

FIRST DIVISION

[G.R. No. 175284, September 19, 2012]

BP PHILIPPINES, INC. (FORMERLY BURMAH CASTROL PHILIPPINES, INC.), PETITIONER, VS. CLARK TRADING CORPORATION, RESPONDENT.

D E C I S I O N

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LEONARDO-DE CASTRO, J.:

This Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assails the Court of Appeals' Decision^[1] dated August 3, 2006 and Resolution^[2] dated October 30, 2006 in **CA-G.R. CV No. 79616**, entitled *Burmah Castrol Philippines, Inc. v. Clark Trading Corporation*, which affirmed the Decision^[3] dated December 15, 2002 of the Regional Trial Court (RTC), Branch 57, Angeles City in **Civil Case No. 9301**.

BP Philippines, Inc. (petitioner), a corporation "engaged in the development, manufacture, importation, distribution, marketing, and wholesale of: (i) the products of the BURMAH CASTROL GROUP, including, x x x the CASTROL range of lubricants and associated products x x x,"^[4] filed a Complaint^[5] for "injunction with prayer for preliminary injunction and temporary restraining order (TRO) and damages" in the RTC against respondent Clark Trading Corporation, owner of Parkson Duty Free, which, in turn, is a duty free retailer operating inside the Clark Special Economic Zone (CSEZ). Parkson Duty Free sells, among others, imported duty-free Castrol products not sourced from petitioner.

Petitioner alleged that sometime in 1994 it had entered into a Marketing and Technical Assistance Licensing Agreement^[6] and a Marketing and Distribution Agreement^[7] (agreements) with Castrol Limited, U.K., a corporation organized under the laws of England, and the owner and manufacturer of Castrol products. Essentially, under the terms of the agreements,^[8] Castrol Limited, U.K. granted petitioner the title "exclusive wholesaler importer and exclusive distributor" of Castrol products in the territory of the Philippines.^[9] Under the July 22, 1998 Variation "territory" was further clarified to include duty-free areas.^[10]

Petitioner claimed that respondent, by selling and distributing Castrol products^[11] not sourced from petitioner in the Philippines, violated petitioner's exclusive rights under the agreements. Despite a cease and desist letter^[12] dated September 14, 1998 sent by petitioner, respondent continued to distribute and sell Castrol products in its duty-free shop. Petitioner, citing *Yu v. Court of Appeals*^[13] as basis for its claim, contended that the unauthorized distribution and sale of Castrol products by respondent "will cause grave and irreparable damage to its goodwill and reputation."

To support the application for TRO, petitioner presented the testimony of a certain Farley^[14] Cuizon, one of the people who conducted a test-buy on October 30, 1998 at Parkson Duty Free.^[15] Cuizon testified that he had purchased one box containing twelve (12) bottles with red caps of Castrol GTX motor oil, and that these red caps signified that the Castrol motor oil did not come from petitioner, since the bottles of Castrol motor oil petitioner sold had white caps. Moreover, Cuizon further testified that the bottles of Castrol motor oil bought from Parkson Duty Free had on them printed labels stating that these "may not be resold outside North America."^[16] However, on cross-examination, he testified that no patent violation existed since the red caps on the Castrol GTX products were not significant.

On March 4, 1999, the RTC issued an Order directing the issuance of a TRO for a period of twenty (20) days enjoining respondent "from selling and distributing Castrol products until further orders x x x."^[17]

On April 15, 1999, the RTC denied petitioner's prayer for the issuance of a writ of preliminary injunction, there being no sufficient justification for the relief.^[18]

Respondent, in its answer,^[19] stated that petitioner had no cause of action. Respondent alleged that it was a stranger to the agreements, it being neither a party nor a signatory thereto. Based on the theory that only parties to a contract were bound by it, respondent claimed that it could not be held liable for violations of the terms of the agreements. While respondent admitted that it distributed and sold Castrol products, it also posited that it only conducted its business within the confines of the CSEZ in accordance with Executive Order Nos. 140,^[20] 250^[21] and 250-A.^[22] Since petitioner was not authorized to operate, distribute and sell within the CSEZ, respondent did not violate the agreements because its efficacy only covers an area where petitioner is allowed by law to distribute.

After trial on the merits, the RTC dismissed the complaint. It ruled that the factual circumstances of the Yu case were different from the present case since respondent was operating a duty-free shop inside the CSEZ. It noted that "the Castrol products sold by [respondent] therefore [was] legal provided that they only [sold] the same in their store inside Clark and to customers allowed to make said purchase and for their consumption."^[23] With regard to the propriety of the issuance of a preliminary injunction, the RTC ruled:

[Petitioner] failed to show xxx [any] act by [respondent] [that constitutes] an injurious invasion of its rights stemming from a contract it signed with another party coupled by the limited scope of the transaction of [respondent] and its customers.

