

**COCA-COLA BOTTLERS, PHILS., INC. (CCBPI), NAGA PLANT,
PETITIONER, VS. QUINTIN J. GOMEZ, A.K.A. “KIT”
GOMEZ AND DANILO E. GALICIA, A.K.A. “DANNY
GALICIA,” RESPONDENTS.**

G.R. No. 154491. November 14, 2008

Ponente: BRION, J.

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BRION, J.:

Is the hoarding of a competitor's product containers punishable as unfair competition under the Intellectual Property Code (IP Code, Republic Act No. 8293) that would entitle the aggrieved party to a search warrant against the hoarder? This is the issue we grapple with in this petition for review on certiorari involving two rival multinational softdrink giants; petitioner Coca-Cola Bottlers, Phils., Inc. (Coca-Cola) accuses Pepsi Cola Products Phils., Inc. (Pepsi), represented by the respondents, of hoarding empty Coke bottles in bad faith to discredit its business and to sabotage its operation in Bicolandia.

BACKGROUND

The facts, as culled from the records, are summarized below.

On July 2, 2001, Coca-Cola applied for a search warrant against Pepsi for hoarding Coke empty bottles in Pepsi's yard in Concepcion Grande, Naga City, an act allegedly penalized as unfair competition under the IP Code. Coca-Cola claimed that the bottles must be confiscated to preclude their illegal use, destruction or concealment by the respondents.[1] In support of the application, Coca-Cola submitted the sworn statements of three witnesses: Naga plant representative Arnel John Ponce said he was informed that one of their plant security guards had gained access into the Pepsi compound and had seen empty Coke bottles; acting plant security officer Ylano A. Regaspi said he investigated reports that Pepsi was hoarding large quantities of Coke bottles by requesting their security guard to enter the Pepsi plant and he was informed by the security guard that Pepsi hoarded several Coke bottles; security guard Edwin Lirio stated that he entered Pepsi's yard on July 2, 2001 at 4 p.m. and saw empty Coke bottles inside Pepsi shells or cases.[2]

Municipal Trial Court (MTC) Executive Judge Julian C. Ocampo of Naga City, after taking the joint deposition of the witnesses, issued Search Warrant No. 2001-01[3] to seize 2,500 Litro and 3,000 eight and 12 ounces empty Coke bottles at Pepsi's Naga yard for violation of Section 168.3 (c) of the IP Code.[4] The local police seized and brought to the MTC's custody 2,464 Litro and 4,036 eight and 12 ounces empty Coke bottles, 205 Pepsi shells for Litro, and 168 Pepsi shells for smaller (eight and 12 ounces) empty Coke bottles, and later filed with the Office of the City Prosecutor of Naga a complaint against two Pepsi officers for violation of Section 168.3 (c) in relation to Section 170 of the IP Code.[5] The named respondents, also the respondents in this petition, were Pepsi regional sales manager Danilo E. Galicia (Galicia) and its Naga general manager Quintin J. Gomez, Jr. (Gomez).

In their counter-affidavits, Galicia and Gomez claimed that the bottles came from various Pepsi retailers and

wholesalers who included them in their return to make up for shortages of empty Pepsi bottles; they had no way of ascertaining beforehand the return of empty Coke bottles as they simply received what had been delivered; the presence of the bottles in their yard was not intentional nor deliberate; Ponce and Regaspi's statements are hearsay as they had no personal knowledge of the alleged crime; there is no mention in the IP Code of the crime of possession of empty bottles; and that the ambiguity of the law, which has a penal nature, must be construed strictly against the State and liberally in their favor. Pepsi security guards Eduardo E. Miral and Rene Acebuche executed a joint affidavit stating that per their logbook, Lirio did not visit or enter the plant premises in the afternoon of July 2, 2001.

The respondents also filed motions for the return of their shells and to quash the search warrant. They contended that no probable cause existed to justify the issuance of the search warrant; the facts charged do not constitute an offense; and their Naga plant was in urgent need of the shells.

Coca-Cola opposed the motions as the shells were part of the evidence of the crime, arguing that Pepsi used the shells in hoarding the bottles. It insisted that the issuance of warrant was based on probable cause for unfair competition under the IP Code, and that the respondents violated R.A. 623, the law regulating the use of stamped or marked bottles, boxes, and other similar containers.

