

## THIRD DIVISION

[ G.R. No. 156264, September 30, 2004 ]

**ALLIED DOMEQC PHIL., INC., PETITIONER, VS. HON. SESINANDO E. VILLON OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 23; CLARK LIBERTY WAREHOUSE, INC., BUREAU OF CUSTOMS AND/OR DISTRICT COLLECTORS OF CUSTOMS, PORT OF MANILA AND CLARK SPECIAL ECONOMIC ZONE, AND BUREAU OF FOOD AND DRUGS (BFAD) AND/OR DIRECTOR OF BFAD, RESPONDENTS.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

Before us is a petition for review on certiorari assailing the Decision<sup>[1]</sup> of the Court of Appeals dated May 27, 2002 and Resolution<sup>[2]</sup> dated November 29, 2002 in CA-G.R. SP No. 63802 which dismissed the special civil action for certiorari filed by Allied Domecq, Philippines Inc. (ADPI), herein petitioner, for want of jurisdiction.

The factual background of this case is as follows:

On May 8, 1996, petitioner ADPI entered into an exclusive distributorship agreement with Pedro Domecq, S.A., a corporation organized and existing under the laws of Spain, engaged in the manufacture of wine and brandy. Under the said agreement, Pedro Domecq, S.A. granted petitioner the sole and exclusive right to import and distribute in the Philippines various Pedro Domecq, S.A. products including "Fundador" brandy until May 17, 2000. Upon its expiration, the agreement is deemed automatically extended for an indefinite period of time.

Petitioner then applied for a Certificate of Registration with the Bureau of Food and Drugs (BFAD), pursuant to Department of Health Administrative Order No. 17, series of 1979, requiring all imported food products to be registered with the BFAD prior to their distribution in the local markets.

On June 2, 1998, BFAD wrote then Director Quintin L. Kintanar of the Bureau of Customs, requesting that entry of imported shipments of "Fundador" brandy should not be allowed in the Philippines, unless the importer presents a valid Certificate of Registration issued by the BFAD. The Bureau of Customs granted petitioner's request and on July 13, 1998, issued Customs Memorandum Circular No. 228-098.

On April 12, 1999, Clark Liberty Warehouse, Inc. (Clark Liberty), herein private respondent, a duly licensed duty-free shop operating in the Clark Special Economic Zone, imported 800 cases or a total of 9,420 bottles of "Fundador" brandy.

Since the importation by respondent Clark Liberty was not covered by the BFAD Certificate of Product Registration, the Bureau of Customs seized and impounded the

shipment pursuant to Customs Memorandum Circular No. 228-98, in relation to Sections 101 (K) and 2530 of the Tariff and Customs Code. The imported brandy then became the subject of seizure proceedings before the District Collector of Customs of the Port of Manila, docketed as S.I. No. 99-140.

Petitioner then filed a motion to intervene in S.I. No. 99-140 alleging, among others, that it sustained damages caused by respondent Clark Liberty's illegal importation. However, the Bureau of Customs District Collector failed to resolve the motion.

On September 15, 1999, petitioner sent respondent Clark Liberty a letter demanding that the latter cease and desist from importing, distributing, selling, or marketing "Fundador" brandy in the Philippines. Petitioner also demanded that Clark Liberty refrain from claiming the seized shipment and participating in the seizure proceedings. Clark Liberty, however, refused to heed petitioner's demands.

On October 8, 1999, petitioner filed with the Regional Trial Court (RTC) of Manila a complaint for injunction and damages with prayer for the issuance of a temporary restraining order (TRO) and a writ of preliminary injunction. The complaint was raffled to Branch 23 of the Manila RTC, docketed therein as Civil Case No. 99-95337.

On August 15, 2000, after hearing petitioner's application for TRO and injunctive relief, the RTC issued an Order denying the same. The trial court held that petitioner failed to prove that respondent Clark Liberty engaged in unfair competition as there is no showing that it "employed deceit or otherwise committed acts constituting bad faith;"<sup>[3]</sup> that the bottles of "Fundador" brandy imported by respondent are the "ones imported by plaintiff"<sup>[4]</sup> and that these bottles "are not genuine, defective, or of poor quality."<sup>[5]</sup>

Petitioner filed a motion for reconsideration but was denied by the RTC in its Order dated December 28, 2000.

On March 16, 2001, petitioner filed with the Court of Appeals a special civil action for certiorari, docketed as CA-G.R. SP No. 63802.

On May 27, 2002, the Court of Appeals issued its assailed Decision dismissing the petition for lack of jurisdiction. Its ratiocination is quoted as follows:

"[I]t is an admitted fact respondent Clark Liberty is one of the duly licensed and authorized duty free shops at the Clark Special Economic Zone since 1998 which sells imported grocery items including liquors, appliances, household wares, etc. and is exclusively regulated by the Clark Development Corporation, created by Republic Act No. 7227, known as the 'Bases Conversion and Development Act of 1992.' It is therefore a juridical creation of Republic Act No. 7227 in relation to Executive Order No. 62 and Presidential Proclamation No. 163, creating the Clark Special Economic Zone, under the exclusive jurisdiction, authority and regulation of the Clark Development Corporation. As such juridical creation, this Court has no jurisdiction to determine whether or not petitioner is entitled to the issuance of an injunctive relief since such authority and jurisdiction belong the Honorable Supreme Court in accordance with Section 21 of Republic Act No. 7227."<sup>[6]</sup>