PEOPLE OF THE PHILIPPINES, HON. LOURDES F. GATBALITE, PRESIDING JUDGE, BRANCH 56, REGIONAL TRIAL COURT, ANGELES CITY AND ATTY. BENNIE NICDAO, SPECIAL PROSECUTOR, SPECIAL OPERATI...

G.R. NO. 152950. August 03, 2006

Ponente: CORONA, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-152950/

CORONA, J.:

This petition for review on certiorari[1]seeks the reversal of the decision[2] of the Court of Appeals (CA) dated April 10, 2002 in CA-G.R. SP No. 59587, the dispositive portion of which read:

> WHEREFORE, the petition for certiorari and prohibition is GRANTED. Search Warrant No. 99-17 is deemed NULL and VOID and SET ASIDE. Respondent ATTY. BENNY NICDAO is prohibited from using in evidence the articles seized by virtue of Search Warrant No. 99-17 in Crim. Case No. I.S. No. 99-8116.
>
> SO ORDERED.[3]

The factual antecedents follow.

On April 27, 1999, Mario P. Nieto, Intelligence Operative of the Economic Intelligence and Investigation Bureau, Department of Finance, applied for a search warrant with the Regional Trial Court (RTC) of Angeles City, Pampanga, Branch 56,[4] against respondent Christopher Choi for violation of Section 168, paragraphs 2 and 3 (a) and (c), in relation to Section 169 of RA 8293,[5] also known as the Intellectual Property Code.[6]After examination of the applicant and his witnesses, namely, Max Cavalera and David Lee Sealey, Judge Lourdes F. Gatbalite issued Search Warrant No. 99-17 dated April 27, 1999 worded as follows:

> TO ANY PEACE OFFICER:
>
> G r e e t i n g s:
>
> It appearing to the satisfaction of the undersigned, after examining under oath in the form of searching and probing questions, the applicant, MARIO P. NIETO, Intelligence Operative, Economic Intelligence Investigation Bureau, Department of Finance, and his witnesses Max Cavalera and David Lee Sealey that there are good and sufficient reasons to believe that Christopher Choi of No. 25-13 Columbia Street, Carmenville Subd., Angeles City has in his possession, control and custody [r]eams and packs of fake Marlboro Red Cigarettes, as well as cardboard cases of fake Marlboro Red Cigarettes (each cardboard case contains two (2) [m]aster [c]ases of Marlboro and each [m]aster case contains fifty (50) reams) being distributed, kept and sold thereat in violation of Section 168, par. 2 and 3 (a) and (c) in relation to Section 169 of R.A. 8293;
>
> You are hereby commanded to make an immediate search at anytime of the day or night of the above-premises and forthwith seize and take possession of the aforedescribed items found at the residence/warehouse of Christopher Choi at No. 25-13 Columbia Street, Carmenville Subd., Angeles City.

> THEREFORE, seize and bring the said articles to the undersigned to be dealt with in accordance with law.
>
> You are hereby further directed to submit a return within ten (10) days from today.
>
> Given under my hand this 27th day of April, 1999 at Angeles City, Philippines.[7]

The search was conducted on the same date.[8]

On May 12, 1999, respondent filed a motion to quash search warrant[9] and a "supplemental motion to quash"[10] on June 22, 1999. Both were denied by Judge Gatbalite in an order dated November 29, 1999.[11] Reconsideration was likewise denied.[12]

On June 19, 2000, respondent filed a petition for certiorari and prohibition[13] before the CA. He alleged that Judge Gatbalite committed grave abuse of discretion in refusing to quash the search warrant, arguing that probable cause was not sufficiently established as the examination conducted was not probing and exhaustive and the warrant did not particularly describe the place to be searched. Respondent also prayed that Atty. Bennie Nicdao[14] be prohibited from using as evidence the articles seized by virtue of the search warrant. This was granted by the CA in a decision dated April 10, 2002.