THE MTC RULINGS

On September 19, 2001, the MTC issued the first assailed order^[6] denying the twin motions. It explained there was an exhaustive examination of the applicant and its witnesses through searching questions and that the Pepsi shells are prima facie evidence that the bottles were placed there by the respondents.

In their motion for reconsideration, the respondents argued for the quashal of the warrant as the MTC did not conduct a probing and exhaustive examination; the applicant and its witnesses had no personal knowledge of facts surrounding the hoarding; the court failed to order the return of the "borrowed" shells; there was no crime involved; the warrant was issued based on hearsay evidence; and the seizure of the shells was illegal because they were not included in the warrant.

On November 14, 2001, the MTC denied the motion for reconsideration in the second assailed order,^[7] explaining that the issue of whether there was unfair competition can only be resolved during trial.

The respondents responded by filing a petition for certiorari under Rule 65 of the Revised Rules of Court before the Regional Trial Court (RTC) of Naga City on the ground that the subject search warrant was issued without probable cause and that the empty shells were neither mentioned in the warrant nor the objects of the perceived crime.

THE RTC RULINGS

On May 8, 2002, the RTC voided the warrant for lack of probable cause and the non-commission of the crime of unfair competition, even as it implied that other laws may have been violated by the respondents. The RTC, though, found no grave abuse of discretion on the part of the issuing MTC judge.^[8] Thus,

Accordingly, as prayed for, Search Warrant No. 2001-02 issued by the Honorable Judge Julian C. Ocampo III on July 2, 2001 is ANNULLED and SET ASIDE. The Orders issued by the Pairing Judge of Br. 1, MTCC of Naga City dated September 19, 2001 and November 14, 2001 are also declared VOID and SET ASIDE. The City Prosecutor of Naga City and SPO1 Ernesto Paredes are directed to return to the Petitioner the properties seized by virtue of Search Warrant No. 2001-02. No costs.

SO ORDERED.^[9]

In a motion for reconsideration, which the RTC denied on July 12, 2002, the petitioner stressed that the decision of the RTC was contradictory because it absolved Judge Ocampo of grave abuse of discretion in issuing the search warrant, but at the same time nullified the issued warrant. The MTC should have dismissed the petition when it found out that Judge Ocampo did not commit any grave abuse of discretion.

Bypassing the Court of Appeals, the petitioner asks us through this petition for review on certiorari under Rule 45 of the Rules of Court to reverse the decision of the RTC. Essentially, the petition raises questions against the RTC's nullification of the warrant when it found no grave abuse of discretion committed by the issuing judge.

THE PETITION and THE PARTIES' POSITIONS

In its petition, the petitioner insists the RTC should have dismissed the respondents' petition for certiorari because it found no grave abuse of discretion by the MTC in issuing the search warrant. The petitioner further argues that the IP Code was enacted into law to remedy various forms of unfair competition accompanying globalization as well as to replace the inutile provision of unfair competition under Article 189 of the Revised Penal Code. Section 168.3(c) of the IP Code does not limit the scope of protection on the particular acts enumerated as it expands the meaning of unfair competition to include "other acts contrary to good faith of a nature calculated to discredit the goods, business or services of another." The inherent element of unfair competition is fraud or deceit, and that hoarding of large quantities of a competitor's empty bottles is necessarily characterized by bad faith. It claims that its Bicol bottling operation was prejudiced by the respondents' hoarding and destruction of its empty bottles.

The petitioner also argues that the quashal of the search warrant was improper because it complied with all the essential requisites of a valid warrant. The empty bottles were concealed in Pepsi shells to prevent discovery while they were systematically being destroyed to hamper the petitioner's bottling operation and to undermine the capability of its bottling operations in Bicol.

The respondents counter-argue that although Judge Ocampo conducted his own examination, he gravely erred and abused his discretion when he ignored the rule on the need of sufficient evidence to establish probable cause; satisfactory and convincing evidence is essential to hold them guilty of unfair competition; the hoarding of empty Coke bottles did not cause actual or probable deception and confusion on the part of the general public; the alleged criminal acts do not show conduct aimed at deceiving the public; there was no attempt to use the empty bottles or pass them off as the respondents' goods.

