

FIRST DIVISION

[G.R. No. 205972, November 09, 2016]

**CATERPILLAR, INC., PETITIONER, VS. MANOLO P. SAMSON,
RESPONDENT.**

[G.R. NO. 164352]

**CATERPILLAR, INC., PETITIONER, VS. MANOLO P. SAMSON,
RESPONDENT.**

D E C I S I O N

BERSAMIN, J.:

The determination of probable cause to charge a person in court for a criminal offense is exclusively lodged in the Executive Branch of the Government, through the Department of Justice. Initially, the determination is done by the investigating public prosecutor, and on review by the Secretary of Justice or his duly authorized subordinate. The courts will respect the determination, unless the same shall be shown to have been made in grave abuse of discretion amounting to lack or excess of jurisdiction.

The Cases

Before us are the consolidated cases of G.R. No. 205972^[1] and G.R. No. 164352.^[2]

G.R. No. 164352 involves the appeal by petition for review on *certiorari* of Caterpillar, Inc. (Caterpillar) to reverse the decision promulgated on January 21, 2004^[3] by the Court of Appeals (CA) in CA-G.R. SP No. 75526, and the resolution promulgated on June 30, 2004 denying the motion for reconsideration thereof.^[4]

G.R. No. 205972 relates to the appeal brought by Caterpillar to assail the decision and resolution promulgated in CA-G.R. SP No. 102316 respectively on May 8, 2012^[5] and February 12, 2013,^[6] whereby the CA affirmed the resolutions of the Department of Justice (DOJ) finding that there was no probable cause to indict Manolo P. Samson (Samson) for unfair competition.

Antecedents

Caterpillar is a foreign corporation engaged in the manufacture and distribution of footwear, clothing and related items, among others. Its products are known for six core trademarks, namely, "CATERPILLAR", "CAT", "CATERPILLAR & DESIGN", "CAT AND DESIGN", "WALKING MACHINES" and "TRACK-TYPE TRACTOR & DESIGN (Core

Marks)^[7] all of which are alleged as internationally known. On the other hand, Samson, doing business under the names and styles of Itti Shoes Corporation, Kolm's Manufacturing Corporation and Caterpillar Boutique and General Merchandise, is the proprietor of various retail outlets in the Philippines selling footwear, bags, clothing, and related items under the trademark "CATERPILLAR", registered in 1997 under Trademark Registration No. 64705 issued by the Intellectual Property Office (IPO).^[8]

G.R. No. 164352

On July 26, 2000, upon application of the National Bureau of Investigation (NBI), the Regional Trial Court (RTC), Branch 56, in Makati City issued Search Warrants Nos. 00-022 to 00-032, inclusive, all for unfair competition,^[9] to search the establishments owned, controlled and operated by Samson. The implementation of the search warrants on July 27, 2000 led to the seizure of various products bearing Caterpillar's Core Marks.

Caterpillar filed against Samson several criminal complaints for unfair competition in the Department of Justice (DOJ), docketed as I.S. Nos. 2000-1354 to 2000-1364, inclusive.

Additionally, on July 31, 2000, Caterpillar commenced a civil action against Samson and his business entities, with the IPO as a nominal party^[10] – for *Unfair Competition, Damages and Cancellation of Trademark with Application for Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction* – docketed as Civil Case No. Q-00-41446 of the RTC in Quezon City. In said civil action, the RTC denied Caterpillar's application for the issuance of the TRO on August 17, 2000.

The DOJ, through Senior State Prosecutor Jude R. Romano, issued a joint resolution dated November 15, 2001^[11] recommending that Samson be criminally charged with unfair competition under Section 168.3 (a),^[12] in relation to Section 123.1(e),^[13] Section 131.1^[14] and Section 170,^[15] all of Republic Act No. 8293, or the *Intellectual Property Code of the Philippines* (IP Code).

However, because Samson and his affiliate companies allegedly continued to sell and distribute products clothed with the general appearance of its own products, Caterpillar again applied for another set of search warrants against Samson and his businesses. The RTC, Branch 172, in Valenzuela City issued Search Warrants Nos. 12-V-00,^[16] 13-V-00,^[17] 20-V-00^[18] and 29-V-00^[19] upon application of the NBI, by virtue of the implementation of which several goods were seized and confiscated by the NBI agents.

