398 Phil. 86

FIRST DIVISION

[G.R. No. 132428, October 24, 2000]

GEORGE YAO, PETITIONER, VS. HON. COURT OF APPEALS, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

D E C I S I O N

DAVIDE JR., C.J.:

In this petition for review on *certiorari*, George Yao (hereafter YAO) assails the 25 April 1995 Resolution of the Court of Appeals in CA-G.R. No. 16893 which dismissed his appeal and ordered the remand of the records of the case to the Metropolitan Trial Court, Branch 52, Caloocan[*] City (hereafter MeTC) for execution. YAO was convicted by said MeTC for unfair competition.

YAO's legal dilemma commenced in June 1990 when the Philippine Electrical Manufacturing Company (hereafter PEMCO) noticed the proliferation locally of General Electric (GE) lamp starters. As the only local subsidiary of GE-USA, PEMCO knew that it was a highly unlikely market situation considering that no GE starter was locally manufactured or imported since 1983. PEMCO commissioned Gardsmarks, Inc. to conduct a market survey. Gardsmarks, Inc., thru its trademark specialist, Martin Remandaman, discovered that thirty (30) commercial establishments sold GE starters. All these establishments pointed to Tradeway Commercial Corporation (hereafter TCC) as their source. Remandaman was able to purchase from TCC fifty (50) pieces of fluorescent lamp starters with the GE logo and design. Assessing that these products were counterfeit, PEMCO applied for the issuance of a search warrant. This was issued by the MeTC, Branch 49, Caloocan City. Eight boxes, each containing 15,630 starters, were thereafter seized from the TCC warehouse in Caloocan City.

Indicted before the MeTC, Branch 52, Caloocan City for unfair competition under Article 189 of the Revised Penal Code were YAO, who was TCC's President and General Manager, and Alfredo Roxas, a member of TCC's Board of Directors. The indictment[1] charged YAO and Roxas of having mutually and in conspiracy sold fluorescent lamp starters which have the General Electric (GE) logo, design and containers, making them appear as genuine GE fluorescent lamp starters; and inducing the public to believe them as such, when they were in fact counterfeit. The case was docketed as Criminal Case No. C-155713.

Both accused pleaded not guilty. At the trial, the prosecution presented evidence tending to establish the foregoing narration of facts. Further, the State presented witnesses Atty. Hofilena of the Castillo Laman Tan and Pantaleon Law Offices who underwent a familiarization seminar from PEMCO in 1990 on how to distinguish a genuine GE starter from a counterfeit, and Allan de la Cruz, PEMCO's marketing manager. Both described a genuine GE starter as having "a stenciled silk-screen printing which includes the GE logo... back to back around the starter, a drumlike glowbulb and a condenser/capacitor shaped like an M&M candy with the numbers

.006." They then compared and examined random samples of the seized starters with the genuine GE products. They concluded that the seized starters did not possess the full design complement of a GE original. They also observed that some of the seized starters did not have capacitors or if they possessed capacitors, these were not shaped like M&M. Still others merely had sticker jackets with prints of the GE logo. Mr. de la Cruz added that only Hankuk Stars of Korea manufactured GE starters and if these were imported by PEMCO, they would cost P7.00 each locally. As TCC's starters cost P1.60 each, the witnesses agreed that the glaring differences in the packaging, design and costs indisputably proved that TCC's GE starters were counterfeit.

The defense presented YAO as its lone witness. YAO admitted that as general manager, he has overall supervision of the daily operation of the company. As such, he has the final word on the particular brands of products that TCC would purchase and in turn sold. He also admitted that TCC is not an accredited distributor of GE starters. However, he disclaimed liability for the crime charged since (1) he had no knowledge or information that the GE starters supplied to TCC were fake; (2) he had not attended any seminar that helped him determine which TCC products were counterfeit; (3) he had no participation in the manufacture, branding, stenciling of the GE names or logo in the starters; (4) TCC's suppliers of the starters delivered the same already branded and boxed; and (5) he only discussed with the suppliers matters regarding pricing and peak-volume items.

In its 13-page 20 October 1993 decision,[2] the MeTC acquitted Roxas but convicted YAO. In acquitting Roxas, the trial court declared that the prosecution failed to prove that he was still one of the Board of Directors at the time the goods were seized. It anchored its conviction of YAO on the following: (1) YAO's admission that he knew that the starters were not part of GE's line products when he applied with PEMCO for TCC's accreditation as distributor; (2) the prosecution's evidence (Exhibit G-7), a delivery receipt dated 25 May 1989 issued by Country Supplier Center, on which a TCC personnel noted that the 2000 starters delivered were GE starters despite the statement therein that they were China starters; this fact gave rise to a presumption that the TCC personnel knew of the anomaly and that YAO as general manager and overall supervisor knew and perpetrated the deception of the public; (3) the fact that no genuine GE starter could be sold from 1986 whether locally manufactured or imported or at the very least in such large commercial quantity as those seized from TCC; and (4) presence of the elements of unfair competition.