The respondents also argue that the IP Code does not criminalize bottle hoarding, as the acts penalized must always involve fraud and deceit. The hoarding does not make them liable for unfair competition as there was no deception or fraud on the end-users.

THE ISSUE

Based on the parties' positions, the basic issue submitted to us for resolution is whether the Naga MTC was correct in issuing Search Warrant No. 2001-01 for the seizure of the empty Coke bottles from Pepsi's yard for probable violation of Section 168.3 (c) of the IP Code. This basic issue involves two sub-issues, namely, the substantive issue of whether the application for search warrant effectively charged an offense, i.e., a violation of Section 168.3 (c) of the IP Code; and the procedural issue of whether the MTC observed the procedures required by the Rules of Court in the issuance of search warrants.

OUR RULING

We resolve to deny the petition for lack of merit.

We clarify at the outset that while we agree with the RTC decision, our agreement is more in the result than in the reasons that supported it. The decision is correct in nullifying the search warrant because it was issued on an invalid substantive basis - the acts imputed on the respondents do not violate Section 168.3 (c) of the IP Code. For this reason, we deny the present petition.

The issuance of a search warrant^[10] against a personal property^[11] is governed by Rule 126 of the Revised Rules of Court whose relevant sections state:

Section 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.

Section 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.

Section 6. Issuance and form of search warrant. — If the judge is satisfied of the existence of facts upon which the application is based or that there is probable cause to believe that they exist, he shall issue the warrant, which must be substantially in the form prescribed by these Rules. [Emphasis supplied]

To paraphrase this rule, a search warrant may be issued only if there is probable cause in connection with a specific offense alleged in an application based on the personal knowledge of the applicant and his or her witnesses. This is the substantive requirement in the issuance of a search warrant. Procedurally, the determination of probable cause is a personal task of the judge before whom the application for search warrant is filed, as he has to examine under oath or affirmation the applicant and his or her witnesses in the form of "searching questions and answers" in writing and under oath. The warrant, if issued, must particularly describe the place to be searched and the things to be seized.

We paraphrase these requirements to stress that they have substantive and procedural aspects. Apparently, the RTC recognized this dual nature of the requirements and, hence, treated them separately; it approved of the way the MTC handled the procedural aspects of the issuance of the search warrant but found its action on the substantive aspect wanting. It therefore resolved to nullify the warrant, without however expressly declaring that the MTC gravely abused its discretion when it issued the warrant applied for. The RTC's error, however, is in the form rather than the substance of the decision as the nullification of the issued warrant for the reason the RTC gave was equivalent to the declaration that grave abuse of discretion was committed. In fact, we so rule as the discussions below will show.

Jurisprudence teaches us that probable cause, as a condition for the issuance of a search warrant, is such reasons supported by facts and circumstances as will warrant a cautious man in the belief that his action and the means taken in prosecuting it are legally just and proper. Probable cause requires 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.^[12] Implicit in this statement is the recognition that an underlying offense must, in the first place, exist. In other words, the acts alleged, taken together, must constitute an offense and that these acts are imputable to an offender in relation with whom a search warrant is applied for.

In the context of the present case, the question is whether the act charged - alleged to be hoarding of empty Coke bottles - constitutes an offense under Section 168.3 (c) of the IP Code. Section 168 in its entirety states:

SECTION 168. Unfair Competition, Rights, Regulation and Remedies. —

168.1. A person who has identified in the mind of the public the goods he manufactures or deals in, his business or services from those of others, whether or not a registered mark is employed, has a property right in the goodwill of the said goods, business or services so identified, which will be protected in the same manner as other property rights.

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 goods or any agent of any vendor engaged in selling such goods with a like purpose;

(b) Any person who by any artifice, or device, or who employs any other means calculated to induce the false belief that such person is offering the services of another who has identified such services in the mind of the public; or

(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.

168.4. The remedies provided by Sections 156, 157 and 161 shall apply mutatis mutandis. (Sec. 29, R.A. No. 166a)

The petitioner theorizes that the above section does not limit the scope of protection on the particular acts enumerated as it expands the meaning of unfair competition to include "other acts contrary to good faith of a nature calculated to discredit the goods, business or services of another." Allegedly, the respondents' hoarding of Coca Cola empty bottles is one such act.

