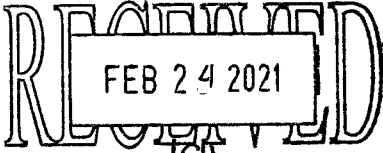




RUMAR D. PASION
Deputy Division Clerk of Court
Third Division

FEB 22 2021

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



BY: LOH
TIME: 8:35

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PROSEL PHARMACEUTICALS & DISTRIBUTORS, INC.,
Petitioner, G.R. No. 248021

Present:

LEONEN, J.,
Chairperson,
GESMUNDO,
CARANDANG,
LAZARO-JAVIER,* and
GAERLAN, JJ.

-versus-

TYNOR DRUG HOUSE, INC.
Respondent,

Promulgated:

September 30, 2020

X

X

DECISION

CARANDANG, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated January 28, 2019 and the Resolution³ dated June 21, 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 102569. The Decision and the Resolution enjoined Prosel Pharmaceuticals & Distributors, Inc. (petitioner) from using CEEGEEFER as a brand name as it was a violation of Tynor Drug House, Inc.'s (respondent) CHERIFER + Logo trademark.

Petitioner alleged that CEEGEEFER was an improved version of its previous product, Selvon C – a product that was granted a Bureau of Food and

* Designated additional Member per Raffle dated June 22, 2020.

¹ *Rollo*, pp. 9-39.

² Penned by Associate Justice Germano Francisco D. Legaspi, with the concurrence of Associate Justices Sesinando E. Villon and Edwin D. Sorongon; id. at 43-54.

³ Penned by Associate Justice Germano Francisco D. Legaspi, with the concurrence of Associate Justices Rodil V. Zalameda (now a Member of this Court) and Edwin D. Sorongon; id. at 56-57.

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Drugs (BFAD) Certificate of Product Registration on December 3, 1999.⁴ Petitioner claimed that since it was a customary practice in the pharmaceutical industry for companies to use the generic names of products as basis for creating brand names, it phonetically derived CEEGEEFER from one of its ingredients, Chlorella⁵ Growth Factor (CGF). Being an improved version of Selvon-C, the packaging used for CEEGEEFER was the same as Selvon C's in order to expedite the approval of its application for registration of CEEGEEFER with BFAD.⁶

However, petitioner received respondent's Demand Letter⁷ dated March 28, 2007 requiring petitioner to: (1) stop distributing CEEGEEFER products; (2) recall CEEGEEFER products that were already distributed; and (3) execute an undertaking to stop using or imitating respondent's trademark and design. The Demand Letter claimed that CEEGEEFER was confusingly similar to respondent's multivitamin product, CHERIFER.⁸

Although petitioner denied any confusing similarity between the two products in a Letter-Reply⁹ dated April 13, 2007, petitioner still undertook to withdraw all of CEEGEEFER's promotional materials that bore any resemblance to the trade box of CHERIFER. Petitioner then issued an internal Memorandum¹⁰ dated April 12, 2007 instructing its field personnel and medical representatives to withdraw all promotional materials that resembled CHERIFER's trade box. As to products already in possession of its exclusive distributor, Metro Drug, Inc. (MDI), petitioner claimed that they would need time to coordinate with MDI for MDI to remove its CEEGEEFER stocks. Petitioner then submitted a sample of its new trade box design to BFAD for approval.¹¹

For its part, respondent claimed that it formulated CHERIFER in 1993 and incorporated its mark to its packages since March 10, 1993. On July 3, 2002, Respondent deposited a copy of the packaging material with the Philippine National Library, which resulted in the issuance of a Certificate of Copyright Registration and Deposit¹² on July 25, 2002. On July 8, 2004, respondent's Certificate of Registration No. 4-2002-004546¹³ was registered and its trademark described as follows:

CHERIFER + LOGO
 (THE MARK CONSISTS OF THE WORD CHERIFER WITH A LOGO OF A YOUNG BOY DUNKING AND TOUCHING THE BASKETBALL GOAL. THE YOUNG BOY IS WEARING A RED BASKETBALL UNIFORM WITH A WHITE STRIPE, AND RUBBER SHOES. THE BASKETBALL SHIRT HAS A "C" PRINT ON IT IN

⁴ Id. at 61.

⁵ Misspelled as Chlorela; *see id.* at 12.

⁶ Id. at 60-61.

⁷ Records, pp. 935-936.

⁸ Id.

⁹ Id. at 937-939.

¹⁰ Id. at 372.