The dispositive portion of the decision reads as follows:

> For the failure of the prosecution to prove the guilt of the accused, Alfredo Roxas, of Unfair Competition under Article 189 (1) of the Revised Penal Code ... *i.e.*, to prove that he was Chairman of the Board of the Tradeway Commercial Corporation on October 10, 1990, as well as to have him identified in open court during the trial, he is acquitted of the same.
>
> But because the prosecution proved the guilt of the other accused, George Yao, beyond reasonable doubt as principal under the said Article 189 (1) for Unfair Competition, he is convicted of the same. In the absence of any aggravating or mitigating circumstances alleged/proven, and considering the provisions of the Indeterminate Sentence Law, he is sentenced to a minimum of four (4) months and twenty-one (21) days of

> arresto mayor to a maximum of one (1) year and five (5) months of prision correccional.
>
> This case was prosecuted by the law offices of Castillo Laman Tan and Pantaleon for ... PEMCO ... Considering that no document was submitted by the private complainant to show how the claim of P300,000 for consequential damages was reached and/or computed, the court is not in a position to make a pronouncement on the whole amount. However, the offender, George Yao, is directed to pay PEMCO the amount of P20,000 by way of consequential damages under Article 2202 of the New Civil Code, and to pay the law offices of Castillo, Laman Tan and Pantaleon the amount of another P20,000.00 as PEMCO's attorney's fees under Article 2208 (11) of the same.
>
> This decision should have been promulgated in open court on July 28, 1993 but the promulgation was reset for August 31, 1993 in view of the absence of parties; it was again re-set for today.
>
> Promulgated this 20th day of October, 1993 in Kalookan City, Philippines. [3]

YAO filed a motion for reconsideration, which the MeTC denied in its order[4] of 7 March 1994.

YAO appealed to the Regional Trial Court of Caloocan City (RTC). The appeal was docketed as Criminal Case No. C-47255(94) and was assigned to Branch 121 of the court.

On 24 May 1994, Presiding Judge Adoracion G. Angeles of Branch 121 issued an order[5] directing the parties to file their respective memoranda.

On 4 July 1994 YAO filed his Appeal Memorandum.[6]

Without waiting for the Memorandum on Appeal of the prosecution, which was filed only on 20 August 1994,[7] Judge Adoracion Angeles rendered on 27 July 1994 a one-page Decision[8] which affirmed *in toto* the MeTC decision. In so doing, she merely quoted the dispositive portion of the MeTC and stated that "[a]after going over the evidence on record, the Court finds no cogent reason to disturb the findings of the Metropolitan Trial Court."

YAO filed a motion for reconsideration[9] and assailed the decision as violative of Section 2, Rule 20 of the Rules of Court.[10] In its order[11] of 28 September 1994, the RTC denied the motion for reconsideration as devoid of merit and reiterated that the findings of the trial court are entitled to great weight on appeal and should not be disturbed on appeal unless for strong and cogent reasons.

On 4 October 1994, YAO appealed to the Court of Appeals by filing a notice of appeal.[12]

The appealed case was docketed as CA-G.R. CR No. 16893. In its Resolution[13] of 28 February 1995, the Court of Appeals granted YAO an extension of twenty (20) days from 10 February or until 12 March 1995 within which to file the Appellant's Brief. However, on 25 April 1995 the Court of Appeals promulgated a Resolution[14]

declaring that "[t]he decision rendered on July 27, 1994 by the Regional Trial Court, Branch 121, has long become final and executory" and ordering the records of the case remanded to said court for the proper execution of judgment. The pertinent portion of the Resolution reads:

> In Our resolution, dated February 28, 1995, accused-appellant was granted an extension of twenty (20) days from February 10, 1995, or until March 12, 1995 within which to file appellant's brief.
>
> To date, no appellant's brief has been filed.
>
> From the Manifestation, filed on March 24, 1995, by City Prosecutor Gabriel N. dela Cruz, Kalookan City, it would appear that:
>
> x x x

2. George Yao received a copy of the RTC's decision on August 16, 1994, and filed a motion for reconsideration on August 30, 1994. On October 3, 1994, George Yao received a copy of the RTC's order, dated September 28, 1994, denying his motion for reconsideration.

