

THIRD DIVISION

[G. R. No. 158767, June 26, 2007]

**SUMMERVILLE GENERAL MERCHANDISING CO., Petitioner, vs.
HON. COURT OF APPEALS, HON. JUDGE ANTONIO EUGENIO,
CHANG YU SHUI and JULIET LOPEZ, Respondents.**

D E C I S I O N

CHICO-NAZARIO, J.:

The Case

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, as amended, seeking to set aside the 13 March 2003 Decision^[1] and 18 June 2003 Resolution^[2] of the Court of Appeals in CA-G.R. SP No. 73799. The Court of Appeals in its assailed Decision upheld the 10 June 2002 Order^[3] of the Regional Trial Court (RTC) of the City of Manila, Branch 24, in Criminal Case No. 02-2623-26, partially granting the Motion to Quash Search Warrant No. 02-2625 filed by herein private respondents, namely Lilian D. Rosales, Marivic Lim, Andy Tang, Chang Yu Shui, Huang Tsung Lian, Ramon Cheng, Diana Lusuan and Mary Chong Victor Uy; and the 18 October 2002 Order^[4] likewise of the RTC, denying the Motion for Reconsideration thereof.

This case stemmed from a letter-complaint^[5] by Ang Tiam Chay (Ang), President and General Manager of petitioner Summerville General Merchandising Co. (Summerville), alleging the illegal proliferation of fake Royal brand playing cards filed with the office of the Director, Criminal Investigation and Detection Group (CIDG) of the Philippine National Police (PNP).

The Facts

As synthesized from the records of the case, the facts are:

Petitioner Summerville is a corporation engaged in the business of trading, retailing and exporting/importing a variety of merchandise.^[6] It is a holder of a Deed of Assignment^[7] executed in its favor by one Norma C. Gabriel, owner/holder of several copyrights and patents over the Royal playing cards, Royal brand playing cards case, design for the case and packaging of a deck of Royal playing cards.^[8]

Ang, President and General Manager of petitioner Summerville, personally appeared at the office of the Criminal Investigation and Detective Division (CIDD) of the CIDG, PNP, in Camp Crame, Quezon City, to personally complain and file a letter-complaint against several persons or establishments engaged in the unauthorized manufacturing, distribution and sale of Royal brand playing cards, the design and mark of which are claimed to have been duly patented/copyrighted and registered.

Specifically, complainant Ang alleged that the aforesaid actions were violative of Sec. 155^[9] in relation to Sec. 170,^[10] both of Republic Act No. 8293,^[11] otherwise known as the "Intellectual Property Code of the Philippines." Among the establishments identified to be manufacturing and selling playing cards using petitioner Summerville's patented Joker design and plastic container was Arotech International Corporation, owned by private respondents Chang Yu Shui, Juliet B. Lopes (a.k.a. Veronica Lopez), and several John Does.

In consideration of the aforementioned letter-complaint, on 18 January 2002, P/INSP. Romualdo B. Cruz, Team Leader, TM III-CIDD-CIDG, PNP, applied for a search warrant against private respondents, particularly Lilian D. Rosales, Marivic Lim, Andy Tang, Chang Yu Shui, Huang Tsung Lian, Ramon Cheng, Diana Lusuan, Mary Chong and Victor Uy, all of Arotech International Corporation. In the Application for Search Warrant, hereinbelow quoted in full, P/INSP. Cruz alleged:

That he has personal knowledge and verily believed that Chang Yu Shui, Huang Tsung Liang, Ramon Cheng, Diana Lusuan and Mary Chong, all Incorporators of AROTECH International Corporation of #90 J.P. Bautista St., Caloocan City, has (sic) in their possession and has (sic) in their control the following property/ies described below to wit:

Crown brand playing cards using copyright plastic container and joker of Royal, Machine used in manufacturing plastic container and joker of Royal; Cliché of Royal joker and casing; other materials being used in the manufacturing of fake Royal copyright joker and plastic container; L-300 van w/ Plate No. WJC - 133 used in the delivery of playing cards. Which they are keeping and concealing in the premise above described.

