

THIRD DIVISION

[G.R. NO. 146007, June 15, 2006]

**PEPSICO, INC., NOW KNOWN AS THE PEPSI COLA COMPANY,
PETITIONER, VS. JAIME LACANILAO, RESPONDENT.**

[G.R. NO. 146295]

**PEPSI-COLA PRODUCTS PHILS., INC., PETITIONER, VS. COURT
OF APPEALS AND JAIME LACANILAO, RESPONDENTS.**

DECISION

QUISUMBING, J.:

Once again, the Court is called upon to rule on the rights and liabilities of the parties involved in the ill-fated "Number Fever" fiasco that befell Pepsi-Cola Products Phils., Inc. (PCPPI) and PEPSICO, Inc. (PI) more than a decade ago involving the number combination "349".

The instant consolidated petition for review on certiorari is an appeal from the Decision^[1] dated February 4, 1999 and Resolution^[2] dated November 10, 2000 of the Court of Appeals in CA G.R. CV No. 50438, which ordered petitioners to pay respondent the sum of P1,050,000 as aggregate prize for two allegedly winning crowns in the promotional campaign sponsored by petitioners.

The facts are undisputed.

Petitioner PCPPI is a domestic corporation engaged in the production, bottling, and distribution of soft drink products namely, Pepsi, 7-Up, Mirinda, and Mountain Dew. Petitioner PI is a foreign corporation licensed to do business in the Philippines and is the major stockholder of PCPPI. Respondent Jaime Lacanilao is a holder of two soft drink bottle caps bearing the number "349."

The controversy began when petitioners hired D.G. Consultores, a Mexican consulting firm, to randomly pre-select the winning numbers and send a list of the 60 winning combination with their corresponding security codes. The process of selecting the winning numbers was conducted with the approval of the Department of Trade and Industry (DTI).

Accordingly, during the initial promotional period from February 17 to May 8, 1992, petitioners seeded 1000 numbers, 60 of which were winning numbers, 510 were non-winning numbers, and the remaining 430 were unused.^[3] To ensure that the winning numbers would not be tampered, the DTI required petitioners to submit the list of the winning numbers *including their security codes* and to deposit the said list in a safety deposit box in a bank.

Owing to its success, petitioners extended the "Number Fever" promotion by five more weeks, from May 12 to June 12, 1992. Petitioners again tapped D.G. Consultores to predetermine the 25 additional winning numbers from the list of unused numbers.

On May 25, 1992, petitioners announced "349" as the winning number. It turned out that the draw was marred by a security code problem. Quintin J. Gomez, Jr., then PCPPI's Marketing Services Manager, immediately called the DTI to relay the information that a mistake had been made in the announcement of "349" as the winning number. On May 28, 1992, petitioners, together with the DTI, opened the safety deposit box where the list of winning numbers had been kept and it was verified that crowns bearing the number "349" and security codes "L-2560-FQ" and "L-3560-FQ" were not winning crowns.

Consequently, petitioners did not honor holders of crowns bearing the number "349" with security codes "L-2560-FQ" and "L-3560-FQ". Some of these rejected crown holders, tenaciously believing that they were entitled to the cash prize, resorted to violence against petitioners' employees and properties.

To appease the holders of the non-winning "349" crowns, petitioners offered to pay P500 for every non-winning "349" crown that would be presented on or before June 12, 1992. About 490,116^[4] holders of non-winning "349" crowns took advantage of petitioners' goodwill gesture.

Still, a great many disgruntled holders of the non-winning "349" crowns, including respondent herein, filed against petitioners separate complaints for recovery of the cash prize and damages. Three of such cases, *Rodrigo v. PCPPI*, *Mendoza v. PCPPI*, and *De Mesa v. Pepsi Cola Products Phils., Inc.*^[5] were dismissed at the trial court level, but eventually reached this Court.

In the *Rodrigo* and *Mendoza* cases, this Court denied the petition for review on certiorari for failure to show that a reversible error had been committed by the Court of Appeals in affirming the trial court's finding that the security code was an indispensable element of a winning crown and that PCPPI and PI were not negligent in the conduct of their promotional campaign.

In the *De Mesa* case, on the other hand, the trial court dismissed the complaint outright based on the principle of *stare decisis*. Upon review on certiorari, this Court affirmed the trial court's dismissal of the complaint considering the finality of the parallel cases of *Rodrigo* and *Mendoza*.

As for the complaint filed by respondent Jaime Lacanilao, the trial court ruled differently, to wit:

WHEREFORE, finding preponderance of evidence in favor of the plaintiff, judgment is hereby rendered against the defendants as follows:

- 1) Declaring the plaintiff as rightful winner in the Number Fever promotional campaign conducted by the defendants from February 17, 1992 up to June 12, 1992, and entitled to the prize agreed upon;
- 2) Ordering the defendants jointly and severally to pay the plaintiff the

amount of P1,050,000.00 representing his legitimate prize for two (2) winning crowns within ten (10) days from finality of this decision with legal interest until [fully] paid;

3) Ordering the defendants to pay the plaintiff jointly and severally the amount of P100,000.00 as moral damages, P100,000.00 as exemplary damages, P25,000.00 as attorney's fees and P25,000.00 as reimbursement for transportation and meals with costs;

4) Dismissing defendants' counterclaim for being frivolous and unsubstantiated.^[6]

The Court of Appeals, in its assailed Decision, affirmed with modification the aforequoted judgment, thus:

WHEREFORE, the foregoing considered, the Decision of the lower court in Civil Case No. 92-13022 dated 20 July 1995, is hereby MODIFIED. The portion of the said Decision declaring plaintiff-appellant Jaime Lacanilao as a lawful winner of the "Number Fever" promotion conducted by defendants-appellants, and ordering the latter to pay unto plaintiff-appellant (sic) the sum of PESOS: ONE MILLION FIFTY THOUSAND (P1,050,000.00) as the aggregate prize for two (2) winning crowns (one for P1,000,000.00 and another for P50,000.00), together with legal interests thereon from 25 May 1992 until the same is paid in full, and the dismissal of defendants-appellants' counterclaims, are hereby AFFIRMED.

The award of moral and exemplary damages, attorney's fees and costs of litigation in the form of reimbursement for transportation and meals, is however REVERSED and DELETED.

No costs.

SO ORDERED.^[7]

Hence, the instant consolidated petition separately filed by PCPPI and PI. Petitioner PCPPI submitted the following issues:

- I. WHETHER OR NOT THIS CASE SHOULD BE DISMISSED ON THE BASIS OF THE RESOLUTIONS OF THIS HONORABLE COURT IN THE CASE OF *RODRIGO*.
- II. WHETHER OR NOT PEPSI'S COMPROMISE WITH MR. LACANILAO IS CONTRARY TO LAW, MORALS, GOOD CUSTOMS, PUBLIC POLICY OR PUBLIC ORDER.
- III. WHETHER OR NOT MR. LACANILAO HAS EXPRESSLY WAIVED HIS CLAIMS AGAINST PEPSI.
- IV. WHETHER OR NOT THE TERMS OF THE "NUMBER FEVER" PROMOTION CLEARLY STATED THAT "EACH CROWN/CAP WITH A WINNING NUMBER AND AUTHENTICATED SECURITY CODE WINS THE AMOUNT PRINTED ON THE CROWN/CAP."