¹¹ Id.

¹² Under a Certificate of Copyright Registration and Deposit registered/deposited on July 3, 2002 with Title of Work described as "CHERIFER PLUS LOGO WITH HEIGHT IS MIGHT;" *id.* at 933.

¹³ Id. at 940.

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BASKETBALL SHIRT HAS A "C" PRINT ON IT IN BLUE INK. ABOVE THE HEAD IS A SLOGAN THAT READS "HEIGHT IS MIGHT" PRINTED ON BLUE & PINK ARK. BEHIND THE BOY IS A GREEN TRIANGULAR BACKGROUND WITH SHADOW)

In 2007, respondent received reports that petitioner is promoting and selling CEEGEEFER, whose logo and packaging is similar, if not identical, to respondent's registered trademark and copyrighted packaging. Thus, it sent petitioner a demand letter directing petitioner to stop distributing its products using respondent's trademark and design.¹⁴

For failure to cause the immediate recall of petitioner's products from the market, respondent filed a Complaint¹⁵ for trademark and copyright infringement, unfair competition, and damages, with applications for temporary restraining order and/or a writ of preliminary injunction with the Regional Trial Court (RTC). Respondent prayed for the seizure of petitioner's products, a minimum of ₱500,000.00 each as nominal damages, exemplary damages, and attorney's fees, and ₱100,000.00 as litigation expenses. A Writ of Preliminary Injunction¹⁶ was issued on February 21, 2008.¹⁷

Ruling of the Regional Trial Court

In a Decision¹⁸ dated December 23, 2013, the RTC dismissed respondent's complaint and lifted the Writ of Preliminary Injunction. Respondent's preliminary injunction bond was awarded to petitioner as nominal damages to vindicate petitioner's rights.¹⁹

The RTC rejected respondent's claim that CEEGEEFER and CHERIFER are confusingly similar, following the principle of *idem sonans*. By reiterating this Court's ruling that *idem sonans* is applicable when "the attentive ear finds difficulty in distinguishing [two names] when pronounced,"²⁰ the RTC held that the parties' consumers are attentive enough to distinguish between CEEGEEFER and CHERIFER. The RTC refused to apply this Court's ruling in the case of *Del Monte Corporation v. Court of Appeals*²¹ because this Court's pronouncement in the case of *Asia Brewery, Inc. v. Court of Appeals*²² warned against the application of *Del Monte* to all kinds of products. In *Asia Brewery, Inc.*, trial courts were directed to consider several other factors like the consumer's age, training, and education; the nature and cost of the article; and the conditions under which a product is purchased in determining infringement and unfair competition.²³

¹⁴ Id. at 59.

¹⁵ Docketed as Civil Case No. 07-086 and raffled to Branch 256 of the Regional Trial Court of Muntinlupa City; id at 263-281.

¹⁶ Records, pp. 647-648.

¹⁷ Id. at 279-281.

¹⁸ Penned by Presiding Judge Leandro C. Catalo.

¹⁹ Id. at 68.

²⁰ Id. at 62, citing *Manebo v. SPOI Acosta*, 619 Phil. 614 (2009).

²¹ 260 Phil. 435 (1990).

²² 296 Phil. 298 (1993).

²³ *Rollo*, p. 64.

The RTC ruled that there was no copyright infringement as the overall appearances of the subject products do not substantially look alike. The RTC noted that the colors orange and yellow (which CEEGEEFER and CHERIFER use, respectively) are easily associated with citrus, a source of vitamin C. Citing *Alhambra Cigar v. Mojica*,²⁴ the trial court ruled that respondent failed to prove that petitioner tried to pass off CEEGEEFER as CHERIFER especially since CEEGEEFER was designed from its predecessor product, Selvon C – a product that has been used since 1999.²⁵

Aggrieved, respondent filed an appeal under Rule 41 of the Rules of Court with the CA.²⁶

Ruling of the Court of Appeals

In its Decision²⁷ dated January 29, 2018, the CA reversed the RTC and found petitioner liable for trademark infringement. On the other hand, petitioner was not found liable for copyright infringement. The CA then ordered petitioner to pay respondent ₱500,000.00 as nominal damages and ₱100,000.00 as attorney's fees. Petitioner was also enjoined from using CEEGEEFER as a brand name and from using the CHERIFER + Logo trademark in any of petitioner's goods.²⁸

