SUPREME COURT
FIRST DIVISION

DISTILLERIA WASHINGTON, INC. or WASHINGTON DISTILLERY, INC.,
***Petitioner*,**

-versus-

G.R. No. 120961
October 17, 1996

THE HONORABLE COURT OF APPEALS and LA TONDEÑA DISTILLERS, INC.,
***Respondents*.**
x----------x

D E C I S I O N
RESOLUTION dated October 2, 1997

VITUG, *J.*:

The initiatory suit was instituted on 02 November 1987 with the trial court (docketed Civil Case No. 87-42639) for manual delivery with damages instituted by La Tondeña Distillers, Inc. ("LTDI"), against Distilleria Washington ("Washington"). LTDI, under a claim of ownership, sought to seize from Distilleria Washington 18, 157 empty "350 c.c. white flint bottles" bearing the blown-in marks of "La Tondeña Inc." and "Ginebra San Miguel." The court, on application of LTDI, issued an order of replevin on 05 November 1987 for the seizure of the empty gin bottles from Washington. These bottles, it

was averred, were being used by Washington for its own "Gin Seven" products without the consent of LTDI.

LTDI asserted that, being the owner and registrant of the bottles, it was entitled to the protection so extended by Republic Act (R.A) No. 632, as amended, notwithstanding its sale of the Ginebra San Miguel gin production contained in said bottles.

Washington countered that R.A. No. 632, invoked by LTDI, should not apply to gin, an alcoholic beverage which is unlike that of "soda water, mineral or aerated water, ciders, milk, cream, or other lawful beverage" mentioned in the law, and that, in any case, ownership of the bottles should, considering the attendant facts and circumstances, be held lawfully transferred to the buyers upon the sale of the grin and containers at a single price.

After hearing the parties, the trial court rendered its decision, dated 03 December 1991, holding against LTDI; viz.:

> "WHEREFORE, premises considered, the complaint is hereby DISMISSED and plaintiff is ordered:
>
> "1. To return to defendant the 18, 157 empty bottles seized by virtue of the writ for the Seizure of Personal Property issued by this Court on November 6, 1987;
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> 2. In the event of failure to return said empty bottles, plaintiff is ordered to indemnify defendant in the amount of P18,157.00 representing the value of the bottles.
>
> "3. Cost against plaintiff."[1]

LTD Appealed the decision to the Court of Appeals (CA-G.R. CV No. 36971). The appellate court reversed the court a quo and ruled against Washington thus:

> "WHEREFORE, the appealed decision is hereby REVERSED and SET ASIDE. The appellant, being the owner, is authorized to retain in its possession the 18. 157 bottles registered in its

name delivered to it by the sheriff following their seizure from the appellee pursuant to the writ of replevin issued by the trial court on November 6, 1987. Costs against the appellee."[2]

Washington is now before this Court assailing the reversal of the trial court's decision. In its petition, Washington points out that —

"4.00.a. Under the undisputed facts, petitioner is the lawful owner of the personal properties (18,157 empty bottles) involved in the petition. Respondent LTDI is precluded by law from claiming the same;

4.00.b. The decision and resolution appealed from violate equity and applicable canons in the interpretation and construction of statutes; and

4.00.c. Liquor product are not covered by Republic Act No. 632. The holding of the Court in Cagayan Valley Enterprises, Inc. vs. Honorable Court of Appeals, 179 SCRA 218 [1989[should be reviewed and reconsidered in light of the Constitution and House Bill No. 20585."[3]

It is a fact that R.A. No. 623 extends trademark protection in the use of containers duly registered with the Philippine Patent Office. The pertinent provisions of R.A. 623, as amended, so reads:

"SECTION 1. Persons engaged or licensed to engage in the manufacture, bottling, or selling of soda water, mineral or aerated waters, cider, milk, cream or other lawful beverages is bottles, boxes casks, kegs, or barrels, and other similar containers, or in the manufacture, compressing or selling of gases such as oxygen, acetylene, nitrogen, carbon dioxide, ammonia, hydrogen, chloride, helium, sulphur dioxide, butane, propane, freon, methyl chloride or similar gases contained in steel cylinders, tanks, flasks, accumulators or similar containers, with their names or the names of their principals or products, or other marks of ownership stamped or marked thereon, may register with the Philippines Patent Office a description of the names or marks, and the purpose for which the containers so marked are used by them, under the same

conditions, rules, and regulations, made applicable by law or regulation to the issuance of trademarks.

