BENJAMIN D. OBRA AND BRIG. GEN. TOMAS DUMPIT, PETITIONERS, VS. COURT OF APPEALS, SPOUSES JAMES BRETT AND JUNE PRILL BRETT, RESPONDENTS.

G.R. No. 120852. October 28, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision,[1] dated June 21, 1995, of the Court of Appeals affirming an award of P100,000.00 for violation of constitutional right and P10,000.00 for attorney's fees made by the Regional Trial Court, Branch 8, of Baguio and Benguet in favor of private respondents.

The facts are as follows:

Petitioner Benjamin D. Obra was, at the time material to this case, the Regional Director of the Bureau of Mines and Geo-Sciences (BMGS) in Baguio City. On June 26, 1985, Jeannette M. Grybos wrote him a letter on behalf of the Gillies heirs of Palasa-an, Mankayan, complaining that private respondents, spouses James Brett and June Prill Brett, had been conducting illegal mining activities in an area in Bgy. Palasa-an, Mankayan, Benguet belonging to Gillies family. It was alleged:

> A certain James Brett and June Prill Brett have since 1981 been illegally mining the above-named Gillies property, extracting ore and mining without permit. We would like therefore to have their operations investigated and inspected. We request further that their operations be stopped and their mining equipments (sic) be confiscated. For your ready reference we are enclosing some documents and pictures regarding the matter.

On the same day, petitioner Obra wrote Brig. Gen. Tomas Dumpit, then the Commanding General of the Regional Unified Command I (RUC-1) of the Philippine Constabulary (PC), with headquarters at Camp Bado Dangwa, La Trinidad, Benguet, requesting assistance in apprehending a truck allegedly used by private respondents in illegal mining in the area. The pertinent portion of Obra's letter to Dumpit reads:

> [In connection with the complaint of Ms. Jeannette M. Grybos,] we are enlisting the assistance of your command by way of checking and apprehending a truck colored blue and yellow lining which is used in transporting illegally mined ores from Palasa-an, Mankayan, Benguet to Baguio City. Said vehicle passes through the military outpost located at the main entrance of Camp Dangwa.
>
> Kindly call up the Bureau of Mines and Geo-Sciences, Baguio, when such truck will be apprehended so that this Office could take appropriate action therein.

The following day, June 27, 1985, petitioner Obra wrote private respondents and Ms. Grybos, informing them that the BMGS was going to conduct an ocular inspection and field investigation on July 2-5, 1985 at Palasa-an, Mankayan, Benguet in connection with Grybos' complaint and requesting them and their witnesses to be present at the investigation "so that all legal and technical matters, as well as the facts surrounding the case, shall be

gathered and collated in order for this Office to take the appropriate action thereon. . . .”

Copies of the letters were furnished petitioner Dumpit with the request that assistance be extended by RUC-1 “to insure the success and peaceful outcome of the investigation.” Supposedly attached to the request was a certified true copy of a certification, dated June 20, 1985, made by the BMGS stating that “no Mines Temporary Permit, Small-Scale Mining Permit or any permit was issued to James Brett within the Gillies Property in Palasa-an, Mankayan, Benguet.”

A similar letter[2] was sent by petitioner Obra on June 27, 1985, to Col. Bernardo Estepa, Provincial Commander of Benguet, with the request that the latter “stop momentarily any mining operation or activity, if there be any, of James and June Prill Brett in Palasa-an, Mankayan, Benguet until the controversy or case has been resolved by [the BMGS].”

Accordingly, elements of RUC-1 under Major Guillermo Densen and led by SGT. Josefino A. Morales seized, on July 1, 1985, an Isuzu “ELF” truck (ABX-587) belonging to private respondents as it was entering the “Mamakar” mining area in Palasa-an, Mankayan, Benguet. The truck was impounded by the military and prevented from leaving the area except on mercy missions to transport sick soldiers and workers to the hospital and when used to buy food supplies for the men inside the camp.[3]

Private respondents then filed a complaint[4] for injuction and damages, with an application for temporary restraining order, with the Regional Trial court, Branch 8, of Baguio and Benguet. They alleged that the truck had been seized without prior investigation to determine the existence of probable cause and that this was in violation of private respondents’ constitutional rights under Art. 32, in relation to Arts. 19, 20 and 21, of the Civil Code.

On July 18, 1985, the trial court issued a temporary restraining order directing petitioners to cease and desist from preventing the subject truck from leaving the mine site.[5] On August 8, 1985, the court issued a writ of preliminary injunction.