The CA deduced that petitioner knew CEEGEEFER had some colorable imitation of CHERIFER because petitioner admitted the similarity between the two brands in its letter-reply.²⁹ The CA pointed out that petitioner could not explain why the suffix “fer” in CEEGEEFER was used, whereas the same suffix in CHERIFER referred to its original ingredient, *ferrous sulfate*. The packaging of both products were also found to be similar, particularly on the following points: (1) color combination used; (2) picture of a young boy doing a basketball dunk; (3) logo of an arc with the slogan “Height is Might” for CHERIFER and “Healthy and Mighty” for CEEGEEFER; and (4) use of ribbon in the packaging.³⁰

The CA ruled that there was no unfair competition because petitioner indicated itself as the manufacturer of CEEGEEFER. Hence, there was no attempt to deceive the public that the goods originated from respondent.³¹

On respondent's claim for damages, the appellate court awarded ₱500,000.00 as nominal damages following Article 2222³² of the Civil Code. Attorney's fees were also awarded because respondent hired lawyers and incurred expenses to protect its right. The CA rejected respondent's claims for

²⁴ 27 Phil. 266 (1914). In *Alhambra*, this Court ruled that “the true test of unfair competition is whether the acts of defendant are such as are calculated to deceive the ordinary buyer making his purchases under the ordinary conditions which prevail in the particular trade to which the controversy related.”

²⁵ Id. at 65-67.

²⁶ CA rollo, p.32

²⁷ Supra note 2.

²⁸ Rollo, p. 23.

²⁹ Id. at 292-294.

³⁰ Id. at 49.

³¹ Id. at 51.

³² Art. 2222. The Court may award nominal damages in every obligation arising from any source enumerated in Article 1157, or in every case where any property right has been invaded.

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exemplary damages due to respondent's failure to prove its entitlement thereto.³³

Petitioner filed a Motion for Reconsideration³⁴ but was denied by the CA in its Resolution³⁵ dated June 21, 2019. This prompted petitioner to file the instant Petition for Review on *Certiorari*³⁶ under Rule 45 of the Rules of Court.

In the instant petition, petitioner insists that there is no confusing similarity between CHERIFER and CEEGEEFER's sound and spelling. It claims that respondent's failure to oppose the CEEGEEFER mark when it was first offered in the market bolsters respondent's allegation that there is no confusing similarity between the two. The *idem sonans* rule cannot apply because the only similarity between both brands is the suffix "*fer*."³⁷ Petitioner reiterated that since CEEGEEFER was phonetically coined from the product's Chlorella Growth Factor, it used "*fer*" as a slang for the last word "factor". Thus, it denied respondent's claim that petitioner also used the same suffix to imitate respondent (with respondent explaining the use of "*fer*" to describe *ferrous sulfate*, a component present in earlier formulations of CHERIFER).³⁸

Petitioner also differentiates the two products. According to petitioner, the products are not used in the sale of the same goods: CEEGEEFER is a drug with vitamin C and CGF as its components while CHERIFER is only a multivitamin without a vitamin C component.³⁹

Petitioner also insists that CEEGEEFER and CHERIFER are still not confusingly similar even if the holistic test was used because the logos are different. While both logos show a boy wearing a basketball jersey and cap doing a slam dunk, petitioner enumerates the variances between the two logos, viz.:

| Features of logo | CEEGEEFER | CHERIFER |
|--------------------|--|---|
| Boy's built | Fit | Heavy |
| Boy's face | Chiseled with a genuine smile | Round with a fake smile |
| Boy's action | Reverse slam dunk | Ordinary slam dunk with feet curled up together |
| Boy's baseball cap | Strapback cap with hook & loop fastener in reverse | Fitted cap in reverse |
| Boy's hair | Long with bangs reaching the nose | Cannot be discerned/hidden in the baseball cap |
| Boy's socks | Low-cut and loosely fitted | Mid-cut and fitted |

³³ *Rollo*, pp. 52-53.

³⁴ *Id.* at 216-230.

³⁵ *Supra* note 3.

³⁶ *Rollo*, pp. 52-53.

³⁷ *Id.* at 20-21.

³⁸ *Id.* at 25-27.

