

FIRST DIVISION

[G.R. No. 120961, October 17, 1996]

**DISTILLERIA WASHINGTON, INC. OR WASHINGTON
DISTILLERY, INC., PETITIONER, VS. THE HONORABLE COURT OF
APPEALS AND LA TONDEÑA DISTILLERS, INC., RESPONDENTS.**

D E C I S I O N

VITUG, J.:

The initiatory suit was instituted on 02 November 1987 with the trial court (docketed Civil Case No. 87-42639) for manual delivery with damages instituted by La Tondeña Distillers, Inc. ("LTDI"), against Distilleria Washington ("Washington"). LTDI, under a claim of ownership, sought to seize from Distilleria Washington 18,157 empty "350 c.c. white flint bottles" bearing the blown-in marks of "La Tondeña Inc." and "Ginebra San Miguel." The court, on application of LTDI, issued an order of replevin on 05 November 1987 for the seizure of the empty gin bottles from Washington. These bottles, it was averred, were being used by Washington for its own "Gin Seven" products without the consent of LTDI.

LTDI asserted that, being the owner and registrant of the bottles, it was entitled to the protection so extended by Republic Act ("R.A.") No. 623, as amended, notwithstanding its sale of the Ginebra San Miguel gin product contained in said bottles.

Washington countered that R.A. No. 623, invoked by LTDI, should not apply to gin, an alcoholic beverage which is unlike that of "soda water, mineral or aerated water, ciders, milks, cream, or other lawful beverages" mentioned in the law, and that, in any case, ownership of the bottles should, considering the attendant facts and circumstances, be held lawfully transferred to the buyers upon the sale of the gin and containers at a single price.

After hearing the parties, the trial court rendered its decision, dated 03 December 1991, holding against LTDI; *viz*:

"WHEREFORE, premises considered, the complainant is hereby
DISMISSED and plaintiff is ordered:

"1. To return to defendant the 18,157 empty bottles seized by virtue of the writ for the Seizure of Personal Property issued by this Court on November 6, 1987;

"2. In the event of failure to return said empty bottles, plaintiff is ordered to indemnify defendant in the amount of P18,157.00 representing the value of the bottles.

"3. Costs against plaintiff."^[1]

LTDI appealed the decision to the Court of Appeals (CA-G.R. CV No. 36971). The appellate court reversed the court a quo and ruled against Washington; thus:

"WHEREFORE, the appealed decision is hereby REVERSED and SET ASIDE. The appellant, being the owner, is authorized to retain in its possession the 18,157 bottles registered in its name delivered to it by the sheriff following their seizure from the appellee pursuant to the writ of replevin issued by the trial court on November 6, 1987. Costs against the appellee."^[2]

Washington is now before this Court assailing the reversal of the trial court's decision. In its petition, Washington points out that --

"4.00.a. Under the undisputed facts, petitioner is the lawful owner of the personal properties (18,157 empty bottles) involved in the petition. Respondent LTDI is precluded by law from claiming the same;

"4.00.b. The decision and resolution appealed from violate equity and applicable canons in the interpretation and construction of statutes; and

"4.00.c. Liquor products are not covered by Republic Act No. 623. The holding of the Court in *Cagayan Valley Enterprises, Inc. vs. Honorable Court of Appeals*, 179 SCRA 218 [1989] should be reviewed and reconsidered in light of the Constitution and House Bill No. 20585."^[3]

It is a fact that R.A. No. 623 extends trademark protection in the use of containers duly registered with the Philippine Patent Office. The pertinent provisions of R.A. 623, as amended, so reads:

"SECTION 1. Persons engaged or licensed to engage in the manufacture, bottling, or selling of soda water, mineral or aerated waters, cider, milk, cream or other lawful beverages in bottles, boxes, casks, kegs, or barrels, and other similar containers, or in the manufacture, compressing or selling of gases such as oxygen, acetylene, nitrogen, carbon dioxide, ammonia, hydrogen, chloride, helium, sulphur dioxide, butane, propane, freon, methyl chloride or similar gases contained in steel cylinders, tanks, flasks, accumulators or similar containers, with their names or the names of their principals or products, or other marks of ownership stamped or marked thereon, may register with the Philippines Patent Office a description of the names or marks, and the purpose for which the containers so marked are used by them, under the same conditions, rules, and regulations, made applicable by law or regulation to the issuance of trademarks.

"SEC. 2. It shall be unlawful for any person, without the written consent of the manufacturer, bottler, or seller, who has successfully registered the marks of ownership in accordance with the provisions of the next preceding section, to fill such bottles, boxes, kegs, barrels, steel cylinders, tanks, flasks, accumulators, or other similar containers so marked or stamped, for the purpose of sale, or to sell, dispose of, buy or

traffic in, or wantonly destroy the same, whether filled or not to use the same for drinking vessels or glasses or drain pipes, foundation pipes, for any other purpose than that registered by the manufacturer, bottler or seller. Any violation of this section shall be punished by a fine of not more than one thousand pesos or imprisonment of not more than one year or both.

"SEC. 3. The use by any person other than the registered manufacturer, bottler or seller, without written permission of the latter of any such bottle, cask, barrel, keg, box, steel cylinders, tanks, flasks, accumulators, or other similar containers, or the possession thereof without written permission of the manufacturer, by any junk dealer or dealer in casks, barrels, kegs, boxes, steel cylinders, tanks, flasks, accumulators or other similar containers, the same being duly marked or stamped and registered as herein provided, shall give rise to a prima facie presumption that such use or possession is unlawful."^[4]

At the outset, the Court must state that it sees no cogent reason for either departing from or changing the basic rule it laid down in Cagayan Valley Enterprises, Inc., vs. Court of Appeals.^[5] The Court has there held:

"The above-quoted provisions grant protection to a qualified manufacturer who successfully registered with the Philippine Patent Office its duly stamped or marked bottles, boxes, casks and other similar containers. The mere use of registered bottles or containers without the written consent of the manufacturer is prohibited, the only exceptions being when they are used as containers for 'sisi,' 'bagoong,' 'patis' and similar native products.

"It is an admitted fact that herein petitioner Cagayan buys from junk dealers and retailers bottles which bear the marks or names 'La Tondeña, Inc.' and 'Ginebra San Miguel' and uses them as containers for its own liquor products. The contention of Cagayan that the aforementioned bottles without the words 'property of' indicated thereon are not the registered bottles of LTI, since they do not conform with the statement or description in the supporting affidavits attached to the original registration certificate and renewal, is untenable.

"Republic Act No. 623 which governs the registration of marked bottles and containers merely requires that the bottles, in order to be eligible for registration, must be stamped or marked with the names of the manufacturers or the names of their principals or products, or other marks of ownership. No drawings or labels are required but, instead, two photographs of the container, duly signed by the applicant, showing clearly and legibly the names and other marks of ownership sought to be registered and a bottle showing the name or other mark or ownership, irremovably stamped or marked, shall be submitted.

"x x x

x x x

x x x

"The claim of petitioner that hard liquor is not included under the term 'other lawful beverages' as provided in Section 1 of Republic Act No. 623,