

THE CORPORATE 3Q INCORPORATED REPRESENTED BY CARMELITA TAN, PETITIONER, VS. THE HON. PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 24, AND PHELPS DODGE PHIL ENER...

Ponente: ZALAMEDA, R.V., J.

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ZALAMEDA, R.V., J.:

This is a Petition for Certiorari[2] with Prayer for the Issuance of Temporary Restraining Order[3] under Rule 65 of the Rules of Court, filed by petitioner The Corporate 3Q Inc. represented by Carmelita Tan,[4] assailing on the ground of grave abuse of discretion, the twin Orders dated 29 January 2013[5] and 22 April 2013,[6] of the Honorable Lyliha L. Abella-Aquino,[7] Presiding Judge of Branch 24, Regional Trial Court of Manila,[8] in Search Warrant No. 12-19714. The assailed Orders denied both petitioner's Omnibus Motion to Quash Search Warrant with Motion to Suppress Evidence,[9] as well as the Motion for Reconsideration[10] thereof.

The facts, as culled from the records, are as follows:

Petitioner is a domestic corporation engaged in the business of trading of electrical goods and other hardware products, among others,[11] while private respondent Phelps Dodge Philippines Energy Products Corporation[12] is a manufacturer of electrical wires and cables and the legal owner of the trademark "PHELPS DODGE INTERNATIONAL CORPORATION (Stylized)," registered with the Intellectual Property Office.[13]

On 25 June 2012, PO2 Davidson Montera Tan,[14] a member of the Regional Public Safety Battalion Intelligent Group in Catitipan, Davao City, applied[15] for a Search Warrant with the Office of the Executive Judge, RTC of Manila, to conduct a search at the premises of petitioner's company located at Bacaca Road corner San Antonio, Davao City, where allegedly fake Phelps Dodge products were being kept by petitioner. Upon judicial determination, the respondent Judge issued Search Warrant No. 12-19713, resulting in the seizure counterfeit Phelps Dodge products on 05 July 2012.

Thereafter, on 20 July 2012, private respondent, represented by Renato Antonia,[16] filed a Complaint[17] against Samson G. Lim, Carmelita L. Tan, Caroline T. Tiongco, Nancy T. Qui, Gua Haui P. Qui, John and Jane Doe, owners and/or operators of 3Q Marketing for Violation of Section 155 in relation to Section 155.1 and 155.2 of Republic Act No. 8293[18] before the City Prosecutor's Office of Davao City, docketed as I.S. No. XI-02-INV-12-G-2881. The complaint was, however, dismissed for insufficiency of evidence on 09 January 2013.[19]

In the meantime, on 28 August 2012, petitioner filed an Omnibus Motion to Quash Search Warrant with Motion to Suppress Evidence[20] before the RTC. In its Order dated 29 January 2013, the RTC denied petitioner's motion and upheld Search Warrant No. 12-19713. The fallo of the said Order reads:

"X x x

Accordingly, in view of the foregoing, the court finds respondent-movant's Omnibus Motion To Quash Search

Warrant with Motion To Suppressed (sic) Evidence without merit and the same is hereby DENIED.

SO ORDERED.

X x x"[21]

Petitioner moved for reconsideration[22] but the RTC denied the same in its Order[23] dated 22 April 2013.

Hence this Petition asserting the following:

- THE HONORABLE PUBLIC RESPONDENT ERRED AND GRAVELY ABUSED ITS DISCRETION IN ISSUING THE SEARCH WARRANTS IN Search Warrant 12-19713-19714, ENTITLED "People of the Philippines, versus 3Q Marketing, et. al."
- THE HONORABLE PUBLIC RESPONDENT ERRED AND GRAVELY ABUSED DISCRETION IN UPHOLDING THE VALIDITY OF THE SEARCH WARRANTS DESPITE THAT IT WAS ISSUED AGAINST THE CONSTITUTIONAL REQUIREMENTS OF A VALID SEARCH WARRANT WHEN SHE ISSUED THE ASSAILED ORDERS.
- THE HONORABLE PUBLIC RESPONDENT ERRED AND GRAVELY ABUSED ITS DISCRETION IN ISSUING THE ASSAILED ORDERS DATED JANUARY 29, 2013 AND MAY 3, 2013 in relation to petitioner's omnibus motion to quash search warrant with Motion to Suppressed (sic) Evidence in Search Warrant 12-19713-19174, entitled "People of the Philippines, versus 3Q Marketing, et. al." [24]

The issues are: (1) whether or not Search Warrant No. 12-19713 is valid; and (2) whether or not the applicant had authority to apply for a search warrant on behalf of private respondent.

We deny the Petition.