³⁹ *Id.* at 21.

| | | |
|--------|--|--|
| Slogan | “Healthy & Mighty” referring to the effect of taking the product | “Height is Might” also referring to the effect of taking the product ⁴⁰ |
|--------|--|--|

Petitioner noted other differences between CEEGEEFER and CHERIFER – claiming CEEGEEFER to be more expensive because of its vitamin C component. Anent the target market, petitioner avers that the purchaser will not be confused between the two products because it is the mother who buys them and not the child who will be drinking it.⁴¹

In its Comment⁴² dated November 29, 2019, respondent sought to have the instant petition dismissed because of petitioner’s defective Verification and Certification against Forum Shopping – having been executed a day earlier than the instant petition (dated August 16, 2019), or on August 15, 2019.⁴³

On the merits, respondent avers that the CA’s ruling is consistent with the facts and the law. Respondent echoes the appellate court’s finding of a colorable imitation between CEEGEEFER and CHERIFER and explains that not all details have to be copied to constitute a colorable imitation.⁴⁴ Respondent claims that the differences enumerated by petitioner between CHERIFER and CEEGEEFER’s logos are minute and negligible, and thus, do not change the fact that the two are similar to each other. Lastly, respondent denies petitioner’s claim that CEEGEEFER is descriptive of one of its components, CGF.⁴⁵

Ruling of the Court

The instant petition must be denied. Petitioner’s CEEGEEFER mark and packaging is a colorable imitation of respondent’s CHERIFER + Logo.

On the use of the words CHERIFER and CEEGEEFER, this Court subscribes to the CA’s view that both names are confusingly similar in sound and spelling. This Court has already found other words less similar to each other to still be confusingly similar in sound. In the case of *McDonald’s Corp. v. L.C. Big Mak Burger, Inc.*,⁴⁶ We said:

The following random list of confusingly *similar sounds* in the matter of trademarks, culled from Nims, *Unfair Competition and Trade Marks*, 1947, Vol. 1, will reinforce our view that “SALONPAS” and “LIONPAS” are confusingly similar in sound: “Gold Dust” and “Gold Drop”; “Jantzen” and “Jass-Sea”; “Silver Flash” and “Supper Flash”; “Cascarete” and “Celborite”; “Celluloid” and “Cellonite”; “Chartreuse” and “Charseurs”; “Cutex” and “Cuticlean”; “Hebe” and

⁴⁰ Id. at 22-23.

⁴¹ Id. at 23-24.

⁴² Id. at 237-260.

⁴³ Id. at 249-250.

⁴⁴ Id. at 250-251.

⁴⁵ Id. at 254-256.

⁴⁶ 480 Phil. 402 (2004).

“Meje”; “Kotex” and “Femetex”; “Zuso” and “Hoo Hoo”. Leon Amdur, in his book “Trade-Mark Law and Practice”, pp. 419–421, cites, as coming within the purview of the *idem sonans* rule, “Yusea” and “U-C-A”, “Steinway Pianos” and “Steinberg Pianos”, and “Seven-Up” and “Lemon-Up”. In *Co Tiong vs. Director of Patents*, this Court unequivocally said that “Celdura” and “Cordura” are confusingly similar in sound; this Court held in *Sapolin Co. vs. Balmaceda*, 67 Phil. 795 that the name “Lusolin” is an infringement of the trademark “Sapolin”, as the sound of the two names is almost the same.⁴⁷ (Emphasis supplied)

As regards the logos used by the parties, the same are strikingly similar. A side by side comparison of the pictures in CHERIFER and CEEGEEFER show the right profile/side of a boy wearing a basketball jersey and a baseball cap shooting a basketball on a hoop with their knees slightly bent and with the words that start with the letters “H” and “M” on top in an arc that both have a different colored line in the middle. Note, too, that both packages use orange and yellow.



Petitioner insists on minor differences (such as how the characters in both products are of different body types or that the baseball caps were worn differently) to prove that there is no trademark infringement.

This Court does not agree.

In the case of *ABS-CBN Publishing, Inc. v. Director of Bureau of Trademarks*,⁴⁸ this Court acknowledged how “in committing the infringing act, the infringer merely introduces negligible changes in an already registered mark, and then banks on these slight differences to state that there was no identity or confusing similarity, which would result in no infringement.”⁴⁹

⁴⁷ Id. at 436, citing *Marvex Commercial Co., Inc. v. Petra Hawpia & Co.*, 25 Phil. 295 (1966).

⁴⁸ G.R. No. 217916, June 20, 2018.

⁴⁹ Id.

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Given the respective packages of CHERIFER and CEEGEEFER shown above, it is indubitable that the two products are strikingly similar.

Note that petitioner admitted a resemblance between CEEGEEFER and CHERIFER. In its letter-reply, petitioner stated that “[e]ffective April 12, 2007, Prosel will immediately withdraw all promotional materials of CEEGEEFER **that bears any resemblance to the trade box of CHERIFER.** Prosel will stop using the logo in our Physician’s Samples by immediately instructing Prosel people in field to remove the boxes before giving them to doctors.”⁵⁰ Petitioner is thus estopped from taking a different stance.