After trial, the court gave judgment to private respondents. It found that no investigation had been conducted either by petitioner Obra or his office or by petitioner Dumpit to verify the complaint of Jeannette Grybos before the vehicle was ordered seized by them, and that, as a result, private respondents had been deprived of the use and enjoyment of property without due process of law. Accordingly, the trial court ruled that, under Art. 32 of the Civil Code and the ruling in Aberca v. Ver,[6] private respondents wer entitled to actual and compensatory damages, moral damages, and exemplary damages in the total amount of P100,000.00 and attorney’s fees in the total amount of P10,000.00, plus costs of suit.

On appeal, the appellate court affirmed the decision in toto. Hence, this petition. Petitioners contend:

> 1. PETITIONERS COULD NOT BE HELD LIABLE FOR DAMAGES IN THE PERFORMANCE OF THEIR DUTY IN GOOD FAITH.
>
> 2. PETITIONERS ARE ENTITLED TO AN AWARD OF DAMAGES.

The contentions are without merit. The decision of the Court of Appeals is affirmed.

Petitioners invoke P.D. No. 1281, as amended, authorizing the Regional Director of the BMGS to “order the seizure and confiscation, in favor of the Government, of the tools and equipment used in the commission of an offense” and “to deputize, when necessary, any member or unit of the PC, police agency, barangay or any qualified person to police mining activities.”[7] They claim that petitioner Obra made his request to his co-petitioner in good faith and solely for the purpose of maintaining the status quo while the investigation of Grybos’ complaint was being conducted, after finding that private respondents had no permit to conduct mining

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activities in the contested area.

The provisions of P.D. No. 1281, which petitioners invoke in their defense, read:

> Sec. 3. The Bureau of Mines shall have the following powers and functions, to wit:
>
> . . . .
>
> f.) To arrest or order the arrest, even without warrant, of any person who has committed or is in the act of committing any of the offenses defined under Presidential Decree No. 463, or any other laws being implemented by the Bureau of Mines, and seize and confiscate or order the seizure and confiscation, in favor of the government, of the tools and equipment used in the commission of the offense and the minerals extracted by the offender, and institute whatever action that may be necessary relative thereto;
>
> g.) To deputize, when necessary, any member or unit of the PC, police agency, barangay or any qualified person to police all mining activities;
>
> . . . .
>
> Sec. 6. The Bureau of Mines shall have jurisdictional supervision and control over all holders of mining claims or applicants for and/or grantees of mining licenses, permits, leases and/or operators thereof, including mining service contracts and service contracts insofar as their mining activities are concerned; and in the exercise of such authority, it shall have the power to enlist the aid and support of all law enforcement agencies of the Government, civil and/or military.

Petitioners contend that these provisions of the Decree were justified under Art. IV, §3 of the 1973 Constitution which provided that—

> The right of the people to be secure in their persons, houses, papers, and effects aginst unreasonable searches and seizures of whatever nature and for any purpose shall not be violated, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined by the judge, or such other responsible officer as may be authorized by law, 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 persons or things to be seized.[8]

The above provision of the 1973 Constitution, however, merely validated the grant by law to nonjudicial officers of the power to issue warrants of arrest or search warrants, but did not in any way exempt these officers from the duty of determining the existence of probable cause as basis for the issuance of such warrants. Indeed, the issue in this case is not whether petitioner Obra had authority to issue a search warrant and to deputize the military to assist in his investigation. The question is whether he conducted an investigation and found probable cause for ordering the seizure and impoundment of private respondents' vehicle. The answer is: he did not. To the contrary, as petitioner Obra's letters to private respondents and to Grybos clearly stated, an investigation was to be held on July 2-5, 1985 precisely to determine the veracity of the allegations in Grybos' complaint.

Apparently, petitioner Obra's only basis for ordering the seizure of the vehicle was an alleged certification from the BMGS that no mining permit had been issued to private respondents. The certification, however, was not presented in evidence nor does a copy thereof appear in the records.

On the contrary, in its resolution[9] dated may 12, 1986, the BMGS found that private respondent June Prill Brett had a valid and subsisting mining claim within the area and that it was the Gillies family which had no permit or lease from the government, although it was the first to work the claim.

