

FIRST DIVISION

[G.R. No. 203566, June 23, 2020]

**TOTAL PETROLEUM PHILIPPINES CORPORATION, PETITIONER,
VS. EDGARDO LIM AND TYREPLUS INDUSTRIAL SALES, INC.,
RESPONDENTS.**

D E C I S I O N

LAZARO-JAVIER, J.:

The Case

This Petition for Review on Certiorari assails the following dispositions of the Court of Appeals in CA-G.R. CV No. 00819-MIN entitled "*Edgardo Lim and Tyreplus Industrial Sales, Incorporated v. Total Petroleum Philippines Corporation*:"

1. Decision^[1] dated February 29, 2012 reversing the Decision^[2] dated November 15, 2005 of the Regional Trial Court (RTC) – Branch 10, Davao City in Civil Case No. 28102-2000 finding herein respondents Edgardo Lim and Tyreplus Industrial Sales, Inc. liable for damages in favor of petitioner Total Petroleum Philippines Corporation; and
2. Resolution^[3] dated September 27, 2012 denying petitioner's motion for reconsideration.

Antecedents

On September 14, 2000, respondents Edgardo Lim and Tyreplus Industrial Sales, Inc. a corporation engaged in the marketing of automotive parts, oil, and lubricants, ^[4] filed a complaint for damages and attorney's fees against petitioner Total Petroleum Philippines Corporation, a corporation engaged in the manufacture, importation, and wholesale of automotive products and industrial lubricants.^[5] The case was raffled to the RTC – Branch 10, Davao City.^[6]

Respondents essentially averred that on December 1, 1999, Tyreplus, through its President Edgardo Lim, entered into a Commercial Distributorship Agreement^[7] with Total. The Agreement was enforceable for twelve (12) months subject to renewal. Under Article 2 of the Agreement, Tyreplus was granted a "*non-exclusive and non-transferable*" authority to distribute and sell Total petroleum products,^[8] viz.:

Article 2 – RIGHTS GRANTED BY TPPC TO THE DISTRIBUTOR

TPPC hereby grants the **non-exclusive, non-transferable authority to the DISTRIBUTOR ---**

2.1 To market and distribute the Products under the Trade Marks in the Territory;

2.2. During the continuance of this Agreement, the DISTRIBUTOR, neither by itself nor by its stockholders, officers, directors, staff, or agents, or any of them shall without the consent in writing of TPPC, be interested whether directly or indirectly, in the sale, supply or promotion in the Territory of, or in any other manner deal with, any other oil or allied products similar or competing with the products. To this end, the DISTRIBUTOR shall, cease manufacturing, selling, or in any other manner deal with, directly or indirectly, any product in similar or competition with the Products. (Emphasis supplied)

Article 4^[9] of the Agreement enumerates Tyreplus' obligations on the distribution and sale of Total products, thus:

Article 4 – DISTRIBUTION OF THE PRODUCTS

4.1 The DISTRIBUTOR shall, at all time during the duration of this AGREEMENT, and under the guidance of TPPC, arrange for and organize the efficient marketing and distribution of the Products within the Territory, and shall use its best endeavors to vigorously promote the sale thereof. xxx

4.2 The DISTRIBUTOR shall, distribute the Products in the same quality and under the same packaging in which they have been received from TPPC.

4.3 The DISTRIBUTOR shall, at all time, conduct its distribution activities with due regard and consideration, and without prejudice, to their impact on the other products of TPPC and the latter's relationship with its other distributors.

4.4. The DISTRIBUTOR shall not, without the consent in writing of TPPC, sell or dispose of the Products to any person, firm, or company outside the Territory; nor shall the DISTRIBUTOR knowingly sell or dispose the Product to any person, firm or company residing or carrying on business in the Territory, with a view to the same being sent or exported to any place or country outside the Territory. xxx

4.5 The DISTRIBUTOR shall maintain at all time, an accurate, detailed and complete account of sales and inventories of the Products and other records concerning its dealership of the Products. xxx

4.6 The DISTRIBUTOR shall also promptly provide TPPC with reports and such other necessary market research assistance as may be required by TPPC, from time to time, detailing the activities of competitors in the Territory. xxx

4.7 The DISTRIBUTOR shall provide TPPC an annual sale forecast xxx and upon request of TPPC, the DISTRIBUTOR shall likewise promptly provide TPPC with a quarterly update of the sales forecast before the start of each quarter.