Petitioner’s registration of CEEGEEFER as a drug and not just a vitamin food supplement does not exculpate it from liability. CEEGEEFER’s classification as a drug is immaterial. Since the case involves a violation of a trademark, the gravamen of the offense is a likelihood of confusion between the two marks.⁵¹ Both products are over-the-counter multivitamins that do not require a medical prescription. As such, CEEGEEFER and CHERIFER may be easily obtained without the advice of another person. Therefore, the parties’ target market may be confused, mistaken, or deceived into thinking that CEEGEEFER is the same as CHERIFER. Note, too, that different drug stores even displayed and sold CEEGEEFER and CHERIFER products beside each other.

Given the phonetic and visual similarities between the two products (*i.e.*, how the product names are spelled, the sound of both product names, and the colors and shapes combination of the products’ respective packaging), it is obvious that petitioner attempted to pass CEEGEEFER as a colorable imitation of CHERIFER.

Petitioner alleged that CEEGEEFER was a result of an enhancement of its previous product, Selvon C – particularly that CEEGEEFER is a drug with the vitamins and minerals of Selvon C plus CGF. It adopted the name CEEGEEFER because it describes its CGF component and it used the same packaging as Selvon C.

Again, the determining point in trademark infringement is a likelihood of confusion. The fact that CEEGEEFER is *idem sonans* for CHERIFER is enough to violate respondent’s right to protect its trademark, CHERIFER. Surprisingly, petitioner never showed proof of CEEGEEFER’s trademark registration. Even a quick search on the Intellectual Property Office’s (IPO) website reveals that petitioner’s application for CEEGEEFER’s registration was abandoned with finality.⁵² A subsequent trademark registration for CEEGEEFER was made by a certain Korn C. Philippines, Inc. only on August 28, 2014. Meanwhile, respondent secured a trademark registration on CHERIFER as early as July 8, 2004. At that time, even petitioner’s trademark registration for Selvon-C (CEEGEEFER’s alleged predecessor product) was

⁵⁰ Rollo, p. 13. Emphasis supplied.

⁵¹ *Diaz v. People*, 704 Phil. 146, 161 (2013), citing *Societe Des Produits Nestle, S.A. v. Dy, Jr.*, 641 Phil. 345, 358 (2010).

⁵² Philippine Trademark Database, <<https://www3.wipo.int/branddb/ph/en>>, last visited on September 17, 2020.

not yet obtained – with Selvon-C’s trademark only registered on May 21, 2005. The only Certificate of Registration petitioner had over CEEGEEFER was one issued by BFAD. Under Section 3 of Republic Act No. 9711,⁵³ BFAD (now renamed to the Food and Drug Administration) is tasked to carry out the State’s policy of protecting and promoting the Filipino people’s right to health by establishing and maintaining an effective health products regulatory system. It has no authority over trademark infringement.

This Court is aware that countless products circulate around the market today which may be viewed as strikingly similar and may bring forth a likelihood of confusion to its target market. With increasing product and service competition, the determination of a likelihood of confusion becomes more complex. While jurisprudence has developed the Dominancy Test and Holistic/Totality Test to determine whether there is a likelihood of confusion between competing marks, the application of such tests is normally left to the subjective judgment of the IPO or the courts.⁵⁴ Albeit this Court recognizes the expertise of the IPO on matters involving trademark and copyright infringement, the fact remains that the products are aimed at a particular target market outside of the individual personalities of those in the IPO and the courts. Therefore, there may be underlying factors in a mark that are discernible by a product’s target market which the IPO or the courts might not observe. Conversely, there may be factors which the IPO or the courts may deem considerable but are immaterial to the target market. Thus, the *ponencia* adopts the observations of Justice Leonen in *Asia Pacific Resources International Holdings, Ltd. v. Paperone, Inc.*⁵⁵ that there should be “objective, scientific, and economic standards to determine whether goods or services offered by two parties are so related that there is a likelihood of confusion.”⁵⁶

