

FIRST DIVISION

[G. R. NO. 167866, October 16, 2006]

**PEPSI-COLA PRODUCTS PHILIPPINES, INCORPORATED, AND
PEPSICO, INCORPORATED, PETITIONERS, VS. PEPE B.
PAGDANGANAN, AND PEPITO A. LUMAJAN, RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

The Case

For review under Rule 45 of the Rules of Court, as amended, is the 13 February 2004 *Decision*^[1] and 26 June 2005 *Resolution*^[2] of the Court of Appeals in CA-G.R. CV No. 68290, reversing and setting aside the 3 August 2000^[3] *Decision* and 23 August 2000^[4] *Order* of the Regional Trial Court of Pasig City, Branch 163,^[5] in Civil Case No. 62726.

The Facts

This case stemmed from a Complaint^[6] filed by herein respondents Pepe B. Pagdanganan (Pagdanganan) and Pepito A. Lumahan (Lumahan) against herein petitioners Pepsi-Cola Products Philippines, Incorporated (PCPPI) and PEPSICO, Incorporated (PEPSICO) on 22 December 1992, before the Regional Trial Court (RTC) of Pasig City, Branch 163, for *Sum of Money* and *Damages*.

The facts are beyond dispute. As culled from the records of the case, they are as follows:

Petitioners PCPPI and PEPSICO launched a Department of Trade and Industry (DTI) approved and supervised under-the-crown promotional campaign entitled "Number Fever" sometime in 1992. With said marketing strategy, it undertook to give away cash prizes to holders of specially marked crowns and resealable caps of PEPSI-COLA softdrink products, *i.e.*, Pepsi, 7-Up, Mirinda and Mountain Dew. Specially marked crowns and resealable caps were said to contain a) a three-digit number, b) a seven-digit alpha-numeric security code, and c) the amount of the cash prize in any of the following denominations - P1,000.00; P10,000.00; P50,000.00; P100,000.00; and P1,000,000.00.

Petitioners PCPPI and PEPSICO engaged the services of D.G. Consultores, a Mexican consultancy firm with experience in handling similar promotion in other countries, to randomly pre-select 60 winning three-digit numbers with their matching security codes out of 1000 three-digit numbers seeded in the market, as well as the corresponding artworks appearing on a winning crown and/or resealable cap.

The mechanics of the "Number Fever" promo was simple - From Monday to Friday,

starting 17 February 1992 to 8 May 1992, petitioners PCPPI and PEPSICO will announce, on national and local broadcast and print media, a randomly pre-selected^[7] winning three-digit number. All holders of specially marked crowns bearing the winning three-digit number will win the corresponding amount printed on said crowns and/or resealable caps.

On account of the success of the promotional campaign, petitioners PCPPI and PEPSICO extended or stretched out the duration of the "Number Fever" for another five weeks or until 12 June 1992.

For the extended period, petitioners PCPPI and PEPSICO again sought the services of D.G. Consultores to pre-select 25 winning three-digit numbers with their matching security codes as well as the corresponding artworks to appear on a winning crown and/or resealable cap.

On 25 May 1992, petitioners PCPPI and PEPSICO announced the notorious three-digit combination "349" as the winning number for the next day, 26 May 1992. On the same night of the announcement, however, petitioners PCPPI and PEPSICO learned of reports that numerous people were trying to redeem "349" bearing crowns and/or resealable caps with incorrect security codes "L-2560-FQ" and "L-3560-FQ." Upon verification from the list of the 25 pre-selected^[8] winning three-digit numbers, petitioners PCPPI and PEPSICO and the DTI learned that the three-digit combination "349" was indeed the winning combination for 26 May 1992 but the security codes "L-2560-FQ" and "L-3560-FQ" do not correspond to that assigned to the winning number "349".

Subsequently, petitioners PCPPI and PEPSICO issued a statement stating in part that:

DEAR VALUED CUSTOMERS

x x x x

Some 349 crowns have winning security codes as per the list held in a bank vault by the Department of Trade and Industry and will be redeemed at full value like all other authenticated winning crowns.

Some other 349 crowns which have security codes L-2560-FQ and L-3560-FQ are not winning crowns.

However, as an act of goodwill to our customers, we will redeem the non-winning 349 crowns for P500.00 each until June 12, 1992 at all Pepsi plants & warehouses.

x x x x

Sincerely,

ROD SALAZAR
President
PEPSI-COLA PRODUCTS PHILS., INC.

Despite the foregoing announcement, on 9 July 1992, respondent Pagdanganan demanded from petitioners PCPPI and PEPSICO and the DTI the payment of the corresponding cash prize of each of his "349" bearing crown, specifically, four 7-Up^[9] crowns and two Mirinda^[10] crowns, each displaying the cash prize of P1,000,000.00 in addition to one 7-Up^[11] crown showing the cash prize of P100,000.00. Notably, all seven crowns bore the security code L-2560-FQ.

For his part, respondent Lumahan similarly insisted that petitioners PCPPI and PEPSICO pay him the cash value of his two "winning" crowns, that is, two 7-Up crowns with one exhibiting the cash value of P1,000,000.00 and the other the amount of P100,000.00.

Petitioners PCPPI and PEPSICO refused to take heed of the aforementioned demands.

Affronted by the seeming injustice, respondents Pagdanganan and Lumahan filed a collective complaint^[12] for *Sum of Money and Damages* before the RTC of Pasig City, Branch 163, against petitioners PCPPI and PEPSICO.

After trial on the merits, the RTC rendered its decision on 3 August 2000, the dispositive part of which states that:

WHEREFORE, for failure of the plaintiffs to establish a cause of action against defendants, the instant case is hereby DISMISSED.