"SEC. 2. It shall be unlawful for any person, without the written consent of the manufacturer, bottler, or seller, who has successfully registered the marks of ownership in accordance with the provisions of the next preceding section, to fill such bottles, boxes, kegs barrels, steel cylinders, tanks, flasks, accumulators, or other similar containers so marked or stamped, for the purpose of sale, or to sell, dispose of, buy or traffic in, or wantonly destroy the same, whether filled or not to use the same drinking vessels or glasses or drain pipes, foundation pipes, for any other purpose than that registered by the manufacturer, bottle or seller. Any violation of this section shall be punished by a fine of not more than one thousand pesos or imprisonment of not more than one year or both.

"SEC. 3. The use by any person other than the registered manufacture, bottler or seller, without written permission of the latter of any such bottle, cask, barrel, keg, box, steel cylinders, tanks, flask, accumulators, or other similar containers, or the possession thereof without written permission of the manufacturer, by any junk dealer or dealer in casks, barrels, kegs, boxes, steel cylinders, tanks, flasks, accumulators or other similar containers, or possession thereof without written permission of the manufacturer, by any junk dealer or dealer in casks, barrels, kegs, boxes, steel cylinders, tanks, flasks, accumulators or other similar containers, the same being duly marked or stamped and registered as herein provided, shall give rise to a prima facie presumption that such use or possession is unlawful."[4]

At the outset, the Court must state that it sees no cogent reason for either departing from or changing the basic rule it laid down in Cagayan Valley Enterprises, Inc., vs. Court of Appeals.[5] The Court has there held:

"The above-quoted provisions grant protection to a qualified manufacturer who successfully registered with the Philippine Patent Office its duly stamped or marked bottles, boxes, casks

and other similar containers. The mere use of registered bottles or containers without the written consent of the manufacturer is prohibited, the only exceptions being when they are used as containers for 'sisi,' bagoong, 'patis and similar native products.

"It is an admitted fact that herein petitioner Cagayan buys from junk dealers and retailers bottles which bear the marks or names' La Tondeña, Inc.' and 'Ginebra San Miguel and uses them as containers for its own liquor products. The contention of Cagayan that the aforementioned bottles without the words 'property of indicated thereon are not the registered bottles of LTI, since they do not conform with the statement or description in the supporting affidavits attached to the original registration certificate and renewal, is untenable.

"Republic Act No. 623 which governs the registration of marked bottles and containers merely requires that the bottles, in order to be eligible for registration, must be stamped or marked with the names of the manufactures or the names of their principals or products, or other marks of ownership. No drawings or labels are required but, instead, two photographs of the container, duly signed by the applicant, showing clearly and legibly the names and other marks of ownership sought to be registered and a bottle showing the name or other mark or ownership, irremovably stamped or marked, shall be submitted.

x x x

"The claim of petition that hard liquor is not included under the term' other lawful beverages' as provided in Section 1 of Republic Act No. 623, as amended by Republic Act No. 5700, is without merit. The title of the law itself, which reads 'An Act to Regulate the Use of Duly Stamped or Marked Bottles, Boxes, Casks, Kegs, Barrels and Other Similar Containers' clearly show the legislative intent to give protection to all marked bottles and containers of all lawful beverages regardless of the nature of their contents. The words 'other lawful beverages' is used in its general sense, referring to all beverages not prohibited by law. Beverage is defined as a liquor or liquid for drinking. Hard liquor, although regulated, is not prohibited by law, hence it is

> within the purview and coverage of Republic Act No. 623, as amended."[6]

Give the nature of the action in Cagayan, as well as its factual milieu, the Court indeed hardly has had a choice but to sustain the registrant's right to the injunctive writ against the unauthorized use of its containers. The case before us, however, goes beyond just seeking to have such use stopped but it so takes on even the ownership issue as well. Parenthetical, petitioner is not here being charged with a violation of Section 2 of R.A. No. 632 or the Trademark Law. The instant suit is one for replevin (manual delivery) where the claimant must be able to show convincingly that he is either the owner or clearly entitled to the possession of the object sought to be recovered. Replevin is a possessory action the gist of which focuses on the right of possession that, in turn, is dependent on a legal basis that, not infrequently, looks to the ownership of the object sought to be relieved.

