

judgedate:

March 22, 1978

caseid:

1975 (A) 1277

casename:

A case of violation of the Unfair Competition Prevention Act

casetitle:

Decision for a case which is acknowledged to constitute a crime of violation of Article 5, item (i) of the Unfair Competition Prevention Act

summary\_judge:

Concerning the act of placing a label of a tokkyu [highest class] grade sake on a bottled sake which did not take the examination available for each grade and receive the grading, and which was given the grade of nikyu [second class] pursuant to the Liquor Tax Act, even if the quality of the sake is substantially no less great than that of a tokkyu grade sake, such act constitutes a crime of violation of Article 5, item (i) of the Unfair Competition Prevention Act.

court second:

Tokyo High Court, Judgment of April 28, 1975

references:

Article 5, item (i) of the Unfair Competition Prevention Act, Article 5 of the Liquor Tax Act, and Article 11 of the Order for Enforcement of the Liquor Tax Act

### Main text

The final appeals shall be dismissed.

### Reasons

The grounds for the final appeal according to Appellant's attorney, ●●●●, are assertions on mere violation of law and a factual error, and the grounds for the final appeal according to Appellant's attorney, ●●●●, are, in substance, entirely assertions on mere violation of law and a factual error, including the points made about violation of Article 21, Article 22, paragraph (1), and Article 29, paragraph (1) of the Constitution, and as for the grounds for the final appeal according to Appellant's attorney, ●●●●, the points made about violation of Article 22, paragraph (1) and Article 21, paragraph (1) of the Constitution are, in substance, an assertion on mere violation of law, and the point made about violation of a legal precedent lacks premise because the legal precedent cited in the asserted opinion fails to indicate the determination of the purport expressed in the asserted opinion, and other points are assertions on mere violation of law and inappropriateness of sentencing, so that none of the above constitutes grounds for the final appeal as stipulated in Article 405 of the Criminal Procedure Code.

With regard to the act of placing a label of a tokkyu [highest class] grade sake on a bottled sake which did not take the examination available for each grade and receive the grading, and which was given the grade of nikyu [second class] pursuant to the Liquor Tax Act, even if the quality of the sake is substantially no less great than that of a tokkyu grade sake, such act should be interpreted as constituting a crime of violation of Article 5, item (i) of the Unfair Competition Prevention Act, and the judgment of the court of prior instance, whose purport is the same as above, is justified.

Therefore, the judgment of this court is rendered unanimously by all judges, as per the main text, by application of Articles 414 and Article 386, paragraph (1), item (iii) of the Criminal Procedure Code.

March 22, 1978

Supreme Court, First Petty Bench

Presiding judge: KISHIGAMI Yasuo  
Judge: KISHI Seiichi  
Judge: DANDO Shigemitsu  
Judge: FUJISAKI Masato

Judge:

MOTOYAMA Toru