The defendants are hereby ordered to pay plaintiffs Pagdanganan and Lumahan the amounts of P3,500.00 and P1,000.00, respectively.

Without costs.

SO ORDERED.

In dismissing the complaint, the RTC ratiocinated that:

The preponderance of evidence now on record does not appear to support the assertion of the plaintiffs that number 349 with security code number L-2560-FQ won the Pepsico's sales promotion game for May 26, 1992. While it is true that number 349 was used both as a winning and non-winning number, still the winning 349 must tally with the corresponding security code contained in the master list of winning crowns.

x x x x

x x x [a]mong the 349s enumerated in the list of winning crowns (citation omitted) as winning numbers were 349 V-2421-JC; 349 A-7963-IS; 349 B-4860-IG; 349 C-3984-RP; 349 D-5863-CO; 349 E-3800-EL; 349 U-3501-MN (sic) and 349 U-3246-NP. Nowhere to be found were nos. 349 L-2560-FQ and L-3560-FQ. This means that it was not possible for both defendants to have won during the entire extended period of the sales promotion of Pepsi Cola because the number did not appear in the master list. It was made clear in the advertisements and posters put up

by defendants that to win, the 3-digit number must be matched with the proper security code. The Department of Trade and Industry had been duly informed of the mechanics of the Pepsi Cola sales promotion for the protection of the interest of the public.

Anent the award of P3,500.00 and P1,000.00 to respondents Pagdanganan and Lumahan, respectively, the RTC justified such grant, by stating to wit:

x x x since the defendants have voluntarily announced their desire to pay holders of caps or crowns of their products bearing non-winning number 349 as a sign of goodwill, the Court feels that this privilege should also be extended to the plaintiffs despite the institution of the instant case.

Their Partial *Motion for Reconsideration*^[13] having been denied in an *Order*^[14] dated 23 August 2000, respondents Pagdanganan and Lumahan appealed their case to the Court of Appeals.

In a *Decision*^[15] promulgated on 13 February 2004, the Court of Appeals reversed and set aside the decision of the RTC, the *fallo* of which reads:

WHEREFORE, the appeal is hereby GRANTED. The decision of the Regional Trial Court of Pasig, Branch 163, in Civil Case No. 62726 is REVERSED. Defendants-appellants are hereby ORDERED to pay plaintiffs-appellants Pepe Pagdanganan the sum of P5 million and Pepito Lumahan the sum of P1.2 million.

In a Resolution dated 26 April 2005, the Court of Appeals denied petitioners PCPPI and PEPSICO's *Motion for Reconsideration*.

The Issues

Hence, this petition for review on *certiorari* under Rule 45 of the Rules of Court, as amended, predicated on the following issues:^[16]

I.

WHETHER OR NOT PETITIONERS ARE ESTOPPED FROM RAISING STARE DECISIS;

II.

WHETHER OR NOT RODRIGO, MENDOZA, PATAN AND DE MESA ARE BINDING ALTHOUGH RESPONDENTS WERE NOT PARTIES THEREIN;

III.

WHETHER OR NOT THE RESPONDENTS RAISE ANY ISSUE THAT HAS NOT BEEN PREVIOUSLY RESOLVED IN RODRIGO, MENDOZA, PATAN OR DE MESA;

IV.

WHETHER OR NOT THE SENATE AND DTI TASK FORCE REPORTS ARE

EVEN RELEVANT, OR CONTROLLING; and

V.

WHETHER OR NOT RESPONDENTS MAY SEEK AFFIRMATIVE RELIEF WITHOUT HAVING APPEALED.

In essence, the present petition raises as fundamental issue for resolution by the Court the question of whether or not the instant case is already barred by our rulings in the cases of Rodrigo,^[17] Mendoza,^[18] Patan^[19] and, the most recent, De Mesa.^[20]

The Court's Ruling.

In ordering petitioners PCPPI and PEPSICO to pay respondents Pagdanganan and Lumahan the amounts of P5,000,000.00 and P1,200,000.00, the appellate court articulated that:

x x x [w]e fully agree with the contention of plaintiffs-appellants that such deviation or additional requirement, that is the winning crown must have a corresponding winning security code, imposed by PEPSI was a deviation from the rules approved by DTI.

x x x x

x x x [i]t appeared that the matching winning security with code is not an express requirement in order to win. Taken together with printed promo mechanics, this means that one is a winner as long as he has in his possession the crown with the winning number. The matching winning security code is not required.

With the promo mechanics as the guide, it is undisputable that plaintiffs-appellants are very well entitled to the cash prizes indicated on their crowns. To deny their claim despite their compliance with the unequivocal requirements of the promotion is contrary to the principle of good faith.

x x x x

It is highly inequitable for PEPSI to impose an additional requirement in order to win as a way to evade the unusually large number of 349 winner-claimants. x x x.

Petitioners PCPPI and PEPSICO fault the appellate court for disregarding this Court's pronouncements in four other Pepsi/"349" cases *i.e.*, Mendoza, Rodrigo, Patan and De Mesa - that the "349" bearing crowns and/or resealable caps with security codes L-2560-FQ and L-3560-FQ, like those held by respondents Pagdanganan and Lumahan, are non-winning crowns under the terms of the "Number Fever" promo. They reckon that, by virtue of the principle of *stare decisis*, the aforementioned cases have already settled the issue of whether or not petitioners PCPPI and PEPSICO are liable to holders of non-winning "349" bearing crowns and/or resealable caps. Simply put, the principle of *stare decisis* should have been determinative of the outcome of the case at bar. "Rodrigo, Mendoza, Patan and De