As a consequence, Caterpillar filed 26 criminal complaints for unfair competition on January 31, 2001, docketed as I.S. Nos. 2001-42 to 2001-67, against Samson and/or the occupants of his affiliate entities before the DOJ.^[20] In due course, the DOJ, through State Prosecutor Zenaida M. Lim, issued a joint resolution dated September 28, 2001^[21] recommending the filing of criminal complaints for unfair competition under Section 168.3(a), in relation to Section 123.1, Section 131.1 and Section 170 of the IP Code. Accordingly, six criminal complaints were filed in the

RTC, Branch 256, in Muntinlupa City, presided by Judge Alberto L. Lerma, docketed as Criminal Cases Nos. 02-238 to 02-243.

On January 17 and 22, 2002, Samson filed a petitions for review with the Office of the Secretary of Justice to appeal the joint resolutions in I.S. Nos. 2000-1354 to 2000-1364^[22] and I.S. Nos. 2001-042 to 2001-067.^[23]

On May 30, 2002, Samson filed a *Motion to Suspend Arraignment* in Criminal Cases Nos. 02-238 to 243,^[24] citing the following as grounds:^[25]

I.

THERE EXISTS PREJUDICIAL QUESTIONS PENDING LITIGATION BEFORE THE REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 90, IN CIVIL CASE NO. Q-00-41446 ENTITLED: "CATERPILLAR, INC., ET AL. VS. ITTI SHOES CORPORATION, ET AL.," THE FINAL RESOLUTIONS OF WHICH WILL DETERMINE THE OUTCOME OF THE INSTANT CRIMINAL CASES.

II.

ACCUSED HAS FILED PETITIONS FOR REVIEW WITH THE DEPARTMENT OF JUSTICE ASSAILING THE RESOLUTIONS OF THE CHIEF STATE PROSECUTOR WHO CAUSED THE FILING OF THE INSTANT CASES AND ARE STILL PENDING THEREIN UP TO THE PRESENT.

In the meanwhile, on July 10, 2002, the DOJ, through Secretary Hernando B. Perez, issued a resolution^[26] denying Samson's petition for review in I.S. Nos. 2000-1354 to 2000-1364. Samson's motion for reconsideration was likewise denied on May 26, 2003.

On September 23, 2002, Presiding Judge Lerma of the RTC granted Samson's *Motion to Suspend Arraignment*, and suspended the arraignment and all other proceedings in Criminal Cases Nos. 02-240 to 02-243 until Civil Case No. Q-00-41446 was finally resolved,^[27] holding:

After a careful scrutiny of the case, this Court finds that private complainant, in Civil Case No. Q-00-41446, seeks for the cancellation of the trademark "CATERPILLAR" which is registered in the name of the accused and to prevent the latter from using the said trademark ("CATERPILLAR"), while the issue in the instant case is the alleged unlawful use by the accused of the trademark "CATERPILLAR" which is claimed to be owned by the private complainant. From the foregoing, this Court believes that there exists a prejudicial question since the determination of who is really the lawful or registered user of the trademark "CATERPILLAR" will ultimately determine whether or not the instant criminal action shall proceed. Clearly, the issues raised in Civil Case No. Q-00-41446 is similar or intimately related to the issue in the case at bar for if the civil case will be resolved sustaining the trademark registration of the accused for the trademark CATERPILLAR, then the latter would have all the authority to continue the use of the said

trademark as a consequence of a valid registration, and by reason of which there may be no more basis to proceed with the instant criminal action.^[28]

After the RTC denied its motion for reconsideration^[29] on December 5, 2002,^[30] Caterpillar elevated the matter to the CA by petition for *certiorari* on February 14, 2003,^[31] docketed as C.A.-G.R. SP No. 75526 entitled *Caterpillar, Inc. v. Hon. Alberto L. Lerma, in his capacity as Presiding Judge of Branch 256 of the Regional Trial Court, Muntinlupa City, and Manalo P. Samson*, alleging grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in suspending the arraignment and other proceedings in Criminal Cases Nos. 02-238 to 02-243 on the ground of the existence of an alleged prejudicial question in Civil Case No. Q-00-41446 then pending in the RTC in Quezon City whose resolution would determine the outcome of the criminal cases.

