase the level of HDL (good cholesterol) in one's blood. These actions are important in reducing the risk of hardening of the arteries, which can lead to heart attacks, strokes, and peripheral vascular diseases.^[8] Warner Lambert and its worldwide affiliates sell products covered by the subject patents under the brand name *Lipitor*.^[9]

On the other hand, respondent Pfizer, Inc. (Pfizer) is the exclusive licensee of Warner Lambert to import, market, distribute, and sell products covered by the subject patents in the Philippines. To this end, Pfizer applied for and was issued various Certificates of Product Registration (CPR) from the Bureau of Food and Drugs (now, Food and Drug Administration [FDA]) in order to validly sell and promote such products in the Philippine market.^[10]

Sometime in 2005, Pfizer discovered that Sahar also applied for and was issued a CPR by the FDA for *Atorvastatin Calcium* under the brand name *Atopitar*.^[11] It also found out that Sahar has been selling and distributing *Atopitarin* the provinces of Bicol, Zamboanga, Cebu, Ilocos Norte, as well as in Tarlac; and that Sahar's marketing ads showed that *Atopitar* is neither manufactured by Warner Lambert nor any Pfizer company, but by Geofman^[12] Pharmaceuticals of Pakistan. Upon further investigation and laboratory testing, Pfizer learned that the *Atorvastatin Calcium* that is used in *Atopitaris* also in its crystalline form.^[13]

Pfizer immediately sent numerous letters to Sahar informing the latter of Warner Lambert's patents over *Atorvastatin Calcium* and demanding it to cease and desist from selling and distributing said pharmaceutical substance under the brand name *Atopitar*. However, Sahar did not heed such demands and replied that the patent over *Atorvastatin Calcium* had already expired in Pakistan and, therefore, it believed the same can already be freely distributed and marketed in the Philippines by any entity.^[14] Thus, Warner Lambert and Pfizer (respondents) filed a Complaint^[15] for Patent Infringement, Damages, and Injunction, with applications for the issuance of Temporary Restraining Orders and/or Writs of Preliminary Injunction against Sahar before the RTC, docketed as Civil Case No. 08-424.^[16] In support of its prayer for injunctive relief, respondents alleged that Sahar's acts of importing, selling, and offering for sale *Atorvastatin* and *Atorvastatin Calcium* products under the brand name *Atopitar* constitute acts of patent infringement as defined in Section 76^[17] of Republic Act No. (RA) 8293,^[18] otherwise known as the "Intellectual Property Code of the Philippines,"^[19] and that unless Sahar is enjoined from doing said acts, they will suffer irreparable damage and render any judgment ineffectual.^[20]

In opposition to the prayer for injunctive relief, Sahar assailed the validity of Warner Lambert's patents, maintaining that: (a) the ingredients and the process in the making of the *Atorvastatin Calcium* found in *Atopitar* is substantially different from that found in Lipitor; (b) the FDA's issuance of a CPR in its favor should be deemed *prima facie* evidence that it is authorized to sell and distribute *Atopitarin* the Philippines; and (c) there is no urgent need to enjoin the sale and distribution of *Atopitarin* the Philippine market, considering that Warner and Pfizer themselves took more than two (2) years to file their complaint.^[21]

The RTC Ruling

In an Order^[22] dated August 5, 2008, the RTC denied respondents' application for the issuance of a writ of preliminary injunction against the alleged patent infringement of Sahar. The RTC deemed it proper not to grant such prayer, considering that the instant case is principally for injunction and damages, and, as such, the issuance of an injunctive writ "would in effect result in [the] premature disposition of the main case and would defeat the purpose of preliminary injunctive relief."^[23]

Respondents filed a Motion for Reconsideration^[24] dated August 20, 2008, which was, however, denied by the RTC in an Order^[25] dated September 25, 2008.

Aggrieved, respondents filed a petition for *certiorari*^[26] before the CA.

The CA Ruling

In a Decision^[27] dated April 22, 2010, the CA annulled and set aside the assailed orders of the RTC and issued a writ of preliminary injunction enjoining Sahar, its agents, representatives, and assigns, during the pendency of Civil Case No. 08-424, from making, using or offering for sale, or distributing *Atopitarin* the Philippine market.^[28]

The CA held that from the evidence presented, respondents have established their right to preliminary injunctive relief against Sahar's acts of selling and distributing *Atorvastatin Calcium* under the brand name *Atopitar*, considering that: (a) Warner Lambert is the registered owner of the subject patents which are still existing and effective; (b) Sahar does not deny that it has been selling and distributing products using *Atorvastatin* and *Atorvastatin Calcium* in crystalline form; and (c) respondents' witnesses testified that the presence of *Atopitar* is causing confusion among medical practitioners as to the availability of *Lipitor* and validity of the subject patents registered under the name of Warner Lambert.^[29]

Further, contrary to the RTC's findings, the CA held that the issuance of a writ of preliminary injunction in respondents' favor would not result in the prejudgment of the instant case because other issues, such as whether or not Sahar is indeed guilty of patent infringement and thus, liable for damages, still need to be resolved through full-blown trial.^[30]

Dissatisfied, Sahar moved for reconsideration,^[31] which was, however, denied by the CA in a Resolution^[32] dated December 21, 2010. Hence, this petition.

The Issue Before the Court

The sole issue for the Court's resolution is whether or not the CA was correct in issuing a writ of preliminary injunction enjoining Sahar, its agents, representatives, and assigns, during the pendency of Civil Case No. 08-424 from making, using or offering for sale, or distributing *Atopitarin* the Philippine market.

At this point, it must be noted that on March 11, 2011 and during the pendency of the instant petition, the RTC issued a Judgment^[33] dismissing Civil Case No. 08-424 on the ground of lack of cause of action. Thereafter, respondents filed an appeal before the CA, docketed as CA-G.R. CV No. 97495.^[34] In a Decision^[35] dated November 5, 2013, the CA reversed and set aside the RTC ruling and found Sahar liable for patent infringement, and thus, ordered that: (a) Sahar pay respondents P300,000.00 as temperate or moderate damages, P50,000.00 as exemplary damages, and P50,000.00 as attorney's fees and litigation expenses; (b) the writ of preliminary injunction that it issued in its April 22, 2010 Decision in CA-G.R. SP No. 106455 be made permanent; and (c) Sahar's *Atopitar*, wherever they may be found in the Philippines, including materials and implements used in the commission of patent infringement, be condemned, seized, and forfeited.^[36]

The Court's Ruling