Petitioner contends the search warrant is void – (1) the applicant having failed to establish probable cause for not presenting private respondent's quality assurance engineer as well as sample genuine Phelps Dodge electrical wires for comparison with the alleged counterfeit products; likewise, respondent Judge merely relied on the affidavits submitted in issuing the warrant, without propounding searching questions; (2) the search warrant was issued against the premises of "3Q Marketing," and not herein petitioner "The Corporate 3Q, Inc." and the same did not identify the lot number of the place to be searched, thus not meeting the requirement of particularity of the place to be searched; (3) the respondent Judge issued two (2) search warrants for the same offense in violation of the one offense-one warrant rule; and (4) the search warrant was implemented beyond ten (10) days from its issuance, that is, on 25 July 2012.

Section 4 of Rule 126 of the Rules of Criminal Procedure[25] states:

SEC. 4. Requisites for issuing search warrant. — A search warrant shall not issue except upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the things to be seized which may be anywhere in the Philippines.

From the foregoing, a search warrant is valid when it meets the following requisites: (1) it must be issued upon probable cause; (2) the probable cause must be determined by the judge himself and not by the applicant or any other person; (3) in the determination of probable cause, the judge must examine, under oath or affirmation, the complainant and such witnesses as the latter may produce; and (4) the warrant issued must particularly describe the place to be searched and persons and things to be seized.[26] More, a search warrant may issue in connection with only one specific offense.[27]

It must be noted at the outset that petitioner does not raise in issue the particularity of the description of the

articles sought to be seized under the subject search warrant. Does Search Warrant No. 12-19713 meet all the other aforementioned requirements for its validity? We rule in the affirmative.

For the issuance of a search warrant, probable cause contemplates "such facts and circumstances that would lead a reasonably prudent man to believe that an offense has been committed and the objects sought in connection with that offense are in the place to be searched." [28] The determination of probable cause is merely concerned with "probability" and not absolute certainty. [29] Consequently, at this stage, the prosecution need not present proof beyond reasonable doubt. The standard of judgment to be applied is merely that of a reasonably prudent man, not the exacting calibration of a judge after a full blown trial. [30]

We hold that the applicant, PO2 Tan and the latter's witnesses, were able to demonstrate the existence of probable cause against petitioner.

To note, the applicant, PO2 Tan and the latter's witnesses themselves had personally been to petitioner's premises and made test-buys, [31] from which they were able to "purchase" counterfeit Phelps Dodge electrical wires and cables, thus confirming petitioner's possession of and sale of said spurious goods. The non-presentation of private respondent's quality assurance engineer and samples of genuine wires and cables during the hearing on the application does not render the applicant's evidence insufficient since the applicant at this stage is merely obliged to show the probability of petitioner's violation of the Intellectual Property Code and its possession of the questioned goods within its premises. Contrary to petitioner's claim, the transcript of stenographic notes [32] taken on 25 June 2012 also show that the respondent Judge did not merely rely on the affidavits of the applicant and the latter's witnesses. Rather, the respondent Judge actually examined applicant PO2 Tan and his witness Renato through searching questions to test their personal knowledge relative to petitioner's possession of the questioned counterfeit Phelps Dodge electrical wires and cables.

It has been held that the description of a place to be searched is sufficient if the officer serving the warrant can, with reasonable effort, identify the place intended and distinguish it from other places in the community. [33] A designation or description that unerringly leads peace officers to the place to be searched to the exclusion of all others meets the constitutional requirement of definiteness. [34]

We similarly find that the description of the place to be searched in this case meets the standard of particularity required under Section 4 Rule 126 of the Rules and established jurisprudence. That the search warrant was issued against "3Q Marketing," and not against herein petitioner "The Corporate 3Q, Inc." is of no moment since neither Section 4 of Rule 126 of the Rules nor any other provision thereof requires the search warrant to specifically identify the person or entity that occupies the premises subject of the search warrant. [35]

In this case, the application for search warrant described the place to be searched as "3Q Marketing located at Bacaca Road cor. San Antonio, Davao City." This description, according to petitioner, is general in character since it did not specify the lot number of the place to be searched which is situated along Bacaca Road, a long stretch of road.

It is well to stress that petitioner does not at all claim that there are other roads or streets in Davao City similarly named "Bacaca" as to prevent the peace officers serving the search warrant from easily distinguishing it from other places in the said City. The absence of the lot number for the target site does not similarly make the description general in character since the indicated address referred to a place found at the corner of "Bacaca Road" and "San Antonio." Petitioner does not at all claim that some other person, building or entity occupies the corner of Bacaca Road and San Antonio as to preclude the peace officers from identifying the place to be searched to the exclusion of others. More, an examination of the Certification [36] dated 11 October 2012 issued by the Punong Barangay of Barangay 19-B, Davao City, submitted by no less than petitioner itself also indicates

its business address as "Bacaca Road cor. San Antonio." Said Certification shows for all intents and purposes that "3Q Marketing" and petitioner "The Corporate 3Q, Inc." are the same entity; that petitioner's premises is the actual subject of Search Warrant No. 12-19713 which petitioner sought to quash below.