3. On October 4, 1994, George Yao filed a notice of appeal by registered mail.

> We will assume from the said Manifestation that the decision of the RTC and the order denying YAO's motion for reconsideration were sent to and received by YAO's counsel.
>
> Proceeding from said assumption, Yao had fifteen (15) days from August 16, 1994 to elevate his case to this Court. On August 30, 1994, or fourteen (14) days thereafter, Yao filed a motion for reconsideration. When he received the Order denying his aforesaid motion on October 3, 1994, he had one more day left to elevate his case to this Court by the proper mode of appeal, which is by petition for review. Yao, however, on October 4, 1994, filed a notice of appeal by registered mail informing the RTC that he is appealing his conviction to the Court of Appeals. By then, the fifteen (15) day period had already elapsed.
>
> That notwithstanding, the Branch Clerk of Court, RTC, Branch 121, transmitted to this Court the entire records of the case, thru a transmittal letter, dated October 13, 1994, and received by the Criminal Section of this Court on October 28, 1994. YAO's counsel, on February 20, 1995, filed with this Court, a motion for extension of period to file brief for accused-appellant which was granted in Our resolution mentioned in the opening paragraph of this resolution.
>
> Petitions for review shall be filed within the period to appeal. This period has already elapsed even when Yao filed a notice of appeal by registered mail, with the RTC of Kalookan City. Worse, the notice of appeal is procedurally infirm.

YAO filed an Urgent Motion to Set Aside Entry of Judgment contending that the 25 April 1995 resolution did not specifically dismiss the appeal, for which reason, there was no judgment on which an entry of judgment could be issued. He also argued that the attendant procedural infirmities in the appeal, if any, were cured with the issuance of the 28 February 1995 resolution granting him twenty (20) days from 10

February 1995 or until 12 March 1995 within which to file an appellant's brief and in compliance thereto, consequently filed his appellant's brief on 2 March 1995.[15]

In its Resolution[16] of 26 January 1998, the Court of Appeals denied the Urgent Motion to Set Aside the Entry of Judgment for lack of merit. It considered the 25 April 1995 resolution as having "in effect dismissed the appeal, [hence] the Entry of Judgment issued on May 26, 1995... was proper."

In this petition for review on *certiorari*, YAO reiterates the arguments he raised in his Urgent Motion to Set Aside the Entry of Judgment of the Court of Appeals, thus: (1) that the entry of judgment was improvidently issued in the absence of a final resolution specifically dismissing the appeal; (2) the procedural infirmity in the appeal, if any, has been cured; and (3) the Court of Appeals committed grave abuse of discretion amounting to lack of jurisdiction in denying him (YAO) due process of law.

In support of his first argument, YAO cites Section 1, Rule 11 of the Revised Internal Rules of the Court of Appeals, thus:

> SEC. 1. *Entry of Judgment*. -- Unless a motion for reconsideration is filed or an appeal is taken to the Supreme Court, judgments and final resolutions of the Court of Appeals shall be entered upon the expiration of fifteen (15) days after notice to parties.

YAO claims that the 25 April 1995 resolution of the Court of Appeals was not a judgment on his appeal nor was it "a final resolution" contemplated in the Internal Rules since it did not specifically dismiss his appeal. *A fortiori*, the entry of judgment was improvidently issued for lack of legal basis.

YAO also repeats his argument that any procedural infirmity in the appeal was cured when the RTC gave due course to the appeal, elevated the records to the Court of Appeals which in turn issued on 13 December 1994 a notice to file his Appellant's Brief and granted him until 12 March 1995 within which to file the appellant's brief.

Finally, YAO asserts that he was denied due process considering that (1) none of the elements of unfair competition are present in this case; (2) he filed his appeal to the Court of Appeals within the reglementary period; and (3) notwithstanding his filing of a notice of appeal (instead of a petition for review), it was a mere procedural lapse, a technicality which should not bar the determination of the case based on intrinsic merits. YAO then invokes the plethora of jurisprudence wherein the Supreme Court "in the exercise of equity jurisdiction decided to disregard technicalities"; "decided [the case] on merits and not on technicalities"; "found manifest in the petition strong considerations of substantial justice necessitating the relaxing of the stringent application of technical rules," or "heeded petitioner's cry for justice because the basic merits of the case warrant so, as where the petition embodies justifying circumstances"; discerned "not to sacrifice justice to technicality"; discovered that the application of "*res judicata* and estoppel by judgment amount to a denial of justice and or a bar to a vindication of a legitimate grievance."[17]

In its Comment, the Office of the Solicitor General prays that the petition should be dismissed for lack of merit. It maintains that although the 25 April 1995 resolution did not specifically state that the appeal was being dismissed, the intent and import