Notwithstanding such standards, CEEGEEFER’s use of its brand name and packaging undeniably creates a likelihood of confusion with CHERIFER. The similarities are apparent: (1) CHERIFER and CEEGEEFER are phonetically alike; (2) the pictures on CHERIFER and CEEGEEFER’s packages are practically indistinguishable – both depicting the right profile or side of a boy wearing a basketball jersey and a baseball cap shooting a basketball on a hoop with their knees slightly bent; (3) both phrases on top of CHERIFER and CEEGEEFER’s picture start with the letters “H” and “M” in an arc that both have a different colored line in the middle; (4) the packages have a drawing of a ribbon; and (5) the packages use the colors orange and yellow. More importantly, CHERIFER and CEEGEEFER are both over-the-counter vitamin supplements promoting growth for children by including the CGF component. The addition of its star ingredient, CGF, is what separates CEEGEEFER and CHERIFER from other children’s vitamin supplements sold in the market. The reason for CHERIFER’s and CEEGEEFER’s focus on a child’s growth is simple: it addresses one of a parent’s main concerns for their early childhood and pre-adolescent children. With CHERIFER and

⁵³ Food and Drug Administration Act of 2009.

⁵⁴ See J. Leonen’s Separate Concurring Opinion, *Asia Pacific Resources International Holdings, Ltd. v. Paperone, Inc.*, G.R. Nos. 213365-66, December 10, 2018.

⁵⁵ G.R. Nos. 213365-66, December 10, 2018.

⁵⁶ *Supra* note 54.

CEEGEEFER targeting the same relevant market (*i.e.*, over-the-counter children's growth vitamin supplement) and given their glaring similarities, CHERIFER and CEEGEEFER are reasonably interchangeable and are almost perfect substitutes of each other. Note, too, that since CHERIFER and CEEGEEFER are over-the-counter products (and were, in fact even sold side-by-side in some establishments), the propensity to mistakenly purchase one for the other is high.

Anent the award of nominal damages, the same should be reduced. Following this Court's ruling in the case of *San Miguel Pure Foods Company, Inc. v. Foodsphere, Inc.*,⁵⁷ We find the award of nominal damages in the amount of ₱100,000.00 more reasonable.

We affirm the award of attorney's fees in the amount of ₱100,000.00 as respondent proved that "it hired lawyers and incurred expenses to protect its right."⁵⁸ Although respondent claimed that it incurred ₱823,603.20 as attorney's fees and ₱135,926.67 as litigation expenses, We find the CA's reduced award of attorney's fees at ₱100,000.00 equitable.

The total judgment awards in favor of respondent shall earn a 6% annual legal interest from the time of the finality of this Resolution until the same is fully paid in accordance with this Court's ruling in *Nacar v. Gallery Frames*.⁵⁹

WHEREFORE, the instant petition is **DENIED**. The Decision dated January 28, 2019 and the Resolution dated June 21, 2019 of the Court of Appeals in CA-G.R. CV No. 102569 are **AFFIRMED with MODIFICATION** in that the award of nominal damages is **REDUCED** to ₱100,000.00.

The awards of ₱100,000.00 nominal damages and ₱100,000.00 attorney's fees shall earn a six percent (6%) annual interest from the finality of this Decision until fully paid.

SO ORDERED.


ROSMARI D. CARANDANG
Associate Justice

⁵⁷ G.R. Nos. 217781 and 217788, June 20, 2018. This is a 2018 case between San Miguel's PUREFOODS FIESTA HAM and Foodsphere's PISTA ham.

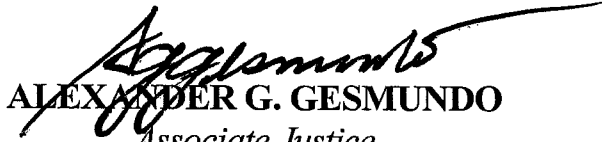
⁵⁸ *Rollo*, p. 53.

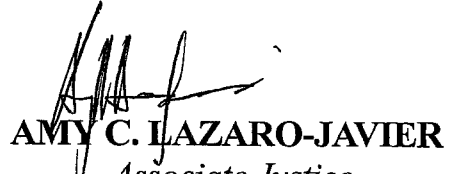
⁵⁹ 716 Phil. 267, 282-283 (2013).

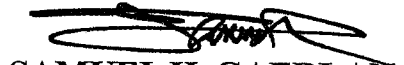
WE CONCUR:

See dissenting opinion in


MARVIC MARIO VICTOR F. LEONEN
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

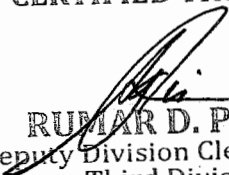
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice

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RUMAR D. PASION
Deputy Division Clerk of Court
Third Division

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