That the herein undersigned has verified the report and found it to be fact and has therefore reasons to believe that a SEARCH WARRANT should be issued to enable the undersigned to take possession and bring to this Court the following described property/ies.

- a. Crown brand playing cards using copyright plastic container and joker of Royal
- b. Machine used in manufacturing plastic container and joker of Royal
- c. Cliché of Royal Joker and Plastic casing
- d. Other materials, being used in the manufacture of fake Royal copyright Joker and Plastic container
- e. L-300 van (White) w/Plate No. WJC - 133 in the delivery of playing cards.

WHEREFORE, the undersigned prays to this Honorable Court to issue a Search Warrant, authorizing him and his agents or any Peace Officer to search the premises described in this application and to seize and bring to this Honorable Court the persons and personal property/ies above described to be dealt with as the law directs.^[12]

On 18 January 2002, the Acting Presiding Judge of RTC-Manila, Branch 1, Hon. Antonio M. Eugenio, Jr. issued a search warrant, *i.e.*, Search Warrant No. 02-2625, after finding probable cause to believe that:

x x x [A] Violation of Sec. 155 in relation to Section 170, RA 8293 has been committed or is being committed and that there are good and sufficient reasons to believe that Chang Yu Shui; Huang Tsung Liang; Ramon Cheng; Diana Lusuan and Mary Chong of Arotech Int'l. Corp. of #90 J.P. Bautista St., Caloocan City have (sic) in their possession, control and custody at the stated address, as per description below and attached sketch, the following:

A) Crown brand playing cards using copyright plastic container and joker of Royal

B) Machine used in manufacturing plastic container and joker of Royal

C) Cliché of Royal Joker and Plastic casing

D) Other materials being used in the manufacture of fake Royal copyright Joker and Plastic container

E) L - 300 van (white) w/ Plate No. WJC 133 used in the delivery of playing cards^[13]

Pursuant thereto, elements of the CIDD-CIDG conducted a raid of the premises of Arotech International Corporation at #90 J.P. Bautista St., Caloocan City. Per the raiding team's report, specifically, Compliance/Return of Search Warrant,^[14] the following were seized:

a) 910 boxes containing 144 pieces of Crown brand playing cards using copyright/trademark plastic container and Joker of Royal brand;

b) 3 printing machines;

c) 203 boxes of Crown brand playing cards (finished product);

d) 521 Crown playing card sheets (unfinished product); and

e) 7,000 pieces plastic container.^[15]

Thereafter, the record of the foregoing incident was forwarded to the City Prosecutor of Caloocan City for the filing of the appropriate criminal charges.^[16]

In the interim, in an Order dated 31 January 2002, the RTC-Manila, Branch 1, directed that the custody of the seized items be turned over to Petitioner Summerville, subject to the condition that the key to the said warehouse be turned over to the Deputy Sheriff of the court.

On 4 February 2002, private respondents filed with the RTC-Manila, Branch 1, a Verified Omnibus Motion^[17] essentially praying for the 1) reconsideration of the 31 January 2002 Order; 2) quashal of Search Warrant No. 02-2625; 3) return of the

seized properties; and 4) declaration that the items seized are inadmissible in evidence against the movants.

The foregoing motion was grounded on the arguments that 1) there was no offense or subject of the offense to speak of, because the Joker found on the Crown brand playing cards, as well as the plastic containers, was registered and licensed in the name of Arotech International Corporation; 2) there was no basis for the finding of probable cause for infringement or the violation of Sec. 155, in relation to Sec. 170 of Republic Act No. 8293 since the playing cards seized were those of the Crown brand and not of the Royal brand; and 3) what was issued was a **general** search warrant as said warrant failed to describe the things to be seized with particularity.