Petitioner's claim that the search warrant was defective for having been implemented beyond ten (10) days from its issuance or on 25 July 2012 as allegedly admitted by private respondent itself in its Complaint deserves scant consideration. No less than petitioner itself admits in its memorandum that the search was done on 05 July 2012 as per the certificate of orderly search.[37] While allegations in a pleading constitute judicial admissions which the admitter cannot later contradict, this rule yields when the admitter sufficiently shows that the allegation in question was made with palpable mistake.[38] In this case, private respondent has satisfactorily explained that the date 25 July 2012 was a typographical error[39] since the certificate of orderly search clearly shows that the search warrant was served on 05 July 2012.

Anent the second issue, petitioner would have this Court believe that the applicant below, PO2 Tan and Renato Antonia, had no authority to apply for the search warrant because they were only equipped with authorization from Abraham Sanchez and without written authority from the board of directors of private respondent corporation.[40]

The argument is without basis.

On 01 June 2011, private respondent's board of directors gave its Vice-President Abraham V. Sanchez authority to execute a special power of attorney for and on its behalf, appointing Renato as its representative in the filing of complaints for infringement and/or unfair competition.[41] The authority to file complaints necessarily includes acts preparatory thereto such as the gathering of supporting evidence via applications for search warrants. There is no doubt on the authority of Renato to represent private respondent[42] in the application for the subject search warrant.

A writ of certiorari may issue only to correct errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. Such cannot be used for any other purpose, its function being limited to keeping the inferior court within the bounds of its jurisdiction. On this score, We believe the respondent Judge to have complied with the procedural and substantive requirements for issuing a search warrant. As the Supreme Court has said –

"X x x

There is no general formula of fixed rule for the determination of probable cause since the same must be decided in light of the conditions obtaining in given situations and its existence depends to a large degree upon the findings or opinion of the judge conducting the examination.

It is presumed that a judicial function has been regularly performed, absent a showing to the contrary. A magistrate's determination of a probable cause for the issuance of a search warrant is paid with great deference by a reviewing court, as long as there was substantial basis for that determination.

X x x"[43]

All told, this Court cannot find any grave abuse of discretion on the part of the respondent Judge in denying petitioner's Omnibus Motion to Quash Search Warrant with Motion to Suppress Evidence.

WHEREFORE, the instant Petition for Certiorari is DISMISSED. Accordingly, the Orders dated 29 January 2013 and 22 April 2013 issued by Branch 24, Regional Trial Court of Manila stand.

SO ORDERED.

[1] Barza, (Acting Chairperson), and Sempio Diy, JJ., concur.

[1] Vice J. Ramon M. Bato, Jr., per Office Order No. 441-14-ABR dated 24 October 2014.

[2] Rollo, pages 03 to 28.

[3] "TRO," for brevity.

[4] "Petitioner," for brevity.

[5] Rollo, pages 30 to 33, Annex "A."

[6] Id. at 34, Annex "B."

[7] "Respondent Judge," for brevity.

[8] "RTC," for brevity.

[9] Rollo, pages 59 to 77, Annex "H."

[10] Id. at 180 to 187, Annex "N."

[11] Id. at page 35, Annex "C."

[12] "Private respondent," for brevity.

[13] Rollo, page 200.

[14] "PO2 Tan," for brevity.

[15] Rollo, pages 52 to 58.

[16] "Renato," for brevity.

[17] Rollo, pages 164 to 167.

[18] Otherwise known as the Intellectual Property Code of the Philippines.

[19] Rollo, pages 177 to 179.

[20] Id. at 59 to 77.

[21] Id. at 33.

[22] Id. at 180 to 187.

[23] Id. at 34, Annex B."

[24] Id. at 11.

[25] "Rules," for brevity.

[26] HPS Software and Communication Corporation, et al. v. Philippine Long Distance Telephone Co., et al., G.R. Nos. 170217 and 170694, 10 December 2012.

[27] Tan v. Sy Tiong Gue, et al., G.R. No. 174570, 15 December 2010.

- [28] Worldwide Web Corporation v. People, et al., G.R. Nos. 161106 and 161266, 13 January 2014.
- [29] HPS Software and Communication Corporation, et al. v. Philippine Long Distance Telephone Co., et al., G.R. Nos. 170217 and 170694, 10 December 2012.
- [30] Id.
- [31] TSN dated 25 June 2012, pages 44 to 46.
- [32] Rollo, pages 40 to 51.
- [33] People v. Tuan, G.R. No. 176066, 11 August 2010.
- [34] Id.
- [35] Quelnan v. People, G.R. No. 166061, 06 July 2007.
- [36] Annex "1" of Annex "K" of the Petition, Rollo, page 149.
- [37] Rollo, page 240.
- [38] Rollo, pages 17 to 18.
- [39] Id. at 201
- [40] Id. at 241.
- [41] Secretary's Certificate dated 15 August 2011, Rollo, p. 117; Annex "A" of Annex "J" of petition (Private respondent's Supplement to Comment/Opposition dated 27 September 2012.)
- [42] Rollo, page 208.
- [43] People of the Philippines vs. Olive Rubio Mamaril, G.R. No. 171980, 06 October 2010.

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