According to the CA, in determining whether there was probable cause to believe that the cigarettes purchased by Nieto were fake and in violation of RA 8293,[15] Judge Gatbalite failed to ask searching and probing questions of witness David Lee Sealey.[16] The examination of Sealey went this way:

> Court:
>
> Q
>
> There was testimony here given by Mr. Mario Nieto and Max Cavalera, that fake Marlboro cigarettes bought by them from Michael Chua, Christopher Choi and Johnny Chang were turned over to you for examination, is that correct?
>
> A
>
> Yes, your Honor.
>
> Q
>
> After the same had been turned over to you, what did you do with the said merchandise, if you did anything?
>
> A
>
> I examined the sample of cigarettes and their packaging bearing the Marlboro Trade Marks which were suspected to be produc[ed] and manufactured by La Suerte or [with] the permission of Philip Morris.
>
> Q
>
> What was the result of your examination?
>
> A
>
> Based on the packaging of the packs, the color of the box and the printing on the front side of the packs and the cigarettes themselves, I concluded that they are counterfeit or unauthorized product[s].
>
> Q
>
> Do you have any knowledge of this person named Christopher Choi?

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

A

None, your Honor.

Q

There is an affidavit here marked as exhibit, executed by one David Lee Sealey, do you know this David Lee Sealey?

A

Yes, your Honor, I am the one.

Q

Whose signature is this appearing on the printed name David Lee Sealey?

A

This is my signature, your Honor.

Q

Do you affirm and confirm other contents of this affidavit?

A

Yes, your Honor.

Court:

That's all.[17]

In addition, the CA ruled that Judge Gatbalite committed grave abuse of discretion when she merely relied on the conclusion of Sealey that the cigarettes he received from Nieto were fake. She should have at least required Sealey to present the alleged fake Marlboro cigarettes and the genuine ones for comparison, instead of relying on his testimony alone. The CA reasoned that this was an absolute requirement under the Supreme Court ruling in 20th Century Fox Film Corporation v. Court of Appeals.[18]Hence, this petition.The People of the Philippines aver that the CA erred in finding that Judge Gatbalite committed grave abuse of discretion in issuing the search warrant allegedly because she failed to determine probable cause pursuant to Sections 4 and 5 of Rule 126 of the Rules of Court.[19] The People assail the finding of the CA that, in issuing the search warrant, Judge Gatbalite purportedly did not comply strictly with the requirement to determine the existence of probable cause by personally examining the applicant and his witnesses through searching questions and answers. The People also assert that the CA erred in applying the doctrine in 20th Century Fox Film Corporation[20] since it had already been superseded by Columbia Pictures, Inc. v. Court of Appeals.[21]

We rule for the People of the Philippines.

Sections 4 and 5 of Rule 126 state:

> 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.
>
> Sec. 5. Examination of complainant; record. The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he

> may produce on facts personally known to them and attach to the record their sworn statements, together with the affidavits submitted.

According to the foregoing provisions, a search warrant can be issued only upon a finding of probable cause. Probable cause means such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed and that the objects sought in connection with the offense are in the place sought to be searched.[22] The determination of the existence of probable cause requires the following:

(1) the judge must examine the complainant and his witnesses personally;

(2) the examination must be under oath and

(3) the examination must be reduced in writing in the form of searching questions and answers.[23]

The searching questions propounded to the applicant and the witnesses depend largely on the discretion of the judge. Although there is no hard-and-fast rule governing how a judge should conduct his examination, it is axiomatic that the examination must be probing and exhaustive, not merely routinary, general, peripheral, perfunctory or pro-forma.[24] The judge must not simply rehash the contents of the affidavit but must make his own inquiry on the intent and justification of the application.[25] The questions should not merely be repetitious of the averments stated in the affidavits or depositions of the applicant and the witnesses.[26] If the judge fails to determine probable cause by personally examining the applicant and his witnesses in the form of searching questions before issuing a search warrant, grave abuse of discretion is committed.[27]

The determination of probable cause does not call for the application of rules and standards of proof that a judgment of conviction requires after trial on the merits. As the term implies, probable cause is concerned with probability, not absolute or even moral certainty. The standards of judgment are those of a reasonably prudent man, not the exacting calibrations of a judge after a full-blown trial.[28] No law or rule states that probable cause requires a specific kind of evidence. No formula or fixed rule for its determination exists.[29] Probable cause is determined in the light of conditions obtaining in a given situation.[30] The entirety of the questions propounded by the court and the answers thereto must be considered by the judge.[31]In this case, aside from the testimony of Sealey, petitioner judge also heard the testimony of applicant Nieto:

