

SECOND DIVISION

[G.R. NO. 163741, August 07, 2007]

**SUMMERVILLE GENERAL MERCHANDISING & CO., INC.,
PETITIONER, VS. HON. ANTONIO M. EUGENIO, JR., IN HIS
CAPACITY AS PRESIDING JUDGE OF RTC-MANILA, BR. 24, AND
ELIDAD KHO, VIOLETA KHO, AND ROGER KHO, RESPONDENTS.**

R E S O L U T I O N

VELASCO, JR., J.:

This is a Petition for Review on Certiorari^[1] under Rule 45 which seeks to reverse and set aside the May 26, 2004 Decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 77180, which upheld the October 24, 2001,^[3] August 21, 2002,^[4] and April 2, 2003^[5] Orders of the Manila Regional Trial Court (RTC), Branch 24.

The instant petition originated from a complaint for unfair competition filed by petitioner against private respondents Elidad Kho, Violeta Kho, and Roger Kho, before the City Prosecutor's Office of Manila. After due investigation, the City Prosecutor's Office of Manila came out with its May 31, 2000 Resolution recommending the prosecution of private respondents for unfair competition and dismissing private respondents' counterclaim against petitioner. Pursuant to the Resolution, an Information^[6] for unfair competition was filed against private respondents Khos before the Manila RTC, Branch 24, which was docketed as Crim. Case No. 00-183261. The charge as contained in the Information is hereby reproduced as follows:

That on or about January 10, 2000 and for sometime prior and subsequent thereto, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping one another, then engaged in a business known as KEC Cosmetic Laboratory, located at 2407 Topacio Street and 2412 Raymundo Street, San Andres, this City, in an unfair competition, and for the purpose of deceiving/defrauding the public in general and the Summerville General Merchandising and Co. (Summerville) which is engaged, among others, in the importation and distribution of facial cream products with the trademark known as Chin Chun Su, herein represented by VICTOR CHUA, its General Manager, did then and there willfully, unlawfully, knowingly and jointly sell/dispose and/or cause to be sold/disposed to the public facial cream products using tools, implements and equipments in its production, labeling and distribution, which give and depict the general appearance of the Chin Chun Su facial cream products and likely influence the purchasers to believe that the same are those of the said Summerville.

CONTRARY TO LAW.^[7]

Arraignment was scheduled for July 13, 2000; however, on June 22 of the same year, private respondents filed a petition for review with the Department of Justice (DOJ), assailing the May 31, 2000 Resolution of the City Prosecutor's Office of Manila.

On August 17, 2000 the DOJ through Undersecretary Regis V. Puno issued a Resolution^[8] affirming the May 31, 2000 Resolution of the City Prosecutor.

Upon a motion for reconsideration filed by private respondents, then DOJ Secretary Hernando Perez issued his June 18, 2001 Resolution which recalled and set aside the August 17, 2000 Resolution of Undersecretary Puno, but without however issuing a ruling on the propriety of the complaint and merely indicated that the case would be further reviewed and the corresponding resolution would be issued.^[9]

The arraignment pushed through on October 11, 2000. Since the accused refused to plea to the charge, a plea of not guilty was entered for each of them. In the meantime, pending the resolution of the petition for review, private respondents filed a motion to suspend proceedings, but it was denied in the July 18, 2001 Order of the trial court.

On September 28, 2001, the DOJ issued a Resolution^[10] dismissing both the complaint filed by petitioner and the counterclaim filed by private respondents. Feeling aggrieved, petitioner immediately filed a motion for reconsideration of the Secretary's ruling.

On October 23, 2001, the prosecution filed with the trial court a Motion to Withdraw Information^[11] on the basis of the September 28, 2001 Resolution issued by Secretary Perez. The next day, the RTC issued the first assailed Order, dated October 24, 2001. The pertinent portion of the Order reads as follows:

Acting on the Motion to Withdraw Information filed by the trial prosecutor dated October 22, 2001, and for the reason therein cited the motion is hereby granted.

The Information against the accused is hereby ordered withdrawn.

This order likewise renders the Motion to Dismiss filed by the accused through counsel dated October 9, 2001, moot and academic.

SO ORDERED.^[12]

On November 23, 2001 petitioner filed its Motion for Reconsideration of the October 24, 2001 Order.

On June 6, 2002, the trial court issued an Order^[13] holding in abeyance all pending incidents to await the final resolution of the motion filed before the DOJ. Private respondents Khos filed a Motion for Reconsideration, arguing that the trial court has all the facts necessary to resolve the pending incidents.

On July 31, 2002, the Khos filed a supplemental motion insisting that the case be dismissed on the ground of double jeopardy.

On August 21, 2002, the trial court issued the second assailed Order,^[14] holding that due to its Order withdrawing the Information, there is no necessity to order the dismissal of the case. The re-filing of the Information would constitute double jeopardy.^[15]

Petitioner then filed a Motion for Reconsideration of the August 21, 2002 Order.

On September 17, 2002, the DOJ, through Secretary Perez, issued a Resolution^[16] granting the Motion for Reconsideration filed by petitioner and ordered the Office of the City Prosecutor of Manila to file the appropriate Information for Unfair Competition. Private respondents Khos then filed a Motion for Reconsideration with the Office of the Secretary of Justice. Petitioner on the other hand filed a manifestation before the trial court informing it of the recent development with a prayer to reinstate the case.

On April 2, 2003, the trial court issued its last assailed Order^[17] holding that the **"revival of the case is now barred by the impregnable wall of double jeopardy."**^[18]

On July 17, 2003, then Secretary of Justice Simeon Datumanong finally disposed of the petition for review by denying the Motion for Reconsideration filed by private respondents Khos.

Petitioner then filed a Petition for Certiorari and Mandamus with the CA which sought to annul the October 24, 2001, August 21, 2002, and April 2, 2003 Orders issued by the Manila RTC. In its May 26, 2004 Decision, the CA held that double jeopardy had set in and that Judge Eugenio cannot be faulted for dismissing the case. The CA ratiocinated that:

This is because once a complaint or information has been filed in court, any disposition of the case rests in the sound discretion of the court (Mamburao v. Ombudsman, G.R. Nos. 139141-42, Nov. 15, 2000), and the said undulating stance of the prosecution was reason enough to grant its withdrawal without the judge having to divine and weigh the probable evidence of both the prosecution and the defense.^[19]

Finding that no grave abuse of discretion was committed by the trial court, the CA, in its May 26, 2004 Decision, denied due course and dismissed the petition.^[20]

Petitioner now comes before this Court assailing the Decision of the CA on the following grounds:

1. The [CA] erred in not finding that respondent judge committed grave abuse of discretion in proceeding with the arraignment despite the fact that the petition for review is still pending with the DOJ.
2. The [CA] gravely erred in not finding that the respondent judge gravely abused his discretion in allowing the withdrawal of the information without making an independent assessment of the