4.8 The DISTRIBUTOR shall promptly provide TPPC with a monthly inventory report, in units and value upon TPPC's request.

4.9 The DISTRIBUTOR's minimum purchases of the Products during the term of this agreement shall be those set forth in Appendix 2. xxx

4.10. The DISTRIBUTOR may carry out an advertising programs for the Products for the purpose of meeting the marketing objectives as shall have been agreed with TPPC xxx

4.11 TPPC shall, at its discretion, assist the DISTRIBUTOR in any public relations exercise, and provide assistance in the development of promotional materials. xxx

4.12 Title and risk to the products shall automatically pass to the DISTRIBUTOR upon the actual receipt of the Products by the latter as materialized by the signature of the DISTRIBUTOR or any of his designates. xxx

4.13 The DISTRIBUTOR shall permit and/or its duly authorized representatives:

a) To enter any plant premises where the Products shall be sold or kept xxx, and to inspect and take inventories of all stocks of the Products held therein and of all processes for marketing carried on therein;

b) To have access to the customer lists of salesmen and sub-distributors of the DISTRIBUTOR, and other accounts of the DISTRIBUTOR relating to the marketing and sale of the Products, take and keep copies thereof, and immediately upon the written request of TPPC, furnish TPPC copies of such list.

4.14 TPPC shall provide all relevant product data sheets for the customer's knowledge of automotive and industrial lubricants, and, at its discretion, provide assistance to develop customers by way of conferences, seminars and on-site demonstrations or conduct trial tests.

4.15 TPPC will assist in the professional development of the DISTRIBUTOR's personnel tasked with the promotion and sale of the Products.

4.16 The Distributor warrants that xxx it shall have the necessary knowledge, facilities, manpower and capability xxx to carry on distribution activities and to sell and distribute the Products.

Pursuant thereto, Total delivered its various products to Tyreplus for distribution and sale. Lim, thereafter, purchased six (6) vehicles to facilitate the distribution and sale of these products.^[10] He offered in evidence the vehicles' certificates of registration and official registration fee receipts.^[11] He admitted, though, that some of these vehicles were not exclusively used for distribution and sale of Total products while some were just parked at his residence.^[12]

On December 31, 1999, Tyreplus' General Manager Brigido Tan resigned, prompting Lim to take over the company operations.^[13] Lim discovered that Tan used the name of Tyreplus to pursue Tan's personal interest. Thus, in order to remove the

bad image Tan had created, Tyreplus had purportedly changed its name to Superpro Industrial Sales Corporation.^[14]

On January 31, 2000, using the letterhead "Superpro Ind. Sales Corp." Lim wrote Total that "Superpro Industrial Sales Corporation" will be the new trade name of Tyreplus Sales Corporation.^[15] On February 4, 2000, Lim had a meeting with Total's Marketing Manager Beau Santos and Sales Executive Gigi Gonzales.^[16] There, Lim reiterated to these Total executives that Tyreplus had purportedly changed its name to Superpro. In another meeting on February 10, 2000, Lim handed to Total's Marketing Manager Beau Santos a copy of Superpro's Articles of Incorporation.^[17] Article 2 of Superpro's Articles of Incorporation indicated its primary purpose *i.e.*, buying, selling, importing, exporting or dealing of automotive parts and lubricants, including the repair and service of these automotive parts, thus:

Article II – xxx purpose for which said corporation is formed:

Primary Purpose

To **engage in the business of buying, selling, importing and exporting or dealing in any and all kinds** of goods, wares, commodities and merchandise of every class and description such as but not limited to **tires, batteries, lubricants**, industrial and agricultural machineries, heavy and light equipment, engines, implements, construction materials, fixtures and all its **parts or accessories**, including the repair and service thereof. (emphasis supplied)

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Total was also furnished copy with Superpro's Certificate of Incorporation,^[18] viz.:

This is to certify that the **Articles and By-Laws of Superpro Industrial Sales Corporation are duly registered by the Commission on this date upon issuance of this Certificate of Incorporation** in accordance with the Corporation Code of the Philippines (Batas Pambansa Blg. 68), approved on May 1, 1980 xxx (Emphasis supplied).

Notably, the Articles of Incorporation did not mention anything about Tyreplus being Superpro's supposed predecessor.

On even date, Total signed a new Commercial Distributorship Agreement^[19] with Superpro. It was similar to what Total and Tyreplus had previously entered into. Articles 2 and 4 of the Agreement provided, thus:^[20]

Article 2 – RIGHTS GRANTED BY TPPC TO THE DISTRIBUTOR

TPPC **hereby grants the non-exclusive, non-transferable authority to the DISTRIBUTOR ---**

2.1 To market and distribute the Products under the Trade Marks in the Territory;

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agents, or any of them shall without the consent in writing of TPPC, be interested whether directly or indirectly, in the sale, supply or promotion in the Territory of, or in any other manner deal with, any other oil or allied products similar or competing with the products. To this end, the DISTRIBUTOR shall, cease manufacturing, selling, or in any other manner deal with, directly or indirectly, any product in similar or competition with the Products.

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