> Q:
>
> In connection with Search Warrant 99-17, are you the same Mario Nieto who is the applicant in this application for search warrant filed today April 27, 1999?
>
> A:
>
> Yes, your Honor.
>
> Q:
>
> Do you know this Christopher Choi referred to herein?
>
> A:
>
> Yes, your Honor.
>
> Q:
>
> Why do you know him?
>
> A:

He was introduced to us by Michael Chua, your Honor.

Q:

As what?

A:

As the supplier for the goods.

Q:

Subject of the application?

A:

Yes, your Honor, in violation of Section 169 of R.A. 8293.

Q:

How did you know him?

A:

When I was conducting a test-buy operation against Mr. Michael Chua, Mr. Michael Chua told me that the bulk of supply if we need more supply we can get from the source, a certain Christopher Choi, who lives in the same village and who is actually the supplier for the entire region.

Q:

Where did you see him. This Christopher Choi?

A:

I went to his house, your Honor.

Q:

Where?

A:

At No. 25-13 Columbia St., Carmenville Subd., Angeles City, Pampanga.

Q:

Upon arriving at the place what did you do?

A:

Upon arriving at the place, your Honor, I introduced myself as the one who was referred by a certain Michael Chua who is interested in buying the Marlboro cigarettes from him and he accommodated me and showed me the sample that he has and I was able to procure the samples from him, the samples that like what we did to the others were inspected by certain Mr. David Lee Sealey, the representative and authority from the Philip Morris.

Q:

Did you actually buy those samples?

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

A:

Yes, your Honor, I got the samples form Mr. Christopher Choi and I submitted them to Mr. David Lee Sealey.

Q:

How many Marlboro cigarettes did you buy?

A:

We bought only one ream, P17.00 per pack.

Q:

Do you know from what particular place the house of Christopher Choi did he got (sic) those samples?

A:

The volume stocks were found inside the house, they are almost everywhere in the house of Christopher Choi.

Q:

There is a sketch here attached to your application, can you point it out here?

A:

Yes, your Honor, at the warehouse, in the storage room as shown in the lay out of the house, it is adjacent to the residential house as shown in the sketch.

Q:

You went to the warehouse?

A:

We were shown [the] entire area by the supplier, Christopher Choi. As a matter of fact he was trying to show us how much volume he has and his capacity to supply. [32]

Max Cavalera, a witness who accompanied Nieto during the "test-buy" operation,[33] also testified:

Q How about this Christopher Choi?
A As I've said earlier, he was one of those identified by the informant storing and selling counterfeit Marlboro cigarettes, so on April 22, 1999 we conducted a surveillance and we were able to confirm that the said cigarettes are being stored at the subject place.

Q At what place?
A At 25-13 Columbia St., Carmenville Subd., Angeles City. On April 23, 1999 at about 8:30 p.m., Mario Nieto and I again went to the subject place to conduct a test-buy operation. [A]fter Mr. Choi had been convinced of our intention to buy cigarettes from him, he brought us to his warehouse where he showed to us several cardboard cases of Marlboro cigarettes.[34]

Given the foregoing testimonies and applying the established standards in determining probable cause, we cannot say that Judge Gatbalite committed grave abuse of discretion in issuing the search warrant. Her questions were sufficiently probing, not at all superficial and perfunctory. The testimonies were consistent with each other and the narration of facts was credible. The testimonies and other evidence on record constituted adequate bases to establish probable cause that the alleged offense had been committed.

Since probable cause is dependent largely on the opinion and findings of the judge who conducted the

examination and who had the opportunity to question the applicant and his witnesses,[35] the findings of the judge deserve great weight. The reviewing court can overturn such findings only upon proof that the judge disregarded the facts before him or ignored the clear dictates of reason.[36] We thus find no reason to disturb Judge Gatbalite's findings.