Nor indeed could the seizure of the vehicle be justified under the "moving vehicle" doctrine.[10] The truck was seized while it was entering the mining area; it was not transporting minerals outside of the area.[11] As held in

People v. Bagista,[12]

> With regard to the search of moving vehicles, this had been justified on the ground that the mobility of motor vehicles makes it possible for the vehicle to be searched to move out of the locality or jurisdiction in which the warrant must be sought.
>
> This is in no way, however, gives the police officers unlimited discretion to conduct warrantless searches of automobiles in the absence of probable cause. When a vehicle is stopped and subjected to an extensive search, such a warrantless search has been held to be valid as long as the officers conducting the search have reasonable or probable cause to believe before the search that they will find the instrumentality or evidence pertaining to a crime in the vehicle to be searched.

There could not have been, therefore, any finding of probable cause that the truck was being used for any illegal mining activities.

As we said in Aberca v. Ver,[13] the military is not to be restrained from pursuing their task or carrying out their mission with vigor. However, in doing so, care must be taken that constitutional and legal safeguards are not disregarded. In this case, there was absolutely no justification for the disregard of procedures for issuing search and seizure orders.

The Court of Appeals rightly concluded then that petitioners violated private respondents' constitutional rights to due process and to security against unreasonable searches and seizure in ordering the seizure and impoundment of private respondents' vehicle. For as the trial court held:[14]

> From all the above arguments and counter-arguments, the Court finds that the petitioners do not seriously dispute that the private respondents were, indeed, deprived of the use of their Isuzu "ELF" Truck when the private respondents' foreman and the driver of the truck were told by SGT. Morales of the RUC-I that the same could not leave the mining area in Palasa-an, Mankayan, Benguet, "per orders", and the same was parked in front of the building where the military team specifically assigned for that particular mission was staying. The arguments of the petitioners that there was no destraint and/or seizure because the keys of the truck were always in the possession of private respondents' driver Kiyabang, that, on several occasions, the truck left the Palasa-an mining area, . . . and that the private respondents voluntarily and maliciously refused to use or enjoy their own truck . . . are facetious, to say the least, and deserve no serious consideration, in the light of the undisputed fact that the military men led by Sgt. Morales did not allow him to drive the truck out of the Palasa-an mining area, and on those occasions when he drove the truck out of the mining area, it was on missions of mercy and for purposes of the needs of the military personnel assigned in the Palasa-an mining area, and these, always with a soldier on board the truck. There was, therefore, a distraint and at least constructive seizure by the military men led by Sgt. Morales, "as per orders," of the Isuzu Ilf truck of the private respondents, effectively depriving the latter of its use and enjoyment of their property.
>
> Likewise, it is not disputed by the petitioners that Petitioner Obra's request for the "checking and apprehending" of private respondents' truck by Petitioner Dumpit's RUC-I Command on June 26, 1985 (Exh. C) and the actual apprehension of said truck by Sgt. Morales and his men on July 1, 1985, were not preceded by and based on an investigation conducted by Petitioner Obra or his Office, but, instead, were based on the letter-complaint of Jeannette Grybos received by said Office also on June 26, 1985 (Exh. B). The petitioners' claim that this did not violate the constitutional right of the private respondents to due process because of the aforequoted reasons completely ignores the fundamental rule that laws should not be so interpreted or implemented as to violate the provisions of the constitution. Specifically, Petitioner Obra's interpretation of the law that grants him "jurisdictional supervision and control" over persons and things that have something to do with mines and mining (Sec. 6, P.D. No. 1281) authorizes him to distrain and seize private respondents' truck, as he actually did through Sgt. Morales and his men, "without prerequisite conditions such as a prior preliminary investigation of the case" (taken from the above quotation from petitioners' Memorandum),

> clearly violates the provision of the Bill of Rights on due process . . .

These findings and conclusions of the trial court, as affirmed by the Court of Appeals, are binding on this Court in the absence of any showing that they are contrary to the evidence in the record.[15]

On the other hand, petitioner Dumpit claims that unlike the superior officers in Aberca, he had no knowledge of the acts of his subordinates since they did not file an "after-incident report" which was the standard procedure in these cases. He claims that all he did was to endorse the request to Major Densen, the Intelligence Officer of RUC-1, to coordinate with the BMGS and implement the order accordingly.

These contentions have no merit. It was sufficiently proved in this case that the seizure of the truck was effected upon the orders of petitioner Dumpit, acting on the request of petitioner Obra. Private respondents' witnesses testified that when they asked the military men who stopped them upon their entry to the "Mamakar" mining site, the soldiers told them that they were acting upon the orders of "the general in Camp Dangwa."[16] Sgt. Morales even issued a certification that the truck was seized "as per orders."[17] Petitioner Dumpit himself testified, thus:

> SOL. DAVID:
>
> Q This letter refers to a complaint by Mrs. Jeannette M. Grybos, when you received that letter of Engr. Obra, what action, if any, did you take?
>
> A On the letter of Director Obra dated June 26, 1985, whereby he was requesting assistance, the first thing I did is just to designate an action officer and my instruction is to coordinate with Director Obra and undertake necessary action.