We do not agree with the petitioner's expansive interpretation of Section 168.3 (c).

"Unfair competition," previously defined in Philippine jurisprudence in relation with R.A. No. 166 and Articles 188 and 189 of the Revised Penal Code, is now covered by Section 168 of the IP Code as this Code has expressly repealed R.A. No. 165 and R.A. No. 166, and Articles 188 and 189 of the Revised Penal Code.

Articles 168.1 and 168.2, as quoted above, provide the concept and general rule on the definition of unfair competition. The law does not thereby cover every unfair act committed in the course of business; it covers only acts characterized by "deception or any other means contrary to good faith" in the passing off of goods and services as those of another who has established goodwill in relation with these goods or services, or any other act calculated to produce the same result.

What unfair competition is, is further particularized under Section 168.3 when it provides specifics of what unfair

competition is "without in any way limiting the scope of protection against unfair competition." Part of these particulars is provided under Section 168.3(c) which provides the general "catch-all" phrase that the petitioner cites. Under this phrase, a person shall be guilty of unfair competition "who shall commit any other act contrary to good faith of a nature calculated to discredit the goods, business or services of another."

From jurisprudence, unfair competition has been defined as the passing off (or palming off) or attempting to pass off upon the public the goods or business of one person as the goods or business of another with the end and probable effect of deceiving the public. It formulated the "true test" of unfair competition: whether the acts of defendant are such as are calculated to deceive the ordinary buyer making his purchases under the ordinary conditions which prevail in the particular trade to which the controversy relates.[13] One of the essential requisites in an action to restrain unfair competition is proof of fraud; the intent to deceive must be shown before the right to recover can exist.[14] The advent of the IP Code has not significantly changed these rulings as they are fully in accord with what Section 168 of the Code in its entirety provides. Deception, passing off and fraud upon the public are still the key elements that must be present for unfair competition to exist.

The act alleged to violate the petitioner's rights under Section 168.3 (c) is hoarding which we gather to be the collection of the petitioner's empty bottles so that they can be withdrawn from circulation and thus impede the circulation of the petitioner's bottled products. This, according to the petitioner, is an act contrary to good faith - a conclusion that, if true, is indeed an unfair act on the part of the respondents. The critical question, however, is not the intrinsic unfairness of the act of hoarding; what is critical for purposes of Section 168.3 (c) is to determine if the hoarding, as charged, "is of a nature calculated to discredit the goods, business or services" of the petitioner.

We hold that it is not. Hoarding as defined by the petitioner is not even an act within the contemplation of the IP Code.

The petitioner's cited basis is a provision of the IP Code, a set of rules that refer to a very specific subject - intellectual property. Aside from the IP Code's actual substantive contents (which relate specifically to patents, licensing, trademarks, trade names, service marks, copyrights, and the protection and infringement of the intellectual properties that these protective measures embody), the coverage and intent of the Code is expressly reflected in its "Declaration of State Policy" which states:

Section 2. Declaration of State Policy. — The State recognizes that an effective intellectual and industrial property system is vital to the development of domestic and creative activity, facilitates transfer of technology, attracts foreign investments, and ensures market access for our products. It shall protect and secure the exclusive rights of scientists, inventors, artists and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people, for such periods as provided in this Act.

The use of intellectual property bears a social function. To this end, the State shall promote the diffusion of knowledge and information for the promotion of national development and progress and the common good.

It is also the policy of the State to streamline administrative procedures of registering patents, trademarks and copyright, to liberalize the registration on the transfer of technology, and to enhance the enforcement of intellectual property rights in the Philippines. (n)

"Intellectual property rights" have furthermore been defined under Section 4 of the Code to consist of: a) Copyright and Related Rights; b) Trademarks and Service Marks; c) Geographic Indications; d) Industrial Designs; e) Patents; f) Layout-Designs (Topographies) of Integrated Circuits; and g) Protection of Undisclosed Information.

Given the IP Code's specific focus, a first test that should be made when a question arises on whether a matter is covered by the Code is to ask if it refers to an intellectual property as defined in the Code. If it does not, then

coverage by the Code may be negated.

