

## THIRD DIVISION

[ CA-G.R. CR No. 35081, February 09, 2015 ]

**PACSPORTS PHILIPPINES, INC., PETITIONER-APPELLEE, VS.  
NICCOLO SPORTS, INC., VICENTE G. TAGLE, JR., JOSE V. CEDO,  
JR. AND AGNES G. ROCILLO, RESPONDENTS-APPELLANTS.**

### D E C I S I O N

#### **CARANDANG, J.:**

Before Us is an appeal filed by the respondents-appellants Niccolo Sports, Inc., et al., praying that the Amended Decision dated 4 October 2010 issued by the Makati City Regional Trial Court Branch 148 be reversed and set aside. The 4 October 2010 Amended Decision found herein appellants guilty of indirect contempt for disobedience or resistance to a lawful writ or order and sentenced them to pay a fine of Ten Thousand Pesos (P10,000.00). The appellants were likewise ordered for the restitution of the value of the subject golf accessories, equipment and apparel in the amount of P12,377,525.00 as well as the unremitted sales proceeds of P1,291,102.08 with interest of 6% per *annum* from May 1999 until the amount is fully paid.

The facts are as follows:

Sometime in 1998, Pacsports Philippines, Inc. ("Pacsports") and Niccolo Sports, Inc. ("Niccolo") entered into two Exclusive Retail Agreements by which the former authorized the latter to operate a retail outlet for the sale of assorted Bridgestone and Cross Creek golf products being exclusively distributed in the Philippines by Pacsports. Citing material breach of the terms and conditions of the agreements by Pacsports, Niccolo terminated the two agreements on 25 January 1999. As a consequence of such termination, Niccolo retained the possession of the golf products consigned to its outlet by Pacsports invoking Articles 1912, 1913, and 1914 of the Civil Code.

On 28 January 1999, Pacsports filed a civil action for damages with application for a writ of replevin against Niccolo with the Regional Trial Court, Branch 141, Makati City (RTC) which was docketed as Civil Case No. 99-221.

On the same day, the RTC issued an Order granting Pacsports' prayer for issuance of a writ of replevin. However, it was not implemented because Niccolo concealed the golf equipment to be seized.<sup>[1]</sup> On 16 February 1999, Pacsports applied for the issuance of a writ of preliminary injunction to compel Niccolo to turn over to Pacsports the golf equipment as well as the sales proceeds amounting to P1,186,468.65.<sup>[2]</sup> On 20 April 1999, the RTC granted Pacsports' application for a writ of preliminary mandatory injunction. It required Pacsports to post a bond for the issuance of the writ of preliminary mandatory injunction in the amount of P13,980,090.00 to answer for any damage that Niccolo may suffer by virtue of the

writ should the court finally adjudge that Pacsports is not entitled thereto. Niccolo filed a motion for reconsideration but it was denied on May 6, 1999.<sup>[3]</sup>

Niccolo elevated the same to this Court via a Petition for *Certiorari* and Prohibition. On 6 December 1999, this Court granted the petition and accordingly reversed the 20 April 1999 Order of the RTC. On 17 January 2000, this Court denied Pacsports' Motion for Reconsideration.<sup>[4]</sup>

Pacsports appealed the 6 December 1999 Decision of this Court to the Supreme Court. Ruling in favor of Pacsports, the Supreme Court reversed the 6 December 1999 Order of this Court and reinstated the 20 April 1999 Order of the RTC. The High Court held:

"There is no question that petitioner, as owner of the items being withheld by respondent, is entitled to possession thereof. Respondent's refusal to deliver them to petitioner is a breach of that right. Its claim for reimbursement and retention of the items in pledge under Articles 1912, 1913 and 1914 of the Civil Code are being disputed by petitioner. Actually, respondent's claims are not clearly established but yet to be resolved. Secondly, in light of the bond posted by petitioner which would guaranty payment of respondent's claims if found meritorious, respondent has lost its basis for withholding the disputed items and money as security. Finally, by their nature, the golf equipment, accessories and apparel may not be kept in storage indefinitely or until the dispute between the parties is finally resolved without impairing their market value which would prejudice the petitioner as owner."<sup>[5]</sup>

Meanwhile, on 14 May 1999, Pacsports filed with Branch 141 a Petition for Contempt with original prayer of causing the immediate detention of the officers of Niccolo, namely, appellants Vicente G. Tagle, Jr., Jose V. Cedo, Jr. and Agnes G. Rocillo until such time as the RTC's preliminary injunction is complied with and to further cite the said officers guilty of indirect contempt.<sup>[6]</sup>

On 7 June 1999, the appellants filed with the RTC a Response *Ad Cautelam* with Motion to Expunge Plaintiff's/Petitioner's Petition for Contempt and to refer the same to the Office of the Clerk of Court for payment of filing fees, docketing and raffle based on Section 4, Rule 71 of the 1997 Rules of Procedure which provides that if the contempt charges arose out of or are related to a principal action pending in trial court, the Petition for Indirect Contempt shall allege the fact but said petition shall be docketed, heard and decided separately unless the trial court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision.<sup>[7]</sup>