In an Opposition^[18] dated 18 March 2002, petitioner Summerville maintained that the embossed name Arotech International Corporation on the plastic container of Crown brand playing cards is of no moment; that "except for said embossed mark, the plastic container is similarly deceiving in all respects with the container case"^[19] of Royal brand playing cards. Moreover, it insisted that private respondents were still liable for unfair competition and patent even though they were the holder of an earlier issued certificate bearing Copyright Registration No. 1-97-247,^[20] for their failure to make use of their registered container case design. In other words, it is its contention that the design of the container or case that comes with the Crown brand playing cards is that of petitioner Summerville, and not the one registered and licensed in private respondents' name.

The trial court conducted a clarificatory hearing and required the parties to submit their respective position papers.

On 10 June 2004, the RTC-Manila, Branch 24,^[21] issued an Order^[22] partially granting the omnibus motion. It ordered that the seized Crown brand playing cards and the three printing machines be released and returned to private respondents; hence, only the containers of the playing cards were left in the custody of the petitioner Summerville. According to the trial court, "from a perusal of both parties' container cases x x x,"^[23] it would appear that they are "practically the same in all aspects with the exception of the brand name ARO TECH etched in the dorsal portion of respondents' container x x x."^[24]

Further, it ratiocinated that:

At any rate, since what is violative of private complainant's intellectual property right is limited to the plastic container case, only the said item should have been the subject of the warrant and seized by the enforcement team.

Accordingly, the Motion to Quash filed by respondents is partially granted with respect to the playing cards and the three (3) printing machines.^[25]

The Motion for Reconsideration and the Partial Motion for Reconsideration of petitioner Summerville and private respondents respectively, were denied by the trial court in an Order^[26] dated 18 October 2002.

Undaunted, petitioner Summerville filed with the Court of Appeals a Petition for

Certiorari^[27] under Rule 65 of the Rules of Court, as amended. Said petition imputed grave abuse of discretion, amounting to lack or excess of jurisdiction, to the trial court when the latter 1) ordered the release of the Crown brand playing cards and the three printing machines; and 2) denied the Motion for Reconsideration of the assailed order. Petitioner Summerville justified the inclusion of the Crown brand playing cards in the search and seizure order by claiming that the playing cards were part and parcel of the plastic containers, the design of which is claimed by it. The seizure of the Crown brand playing cards was necessary to demonstrate how said cards were masquerading as Royal brand playing cards, thus, allegedly violating petitioner's intellectual property rights. But, with the release of the Crown brand playing cards, petitioner Summerville concluded that it would "not be able to present sufficient evidence for Unfair Competition against private respondents considering that the playing cards with their container cases are the very instruments of Unfair Competition."^[28]

In a Decision^[29] promulgated on 13 March 2003, the Court of Appeals dismissed the aforementioned petition, the *falla* of which reads:

WHEREFORE, finding no grave abuse of discretion on the part of the public respondent, the petition is hereby **DENIED and ordered DISMISSED.**

In an extended Resolution^[30] dated 18 June 2003, the Court of Appeals denied petitioner Summerville's Motion for Reconsideration^[31] and Supplemental Motion for Reconsideration.^[32]

The Issues

Hence, this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, as amended, predicated on the following issues:^[33]

I.

WHETHER THE SEIZED PLAYING CARDS INSIDE THE INFRINGING PLASTIC CONTAINER CASES MAY LEGALLY BE CONSIDERED "SUBJECT OF THE OFFENSE" FOR INFRINGEMENT AND UNFAIR COMPETITION, AND HENCE MAY BE SUBJECT TO SEIZURE UNDER A SEARCH WARRANT UNDER SECTION 3, RULE 126 OF THE 2000 RULES OF CRIMINAL PROCEDURE;

II.

WHETHER THE TRIAL COURT TRANSGRESSED THE RIGHT OF THE PETITIONER TO DUE PROCESS OF LAW IN QUASHING THE SEARCH WARRANT AND ORDERING THE RETURN OF THE PLAYING CARDS INSIDE THE INFRINGING PLASTIC CONTAINER CASES AND THE THREE PRINTING MACHINES USED IN MANUFACTURING THE INFRINGING PLASTIC CONTAINERS BY MAKING ARBITRARY FACTUAL FINDINGS WITHOUT RECEPTION OF EVIDENCE ON THE DISPUTED ISSUES OF FACTS..