A second test, if a disputed matter does not expressly refer to an intellectual property right as defined above, is whether it falls under the general "unfair competition" concept and definition under Sections 168.1 and 168.2 of the Code. The question then is whether there is "deception" or any other similar act in "passing off" of goods or services to be those of another who enjoys established goodwill.

Separately from these tests is the application of the principles of statutory construction giving particular attention, not so much to the focus of the IP Code generally, but to the terms of Section 168 in particular. Under the principle of "noscitur a sociis," when a particular word or phrase is ambiguous in itself or is equally susceptible of various meanings, its correct construction may be made clear and specific by considering the company of words in which it is found or with which it is associated.[15]

As basis for this interpretative analysis, we note that Section 168.1 speaks of a person who has earned goodwill with respect to his goods and services and who is entitled to protection under the Code, with or without a registered mark. Section 168.2, as previously discussed, refers to the general definition of unfair competition. Section 168.3, on the other hand, refers to the specific instances of unfair competition, with Section 168.1 referring to the sale of goods given the appearance of the goods of another; Section 168.2, to the inducement of belief that his or her goods or services are that of another who has earned goodwill; while the disputed Section 168.3 being a "catch all" clause whose coverage the parties now dispute.

Under all the above approaches, we conclude that the "hoarding" - as defined and charged by the petitioner - does not fall within the coverage of the IP Code and of Section 168 in particular. It does not relate to any patent, trademark, trade name or service mark that the respondents have invaded, intruded into or used without proper authority from the petitioner. Nor are the respondents alleged to be fraudulently "passing off" their products or services as those of the petitioner. The respondents are not also alleged to be undertaking any representation or misrepresentation that would confuse or tend to confuse the goods of the petitioner with those of the respondents, or vice versa. What in fact the petitioner alleges is an act foreign to the Code, to the concepts it embodies and to the acts it regulates; as alleged, hoarding inflicts unfairness by seeking to limit the opposition's sales by depriving it of the bottles it can use for these sales.

In this light, hoarding for purposes of destruction is closer to what another law - R.A. No. 623 - covers, to wit:

SECTION 1. Persons engaged or licensed to engage in the manufacture, bottling or selling of soda water, mineral or aerated waters, cider, milk, cream, or other lawful beverages in bottles, boxes, casks, kegs, or barrels, and other similar containers, with their names or the names of their principals or products, or other marks of ownership stamped or marked thereon, may register with the Philippine Patent Office a description of the names or are used by them, under the same conditions, rules, and regulations, made applicable by law or regulation to the issuance of trademarks.

SECTION 2. It shall be unlawful for any person, without the written consent of the manufacturer, bottler or seller who has successfully registered the marks of ownership in accordance with the provisions of the next preceding section, to fill such bottles, boxes, kegs, barrels, or other similar containers so marked or stamped, for the purpose of sale, or to sell, dispose of, buy, or traffic in, or wantonly destroy the same, whether filled or not, or to use the same for drinking vessels or glasses or for any other purpose than that registered by the manufacturer, bottler or seller. Any violation of this section shall be punished by a fine or not more than one hundred pesos or imprisonment of not more than thirty days or both.

As its coverage is defined under Section 1, the Act appears to be a measure that may overlap or be affected by the provisions of Part II of the IP Code on "The Law on Trademarks, Service Marks and Trade Names." What is

certain is that the IP Code has not expressly repealed this Act. The Act appears, too, to have specific reference to a special type of registrants - the manufacturers, bottlers or sellers of soda water, mineral or aerated waters, cider, milk, cream, or other lawful beverages in bottles, boxes, casks, kegs, or barrels, and other similar containers - who are given special protection with respect to the containers they use. In this sense, it is in fact a law of specific coverage and application, compared with the general terms and application of the IP Code. Thus, under its Section 2, it speaks specifically of unlawful use of containers and even of the unlawfulness of their wanton destruction - a matter that escapes the IP Code's generalities unless linked with the concepts of "deception" and "passing off" as discussed above.