On 25 June 1999, Pacsports filed an Amended Petition for Contempt with the Makati City RTC Office of the Clerk of Court which was subsequently docketed as Civil Case No. 99-1185 and was raffled over and assigned to Branch 148. Pacsports also amended its prayer for the impleaded respondents to be ordered to make complete restitution to it of the subject golf accessories, equipment and apparel as well as the unremitted sales proceeds on account of the violation of the preliminary injunction issued by RTC Branch 141, Makati City.<sup>[8]</sup>

The appellants were allowed to adduce evidence in their behalf wherein they submitted the Deposition of appellant Vicente G. Tagle, Jr. Pacsports did not cross-examine Vicente G. Tagle, Jr. Instead, it filed its Memorandum dated 20 November 2002.<sup>[9]</sup>

After several suspensions of the trial, Pacsports then filed its Supplemental Petition seeking to hold Vicente G. Tagle, Jr. personally liable for damages in the amount of P13,980,090.24 as that sought in its Amended Petition for Contempt and P1,592,868.24 or the total amount of P15,572,955.48 plus 12% legal interest from May 1999 until the same is fully paid.<sup>[10]</sup>

On 26 March 2006, the preliminary conference was held and on 9 August 2006, the Pre-Trial Conference case was terminated.<sup>[11]</sup>

Thereafter, Pacsports presented three witnesses, namely: (1) Nicasio Tuason, its former Sales Manager, (2) Ramon Alegria, Inventory Supervisor, and (3) David John Lovel Gopez, then President of the Golf Distributors Associations of the Philippines (GDAP).<sup>[12]</sup>

On 4 October 2010, the RTC issued the assailed Amended Decision, the dispositive portion of which states:

"WHEREFORE, premises considered, the instant Petition for Contempt is hereby GRANTED and respondents are hereby found guilty beyond reasonable doubt of Indirect Contempt of Court and are hereby sentenced to pay a fine of Ten Thousand Pesos. (P10,000.00)

"Respondents respondents (sic) Niccolo Sports, Inc., Vicente G. Tagle, Jr. Jose V. Cedo Jr. and Ms. Agnes G. Rocillo as responsible officers of Niccolo Sports Inc. are hereby cited guilty of indirect contempt and consequently must comply with the aforesaid mandatory injunction by restoring/restituting to Petitioner the value of the subject inventory/properties in the amount of P12,377,525.00 from the time it was deposited in January 25, 1999 and to likewise restore the unremitted sales proceeds to Petitioner in the amount of P1,291,102.08 as damages with interest of 6% *per annum* from May 1999 until the amount is totally and fully paid.

"Respondents Niccolo Sports, Inc., Vicente G. Tagle Jr, Jose V. Cedo Jr. and Ms. Agnes G. Rocillo shall likewise pay the cost of the suit.

SO ORDERED."<sup>[13]</sup>

In the Appellants' Brief, the appellants raise the following issues:

#### **A**

Whether or not the matter of the alleged "willful disobedience" of the injunctive writ issued by Branch 141, or "willful refusal" on their part to comply with the same, as to justify holding them liable for indirect contempt, was not among the DELIMITED ISSUES agreed upon during the Pre-Trial Conference held on August 09, 2006, for resolution by the

trial court;

## B

Whether or not by reason of these DELIMITED ISSUES, any finding of liability ought to have been confined only as against Appellant Vicente G. Tagle, Jr.;

## C

Whether or not the trial court had relied on mere presumptions, as to the values of the goods that ought to be restored as damages to the Appellee and were not proven in any case by the latter, clearly and convincingly;  
[14]

Simply, the issues are: (1) whether or not the lower court erred in finding the appellants guilty of indirect contempt for willful disobedience to the writ of mandatory injunction; and (2) whether or not the lower erred in ordering the appellants to indemnify Pacsports the amount of the golf accessories, equipment and apparel as well as the unremitted sales proceeds.

The instant appeal has no merit.

As to the first issue, a careful examination of the records supports the finding of the RTC that the appellants willfully disobeyed the writ of preliminary injunction issued by the Makati RTC Branch 141.

The propriety of the issuance by the lower court of the writ of preliminary injunction has already been affirmed by no less than the Supreme Court in the case *Pacsports Philippines, Inc. vs. Niccolo Sports, Inc.*<sup>[15]</sup> The said Supreme Court ruling has already attained finality. Yet, they stubbornly defied the lawful order of the RTC.

Appellants contend that their continuous refusal to comply with the court order was only a result of their assiduousness in asserting their rights which did not amount to a willful disobedience. We are not convinced. The writ of preliminary injunction should be obeyed while it remains in full force and effect. As ruled in the case of *Air Materiel Wing Savings and Loan Association, et al. vs. Manay, et al.*:<sup>[16]</sup>

"An injunction or restraining order must be obeyed while it remains in full force and effect until the injunction or restraining order has been set aside, vacated, or modified by the court which granted it, or until the order or decree awarding it has been reversed on appeal. **The injunction must be obeyed irrespective of the ultimate validity of the order, and no matter how unreasonable and unjust the injunction may be in its terms.**" (Underscoring Ours.)

In *Spouses Lee vs. Court of Appeals*<sup>[17]</sup>, the Supreme Court held:

"An injunction or restraining order which is not void must be obeyed while it remains in full force and effect, and has not been overturned, that is, in general, until the injunction or restraining order has been set aside, vacated, or modified by the court which granted it, or until the