. . . .

> A I referred that letter when I received it from Director Obra to the Action Officer, the late Maj. Guillermo Densen.[18]
>
> ATTY. GALACE:
>
> Q Major Densen did not go to the mining site of [Palasa-an]?
>
> A My instruction was very clear, coordinate with Director Obra and take the necessary appropriate action, period. That was my only instruction to the late Maj. Densen.
>
> Q You did not authorize Maj. Densen to enter the mining site and that all operations in the mining area will be stopped?
>
> A I left it to the discretion of my subordinate, your Honor.[19]

Art. 32 of the Civil Code makes liable any public officer who is directly or indirectly responsible for violating an individual's constitutional rights. The ruling in Aberca, which has been reiterated in subsequent cases,[20] is stated as follows:

> . . .[T]he decisive factor in this case, in our view, is the language of Article 32. The law speaks of an officer or employee or person "directly" of "indirectly" responsible for the violation of the constitutional rights and liberties of another. Thus, it is not the actor alone (i.e., the one directly responsible) who must answer for damages under Article 32; the person indirectly responsible has also to answer for the damages or injury caused to the aggrieved party.
>
> . . .While it would certainly be too naïve to expect that violators of human rights would easily be deterred by the prospect of facing damage suits, it should nonetheless be made clear in no uncertain terms that Article 32 of the Civil Code makes the persons who are directly, as well as indirectly, responsible for the transgressions

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joint tortfeasors.[21]

It was clear from petitioner Obra's letter to petitioner Dumpit that assistance wa sought for the seizure of private respondents' truck. Thus, when petitioner Dumpit endorsed the request to his subordinates for proper action, there could not have been any other forseeable consequence but the eventual seizure of the truck.

Petitioner Dumpit cannot evade responsibility for his acts by claiming that he merely performed a ministerial duty in ordering the implementation of petitioner Obra's request. Otherwise, Art. 32 could easily be avoided by the mere plea that the officer concerned was only carrying out a ministerial duty. Petitioner Dumpit was a ranking military official. It is unseemly for him to claim that he was merely executing a ministerial act.

WHEREFORE, the petition is DISMISSED and the decision of the Court of Appeals is hereby AFFIRMED.

SO ORDERED.

Bellosillo, (Chairman), Buena, and De Leon, Jr., JJ., concur.
Quisumbing, J., on official leave.

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[1] Per Associate Justice Pacita Cañizares-Nye and concurred in by Associate Justices conchita Carpio Morales and Antonio P. Solano.

[2] Exh. 5-Obra.

[3] TSN, pp. 18-23, Jan. 7, 1988.

[4] Records, pp. 2-9.

[5] Records, p. 24.

[6] 160 SCRA 590 (1988).

[7] P.D. No. 1281, §§3 & 6.

[8] 1973 Const., Art. IV.

[9] Exh. N; Exh. 7-Obra.

[10] People v. Que, 265 SCRA 721 (1966); Mustang Lumber, Inc. v. Court of Appeals, 257 SCRA 470 (1996).

[11] TSN, pp. 23-26, Nov. 16, 1987; TSN, pp. 13, et seq.; Jan. 7, 1988.

[12] 214 SCRA 63, 69 (1992).

[13] Supra.

[14] Decision, pp. 7-8; Rollo, pp. 64-65.

[15] Gonzales v. Court of Appeals, G.R. No. 117740, Oct. 30, 1998; Macapagal v. Court of Appeals, G.R. No. 110610, and Silverio v. Court of Appeals, G.R. No. 113851, Oct. 8, 1998.

[16] TSN, p. 28, Nov. 16, 1987; TSN, pp. 4-5, Jan. 22, 1988.

[17] Exh. A.

[18] TSN, pp. 9-10, June 8, 1989.

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[19] Id., pp. 32-33.

[20] Valmonte v. de Villa, 185 SCRA 665 (1990); MHP Garments, Inc. v. Court of Appeals, 236 SCRA 227 (1994); Cojuangco v. Court of Appeals, G.R. No. 119398, July 2, 1999.

[21] 160 SCRA at 605-606.

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