Unfortunately, the Act is not the law in issue in the present case and one that the parties did not consider at all in the search warrant application. The petitioner in fact could not have cited it in its search warrant application since the "one specific offense" that the law allows and which the petitioner used was Section 168.3 (c). If it serves any purpose at all in our discussions, it is to show that the underlying factual situation of the present case is in fact covered by another law, not by the IP Code that the petitioner cites. Viewed in this light, the lack of probable cause to support the disputed search warrant at once becomes apparent.

Where, as in this case, the imputed acts do not violate the cited offense, the ruling of this Court penned by Mr. Justice Bellosillo is particularly instructive:

In the issuance of search warrants, the Rules of Court requires a finding of probable cause in connection with one specific offense to be determined personally by the judge after examination of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the things to be seized. Hence, since there is no crime to speak of, the search warrant does not even begin to fulfill these stringent requirements and is therefore defective on its face. The nullity of the warrant renders moot and academic the other issues raised in petitioners' Motion to Quash and Motion for Reconsideration. Since the assailed search warrant is null and void, all property seized by virtue thereof should be returned to petitioners in accordance with established jurisprudence.[16]

Based on the foregoing, we conclude that the RTC correctly ruled that the petitioner's search warrant should properly be quashed for the petitioner's failure to show that the acts imputed to the respondents do not violate the cited offense. There could not have been any probable cause to support the issuance of a search warrant because no crime in the first place was effectively charged. This conclusion renders unnecessary any further discussion on whether the search warrant application properly alleged that the imputed act of holding Coke empties was in fact a "hoarding" in bad faith aimed to prejudice the petitioner's operations, or whether the MTC duly complied with the procedural requirements for the issuance of a search warrant under Rule 126 of the Rules of Court.

WHEREFORE, we hereby DENY the petition for lack of merit. Accordingly, we confirm that Search Warrant No. 2001-01, issued by the Municipal Trial Court, Branch 1, Naga City, is NULL and VOID. Costs against the petitioner.

SO ORDERED.

Quisumbing, (Acting C.J.), Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] See Paragraph 3 of the Application; records, p. 96.

[2] Id., pp. 98-101.

[3] Id., pp. 108-109.

[4] Sec. 168. Unfair Competition, Rights, Regulations and Remedies. -

xxx xxx xxx

Sec. 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:

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 service of another.

[5] Sec. 170. Penalties. - Independent of the civil and administrative sanctions imposed by law, a criminal penalty of imprisonment from two years to five years and a fine ranging from Fifty thousand pesos (P50,000) to Two hundred thousand pesos (P200,000), shall be imposed on any person who is found guilty of committing any of the acts mentioned in Section 155, Section 168 and Subsection 169.1.

[6] Penned by Pairing Judge Irma Isidora M. Boncodin, MTC, Branch 1, Naga; records, p. 23.

[7] Penned by Acting Presiding Judge Jose P. Nacional, MTC, Branch 1, Naga; id, p. 22.

[8] Decision penned by Judge Ramon A. Cruz, RTC, Branch 21; id., pp. 202-211.

[9] Id., p. 210.

[10] Rule 126, Section 1. Search warrant defined. — A search warrant is an order in writing issued in the name of the People of the Philippines, signed by a judge and directed to a peace officer, commanding him to search for personal property described therein and bring it before the court.

[11] Rule 126, Section 3. Personal property to be seized. — A search warrant may be issued for the search and seizure of personal property:

(a) Subject of the offense;

(b) Stolen or embezzled and other proceeds or fruits of the offense; or

(c) Used or intended to be used as the means of committing an offense.

[12] *La Chemise Lacoste, S. A. v. Judge Fernandez*, G.R. Nos. 63796-97, May 21, 1984, 129 SCRA 373.

[13] *Alhambra Cigar & Cigarette Manufacturing Co v. Mojica*, 27 Phil. 266 (1914).

[14] *Compania General de Tabacos de Filipinas v. Alhambra Cigar & Cigarette Manufacturing Co.*, 33 Phil. 485 (1916).

[15] Agpalo, *Statutory Construction*, 3[rd] (1995) Ed., at p. 159, citing *Co Kim Chan v. Valdez Tan Keh*, 75 Phil 371, and *Soriano v. Sandiganbayan*, G.R. No. 65952, July 1, 1984, among others.

[16] *Supra* note 12, pp. 705-706.

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