Furthermore, as correctly pointed out by petitioners, 20th Century Fox Film Corporation, insofar as it required the presentation of the master tapes for comparison with the pirated copies for a search warrant to issue, had already been superseded by Columbia Pictures, Inc. v. Court of Appeals:

> More to the point, it is felt that the reasonableness of the added requirement in 20th Century Fox calling for the production of the master tapes of the copyrighted films for determination of probable cause in copyright infringement cases needs revisiting and clarification.
>
> xxx xxx xxx
>
> In fine, the supposed pronunciamento in said case regarding the necessity for the presentation of the master tapes of the copyrighted films for the validity of search warrants should at most be understood to merely serve as a guidepost in determining the existence of probable cause in copyright infringement cases where there is doubt as to the true nexus between the master tape and the pirated copies. An objective and careful reading of the decision in said case could lead to no other conclusion than that said directive was hardly intended to be a sweeping and inflexible requirement in all or similar copyright infringement cases. Judicial dicta should always be construed within the factual matrix of their parturition, otherwise a careless interpretation thereof could unfairly fault the writer with the vice of overstatement and the reader with the fallacy of undue generalization.
>
> xxx xxx xxx
>
> It is evidently incorrect to suggest, as the ruling in 20th Century Fox may appear to do, that in copyright infringement cases, the presentation of master tapes of the copyrighted films is always necessary to meet the requirement of probable cause and that, in the absence thereof, there can be no finding of probable cause for the issuance of a search warrant. It is true that such master tapes are object evidence, with the merit that in this class of evidence the ascertainment of the controverted fact is made through demonstrations involving the direct use of the senses of the presiding magistrate. Such auxiliary procedure, however, does not rule out the use of testimonial or documentary evidence, depositions, admissions or other classes of evidence tending to prove the factum probandum, especially where the production in court of object evidence would result in delay, inconvenience or expenses out of proportion to its evidentiary value.
>
> xxx xxx xxx
>
> Accordingly, to restrict the exercise of discretion by a judge by adding a particular requirement (the presentation of master tapes, as intimated by 20[th] Century Fox) not provided nor implied in the law for a finding of probable cause is beyond the realm of judicial competence or statesmanship. It serves no purpose but to stultify and constrict the judicious exercise of a court's prerogatives and to denigrate the judicial duty of determining the existence of probable cause to a mere ministerial or mechanical function. There is, to repeat, no law or rule which requires that the existence of probable cause is or should be determined solely by a specific kind of evidence. Surely, this could not have been contemplated by the framers of the Constitution, and we do not believe that the Court intended the statement in 20[th] Century Fox regarding master tapes as the dictum for all seasons and reasons in infringement cases.[37] (emphasis supplied)

It is obvious that 20th Century Fox Film Corporation should not be applied to the present case since this involves the offense of unfair competition and not copyright infringement. More importantly, as pronounced by the Court in Columbia Pictures, Inc., the judge's exercise of discretion should not be unduly restricted by adding a

requirement that is not sanctioned by law.

WHEREFORE, the petition is hereby GRANTED. The assailed decision of the Court of Appeals dated April 10, 2002 in CA-G.R. SP No. 59587 is REVERSED and SET ASIDE. Judgment is hereby rendered declaring Search Warrant No. 99-17 as VALID.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna and Garcia, JJ., concur.

---

[1] Under Rule 45 of the Rules of Court.[2] Penned by former Presiding Justice Ma. Alicia Austria-Martinez (now Associate Justice of the Supreme Court) and concurred in by Associate Justices Hilarion L. Aquino (retired) and Jose L. Sabio, Jr. of the Former Fourth Division of the Court of Appeals; rollo, pp. 9-15.

[3] Id., p. 15.[4] Presided by Judge Lourdes F. Gatbalite.[5] Sec. 168. Unfair Competition, Rights, Regulation and Remedies. -

xxx xxx xxx

168.2. Any person who shall employ deception or any other means contrary to good faith by which he shall pass off the goods manufactured by him or in which he deals, or his business, or services for those of the one having established such goodwill, or who shall commit any acts calculated to produce said result, shall be guilty of unfair competition, and shall be subject to an action therefor.