Hence, [petitioner] cannot be entitled to an injunction in the instant case. It has not shown that it has a right which must be protected by this court, and it failed to show also that defendant is guilty of acts which [violate] its rights."

x x x x

WHEREFORE, premises considered, the complaint filed by [petitioner] is hereby ordered DISMISSED.^[24]

On appeal, the Court of Appeals affirmed the ruling of the RTC. Petitioner was not able to establish the existence of a clear legal right to be protected and the acts which would constitute the alleged violation of said right. The circumstances under which the Yu case was decided upon were different from that of the present case. The Court of Appeals pointed out the different circumstances in the following manner:

Firstly, in *Yu*, the High Court did not make a final determination of the rights and obligations of the parties in connection with the exclusive sales agency agreement of wall covering products between Philip Yu and the House of Mayfair in England. Said case reached the High Court in connection with the incident on the preliminary injunction and the main suit for injunction was still pending with the Regional Trial Court of Manila. The High Court categorically stated that their "observations" do not in the least convey the message that they "have placed the cart ahead of the horse, so to speak." This is the reason why in the dispositive portion of said case, the High Court remanded the case to the court of origin.

In the instant case, the trial court already rendered its assailed Decision which found that [petitioner] has not shown that it has a right which must be protected and that [respondent] is not guilty of acts which violate [petitioner's] right. Thus, We fail to see how the High Court's "observations" in the Yu case should be cited as a controlling precedent by [petitioner].

Secondly, in *Yu*, it appears that Philip Yu has an exclusive sales agency agreement with the House of Mayfair in England since 1987 to promote and procure orders for Mayfair wall covering products from customers in the Philippines. Despite [the] said exclusive sales agency agreement, Yu's dealer, Unisia Merchandising Co., Inc., engaged in a sinister scheme of importing the same goods, in concert with the FNF Trading in West Germany, and misleading the House of Mayfair into believing that the wallpaper products ordered via said trading German firm were intended for shipment to Nigeria, although they were actually shipped to and sold in the Philippines.

In the case at bar, [respondent], who is a registered locator doing business at the Parkson Duty Free Shop within the [CSEZ] administered by the Clark Development Corporation, was not a dealer of [petitioner] nor was there any business dealing or transaction at all between [petitioner] and [respondent]. In fact, it was established in evidence, through the testimony of Adrian Phillimore, [petitioner]'s very own witness, that respondent was already selling imported Castrol GTX products even prior to the execution of the Variation to Marketing and Distribution Agreement dated 23 July 1998 between [petitioner] and

Castrol Limited, a corporation established under the laws of England. Further, [petitioner] failed to show that [respondent's] duty free importation of said Castrol GTX products which were sold at its Parkson Duty Free Shop was a sinister scheme employed by [respondent] in order to by-pass [petitioner].

Thirdly, in *Yu*, the House of Mayfair of England, in its correspondence to FNF Trading of West Germany, even took the cudgels for Philip Yu in seeking compensation for the latter's loss as a consequence of the scheme of the dealer Unisia Merchandising Co., Inc., in concert with FNF Trading.

In the case at bar, [petitioner] did not allege in its Complaint nor prove who the supplier of [respondent] was with respect to said Castrol GTX products sold in Parkson Duty Free Shop. There is no showing that [respondent] sought Castrol Limited of England in order to procure Castrol GTX products for retailing inside the duty free shop of [respondent] within the Clark Special Economic Zone, with the intention of violating the purported exclusive marketing and distributorship agreement between [petitioner] and Castrol Limited of England. Neither do we find any showing that Castrol Limited of England took up the cudgels for [petitioner], by corresponding with [respondent], in connection with the latter's retailing of Castrol GTX products with red caps in its duty free shop at the Clark Special Economic Zone.

Fourthly, in *Yu*, the House of Mayfair in England was duped into believing that the goods ordered through FNF Trading of West Germany were to be shipped to Nigeria only, but the goods were actually sent to and sold in the Philippines. Considering this circumstance, the Supreme Court stated that "(a) ploy of this character is akin to the scenario of a third person who induces a party to renege on or violate his undertaking under a contract, thereby entitling the other contracting party to relief therefrom (Article 1314, New Civil Code)."

In the instance case, there is no evidence that any party was duped and that [respondent], who is not a privy to the marketing and distribution agreement between [petitioner] and Castrol Limited of England, employed any sinister scheme or ploy at all. We do not find any showing of a scenario whereby [respondent] induced any party to renege or violate its undertaking under said agreement, thereby entitling [petitioner] to injunctive relief and damages. Thus, [petitioner's] insistence that [respondent's] obligation to [petitioner] does not arise from contract, but from law, which protects parties to a contract from the wrongful interference of strangers, does not have any factual or legal basis.

x x x x

Considering the foregoing findings, [petitioner] is not entitled to a permanent injunction and damages. [Petitioner] failed to establish the existence of a clear legal right to be protected and the acts of [respondent] which are violative of said right. In the absence of any