

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. PIO MARCOS,
JUDGE OF THE COURT OF FIRST INSTANCE OF BAGUIO CITY AND
BENGUET PROVINCE AND YU CUA SIO, OWNER AND MANAGER,
SUNTORY G...**

G.R. No. L-31757. October 29, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

Petitioner, through the Solicitor General, filed this petition to review on certiorari the order dated October 13, 1969 of respondent Judge of the Court of First Instance of Baguio and Benguet Province, declaring the issuance by the City Court of Search Warrant No. 459, as contrary to law and ordering the National Bureau of Investigation (NBI) agents and any person in possession of the articles seized by virtue of the search warrant to deliver and return the same to Yu Cua Sio, owner and/or manager of the Suntory Grocery.

On June 15, 1969, NBI Supervising Agent Jose Vicente filed an application for the issuance of a search warrant with the City Court of Baguio City which provides, among others, the following:

"That he has been reliably informed and verily believes that the owner and/or manager of the Suntory Grocery, of 36 Rajah Soliman St., Baguio City has in his possession and control stocks of San Miguel Gin, product of the La Tondeña, Inc., Manila, which is adulterated, bearing fake auxiliary stamps, and using crown caps not produced by the company, which is in violation of the provisions of Article 188 and 189 of the Revised Penal Code.

"x x x and therefore has reason enough to believe that a search warrant should be issued to enable the undersigned to take possession and control and bring it to this Court said stock, as evidence in the above case under investigation."

City Judge Patricio Perez of Baguio City, acting on the aforesaid application issued on June 15, 1967, Search Warrant No. 459, under the following terms:

"Whereas, after examination under oath of Supervising Agent, NBI Jose Vicente and Cesar de Leon, both of the NBI Regional Office, at Dagupan City, this Court finds that there is probable cause to believe that the owner and/or manager of the Suntory Grocery, located at No. 36 Rajah Soliman St., Baguio City, is in possession such stock of La Tondeña product, San Miguel Gin, which is adulterated, bearing auxiliary stamps which is tampered and possession of falsified or fake crown caps, which is now under investigation by the National Bureau of Investigation, in this City.

"Therefore, you are hereby commanded during the day only to make an immediate search on the premises of the store and/ or grocery owned by the Manager and/or proprietor of the Suntory Grocery which is located in No. 36 Rajah Soliman, of this City and if you should find the same to bring it forthwith before me in the City Court of Baguio to be dealt with as the law directs."

Armed with said search warrant, the NBI agents, on June 19, 1967, searched the premises of the Suntory Grocery

located at 36 Rajah Soliman St., Baguio City, owned and managed by private respondent Yu Cua Sio. During the search conducted in the presence of private respondent and his wife, the NBI agents seized the following articles which were properly inventoried and receipted:

- “(1) One (1) bundle consisting of rubber siphon, trainer and funnel;
- “(2) One (1) galvanized tank, 15" in diameter, 2 feet in height;
- “(3) One (1) mounted crown cap sealer with accessories;
- “(4) Six (6) cases of San Miguel Gin, round bottles, filled with suspected adulterated Gin and bearing BIR stamps dated 6 April 1967;
- “(5) Two (2) cases of San Miguel Gin empty bottles;
- “(6) One (1) case containing ten (10) San Miguel Gin (adulterated) and 14 empty bottles, without stamps;
- “(7) One (1) bundle consisting of two (2) bottles believed to be containing genuine San Miguel Gin which was marked as standard; and
- “(8) One (1) paper bag containing 122 auxiliary stamps dated 6 April 1967, without perforation and bearing successive serial numbers starting from 43,000,000.”

Private respondent Yu Cua Sio filed a motion to quash Search Warrant No. 459 with the City Court of Baguio. In an Order dated February 3, 1969, the inferior court ordered the NBI agents who seized and confiscated the various articles from the store of Yu Cua Sio to return the same immediately to him.

On appeal, the Court of First Instance of Baguio City, reversed the decision of the City Court and sustained the validity of the questioned search warrant. However, upon motion for reconsideration filed by private respondent Yu Cua Sio, respondent Judge, on October 13, 1969, reconsidered his decision and declared the issuance of Search Warrant No. 459 as contrary to law and, forthwith, ordered the NBI agents to deliver and return the articles seized by virtue of the search warrant to private respondent Yu Cua Sio.

The only legal issue posed for resolution in this case is the validity of Search Warrant No. 459 issued by City Judge Patricio Perez of Baguio City which respondent Judge declared as null and void in his order dated October 13, 1969 on the grounds that (1) the same was issued "for more than one specific offense in violation of Section 3, Rule 126 of the New Rules of Court which states 'no search warrant shall issue for more than one specific offense'; and, (2) that the search warrant was issued to fish for evidence.

Petitioner claims that the lower court erred (1) when it held that the questioned search warrant violates the provisions of Section 3, Rule 126 of the New Rules of Court; (2) in holding that the search warrant in question was issued to fish for evidence; and (3) in declaring Search Warrant No. 459 as contrary to law and in ordering the return of the articles seized by virtue of said search warrant to respondent Yu Cua Sio.

We find merit in the petition. The search warrant issued by the City Court did not mention any specific offense deemed to have been violated by respondent Yu Cua Sio. It is in the application filed by the NBI agents which states that the owner and/or manager of the Suntory Grocery has in his possession and control stocks of San Miguel Gin which are adulterated and, therefore, violative of the provisions of Articles 188 and 189 of the Revised Penal Code. These articles of the Revised Penal Code are entitled: "Substituting and Altering Trademarks, Tradenames, or Service marks" and "Unfair Competition and Fraudulent Registration of Trademark and Tradename," respectively. As aptly stated by the Solicitor General, "the specific acts defining said offenses and mentioned in said articles are closely allied to each other that in a sense, the punishable acts defined in one of

them can be considered as including, or necessarily included in the other."

There is no merit also in the pronouncement by respondent Judge that the search warrant was issued to fish for evidence just because the application for search warrant states that its purpose is "to take possession and control of the articles to be used as evidence in the above case under investigation."

The search warrant as issued mentions that respondent has in his possession and control stocks of La Tondeña product which are adulterated, with fake auxiliary stamps, and are using crown caps which are not produced by the company. The articles seized in the premises of respondent Yu Cua Sio show that he was in possession of these articles mentioned in the application for search warrant and in the search warrant itself. Possession of said fake stamps is illegal and the same should not be returned to respondent Yu Cua Sio.

ACCORDINGLY, the order of respondent Judge, dated October 13, 1969, is SET ASIDE, and private respondent Yu Cua Sio is hereby ordered to return the articles seized if they had been delivered to him by the NBI agents.

SO ORDERED.

Melencio-Herrera, (Acting Chairman), Plana, Vasquez, and Gutierrez, Jr., JJ., concur.

Teehankee, (Chairman), J., on official leave.

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