Meanwhile, on January 13, 2003, Acting Justice Secretary Ma. Merceditas N. Gutierrez reversed and set aside the resolution issued by State Prosecutor Lim in I.S. No. 2001-042 to 2001-067, and directed the Chief State Prosecutor to cause the withdrawal of the criminal informations filed against Samson in court,^[32] disposing as follows:

ACCORDINGLY, the assailed joint resolution is hereby **REVERSED** and **SET ASIDE**. The Chief State Prosecutor is directed to forthwith cause the withdrawal of the informations filed in court against respondent Manolo P. Samson and to report action taken hereon within ten (10) days from receipts hereof.^[33]

Acting Justice Secretary Gutierrez based her resolution on the order dated June 26, 2001, whereby the RTC of Valenzuela City, Branch 172, had quashed the 26 search warrants upon motion of Samson.^[34] Consequently, the goods seized and confiscated by virtue of the quashed search warrants could no longer be admitted in evidence

Correspondingly, Presiding Judge Lerma of the RTC ordered the withdrawal of Criminal Cases Nos. 02-240 to 02-243 on February 4, 2003.^[35]

Aggrieved, Caterpillar assailed the order of Judge Lerma for the withdrawal of Criminal Cases Nos. 02-240 to 02-243 2003 by petition for *certiorari* in the CA on October 16, 2003, docketed as CA-G.R. SP No. 79937,^[36] and the CA ultimately granted the petition for *certiorari*,^[37] setting aside the assailed January 13, 2003 resolution of the Acting Justice Secretary and directing the re-filing of the withdrawn informations against Samson. The Court ultimately affirmed the CA's decision through the resolution promulgated on October 17, 2005 in G.R. No. 169199, and ruling that probable cause existed for the re-filing of the criminal charges for unfair competition under the IP Code.^[38]

In the assailed January 21, 2004 decision,^[39] the CA dismissed Caterpillar's petition for *certiorari* in CA-G.R. SP No. 75526, *viz.*:

Petition has no merit.

The mere fact that public respondent denied petitioner's motion for reconsideration does not justify this petition on the ground of abuse of discretion. Grave abuse of discretion means such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or, in other words where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law. (*Benito vs. Comelec*, 349 SCRA 705).

Petitioner in this case failed to overcome the burden of showing how public respondent acted with grave abuse of discretion in granting private respondent's motion and denying his own motion for reconsideration. What is clear is that public respondent court acted judiciously. A petition for *certiorari* under Rule 65 of the Rules of Court will prosper only if there is showing of grave abuse of discretion or an act without or in excess of jurisdiction on the part of respondent tribunal (*Garcia vs. HRET*, 312 SCRA 353).

Granting *arguendo* that public respondent court erred in its ruling, still a petition for *certiorari* under Rule 65 cannot be justified. Where the court has jurisdiction over the subject matter, the orders or decision upon all questions pertaining to the cause are orders or decisions within its jurisdiction and however erroneous they may be, they cannot be corrected by *certiorari* (*De Baron vs. Court of Appeals*, 368 SCRA 407).

WHEREFORE, foregoing premises considered, the Petition having no merit in fact and in law is hereby DENIED DUE COURSE and ordered DISMISSED. With costs to Petitioners.

SO ORDERED.^[40]

Caterpillar sought the reconsideration of the dismissal, but the CA denied the motion on June 30, 2004.^[41]

Hence, Caterpillar appealed the CA's decision in C.A.-G.R. SP No. 75526 (G.R. No. 164352).

G.R.No. 205972

In the meanwhile, in August 2002, upon receiving the information that Samson and his affiliate entities continuously sold and distributed products bearing Caterpillar's Core Marks without Caterpillar's consent, the latter requested the assistance of the