168.3. In particular, and without in any way limiting the scope of protection against unfair competition, the following shall be deemed guilty of unfair competition:

> (a) Any person, who is selling his goods and gives them the general appearance of goods of another manufacturer or dealer, either as to the goods themselves or in the wrapping of the packages in which they are contained, or the devices or words thereon, or in any other feature of their appearance, which would be likely to influence purchasers to believe that the goods offered are those of a manufacturer or dealer, other than the actual manufacturer or dealer, or who otherwise clothes the goods with such appearance as shall deceive the public and defraud another of his legitimate trade, or any subsequent vendor of such good or any agent of any vendor engaged in selling such goods with a like purpose;
>
> xxx xxx xxx
>
> (c) Any person who shall make any false statement in the course of trade or who shall commit any other act contrary to good faith of a nature calculated to discredit the goods, business or services of another.

Sec. 169. False Designations of Origin; False Description or Representation. - 169.1. Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which:

> (a) Is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person;

xxx xxx xxx

[6] Application for Search Warrant, rollo, p. 70. The case was docketed as Crim. Case No. I.S. No. 99-8116.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[7] Id., p. 71.

[8] Id., pp. 27 and 154.

[9] Id., pp. 81-87.

[10] Id., pp. 78-80.

[11] Id., pp. 81-87.

[12] Id., p. 88.

[13] Id., pp. 89-101.

[14] He was the Special Prosecutor of the Special Operations Group of the Economic Intelligence and Investigation Bureau (EIIB) which was attached to the Department of Finance. Under Executive Order No. 191 dated January 7, 2000, the EIIB was deactivated. This has since been absorbed by the Central Management Information Office of the Department of Finance and Atty. Nicdao is no longer with the said office; id., pp. 129-130.

[15] Id., p. 14.

[16] Manager of Product Development of Philip Morris Asia Limited which is the owner of the Marlboro trademarks; id., p. 120.

[17] Id., pp. 12-14.

[18] Id., pp. 12 and 14; G.R. Nos. L-76649-51, 19 August 1988, 164 SCRA 655.

[19] Id., p. 32.

[20] Supra at note 18.

[21] 329 Phil. 875 (1996).

[22] People v. Mamaril, G.R. No. 147607, 22 January 2004, 420 SCRA, 662, 671, citing Pendon v. Court of Appeals, G.R. No. 84873, 16 November 1990, 191 SCRA 429, 437, in turn citing Marinas v. Siochi, 191 Phil. 698 (1981); Ponsica v. Ignalaga, G.R. No. L-72301, 31 July 1987, 152 SCRA 647, 664.

[23] Id.

[24] People v. Delos Reyes, G.R. No. 140657, 25 October 2004, 441 SCRA 305, 315, citing Roan v. Gonzales, 230 Phil. 90 (1986).

[25] Uy v. Bureau of Internal Revenue, G.R. No. 129651, 20 October 2000, 344 SCRA 36, 55, citing Pendon v. Court of Appeals, supra at note 22.

[26] Supra at note 24, citing Nolasco v. Paño, G.R. No. L-69803, 8 October 1985, 139 SCRA 152.

[27] Id., p. 316, citing Silva v. Presiding Judge, RTC of Negros Oriental, Br. 33, G.R. No. 81756, 21 October 1991, 203 SCRA 140.

[28] Microsoft Corporation v. Maxicorp, Inc., G.R. No. 140946, 13 September 2004 , 438 SCRA 224, 236.

[29] Id., pp. 236-237, citing La Chemise Lacoste, S.A. v. Hon. Fernandez, 214 Phil. 332 (1984).

[30] Id., p. 237, citing Central Bank of the Phils. v. Morfe, 126 Phil. 885 (1967).

[31] Supra at note 24, p. 317.

[32] Rollo, pp. 40-43, citing TSN dated April 27, 1999, pp. 3-4.

[33] Id., p. 48.

[34] Id., p. 84.

[35] Supra note 28, at 238, citing Luna v. Hon. Plaza, 135 Phil. 329 (1968).

[36] Id., citing La Chemise Lacoste, S.A. v. Hon. Fernandez, supra at note 29.

[37] Supra note 21, at 910-921, citations omitted.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.