It is to be pointed out that a trademark refers to a word, name, symbol, emblem, sign or device or any combination thereof adopted and used by a merchant to identify, and distinguish from others, his goods of commerce. It is basically an intellectual creation that is susceptible to ownership[7] and, consistently therewith, gives rise to its own elements of *jus possidendi, jus utendi, jus fruendi, jus disponendi, and jus abutendi*, along with the applicable *jus lex*, comprising that ownership. The incorporeal right, however, is distinct from the property in the material object subject to it. Ownership in one does not necessarily vest ownership in the other. Thus, the transfer or assignment of the intellectual property will not necessarily constitute a conveyance of the thing it covers, nor would a conveyance of the latter imply the transfer or assignment of the intellectual right.[8]

R.A. No. 623 evidently does not disallow the sale or transfer of ownership of the marked bottles or containers. In fact, the contrary is implicit in the law; thus —

> "Sec. 5. No action shall be broth under this Act against any person to whom the registered manufacturer, bottler or seller, has transferred by way or sale, any of the containers herein

> referred to, but the sale of the beverage contained in the said containers shall not include the sale of the containers unless specifically so provided.
>
> "Sec. 6. The provisions of this Act shall not be interpreted as prohibiting the use of bottles as containers for 'sisi,' 'bagoong,' 'patis, ' and similar native products."

Scarcely disputed are certain and specific industry practices in the sale of gin: The manufacturer sell the product in marked containers, through dealers, to the public in supermarkets, grocery shops, retail stores and other sales outlets. The buyer takes the item; he is neither required to return the bottle nor required to make a deposit to assure its return to the seller. He could return the bottle and get a refund. A number of bottles at time find their way to commercial users. It cannot be gainsaid that ownership of the containers does pass on to the consumer albeit subject to the statutory limitations on the use of the registered containers and to the trademark rights of the registrant. The statement in Section 5 of R.A. 623 to the effect that the "sale of beverage contained in the said containers shall not include the sale of the containers unless specifically so provide" is not a rule of proscription. It is a rule of constriction that, in keeping (of non-conveyance of the container) and which by no means can be taken to be either interdictive or conclusive in character. Upon the other hand, LTDI's sales invoice, stipulating that the "sale does not include the bottles with the blown-in marks of ownership of La Tondeña Distillers," cannot affect those who are not privies thereto.

While it may be unwarranted them for LTDI to simply seize the empty containers, this Court finds it to be legally absurd, however , to still allow petitioner to recover the possession thereof. The fact of the matter is that R.A. 623, as amended, in affording trademark protection to the registrant has additionally expressed a prima facie presumption of illegal use by a processor whenever such use or possession is without the written permission of the registered manufacturer, a provision that is neither arbitrary nor without appropriate rational. Indeed, the appellate court itself has made a finding of such unauthorized use by petitioner. The Court sees no other logical purpose for petitioner's insistence to keep the bottles, except for such continued use. The practical and feasible alternative is

to merely required the payment of just compensation to petitioner for the bottles seized from it by LTDI. Conventional wisdom, along with equity and justice to both parties, dictates it.

WHEREFORE, the Decision of the appellate court is **MODIFIED** by ordering LTDI to pay petitioner just compensation for the seized bottles. Instead, however, of remanding the case to the Court of Appeals to receive evidence on, and thereafter resolve, the assessment thereof, this Court accept and accordingly adopts the quantification of P18,157.00 made by the trial court. No costs.

SO ORDERED.

Padilla, Bellosillo, Kapunan and Hermosisima, Jr., *JJ.*, concur.

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[1] Rollo, p. 106.
[2] Rollo, p. 81.
[3] Rollo, p. 31.
[4] Republic Act No. 623 as amended by Republic Act No. 5700.
[5] 179 SCRA 218.
[6] At pp. 225-227.
[7] See Art. 721, Civil Code.
[8] The concept is no different from that of copyright. Thus, letters and other private communications in writing are owned by the person to whom they are addressed and delivered, but the copyright therein continues to belong to the writer. To exemplify, further, the written message becomes, the property of the addresses but it may not be disseminated by him without the consent of the author, unless the court, whenever public good or the interest of justice requires (see Article 723, Civil Code) would decree otherwise.
