

SONY COMPUTER ENTERTAINMENT, INC., PETITIONER, VS. BRIGHT FUTURE TECHNOLOGIES, INC., RESPONDENT.

G.R. NO. 169156. February 15, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On application of Inspector Rommel G. Macatlang of the Philippine National Police, after a complaint was received from petitioner, Sony Computer Entertainment, Inc. (SCEI), eight search warrants[1] for copyright and trademark infringement, of which Search Warrant Nos. 05-6336 and 05-6337 are relevant to the present case, were issued by the Manila Regional Trial Court (RTC) Executive Judge Antonio M. Eugenio, Jr. following which a raid was conducted on the premises of respondent, Bright Future Technologies, Inc. (BFTI), on April 1, 2005. Seized during the raid were the following items:

eight replicating machines
five bonding machines
four printing machines
seven polycarbonate dryers
one table for silk screen
ten moulds
two shredder machines
one color blue centroller
one dryer machine
92 boxes of assorted colors of paint
600 pieces of counterfeit Sony Playstation DVDs
285 boxes of blank CDs
eight boxes of white blank CDs
nine boxes of AL targets
two boxes of sputtering targets
18 gallons of UV bonding adhesive
four gallons of DVD bondage
21 gallons of phothum chemicals
four gallons of CPS mesh prep, and
nine gallons of CD lacquer.[2]

BFTI subsequently filed on April 5, 2005 before Branch 24 of the RTC Manila presided by Judge Eugenio an Urgent Motion to Quash and/or to Exclude or Suppress Evidence and Return Seized Articles,[3] alleging as follows, quoted verbatim:

- The searching team entered the premises and conducted the search without any witness in violation of the Rules of Court;

- The raiding team planted evidence of 600 compact discs at the scene while no witnesses were present;
- Certification against forum shopping prescribed by law was not executed;
- For search warrant to be valid, the master tapes must be presented;
- The statement made by the affiants in their joint-affidavit in support of the application for the search warrant were false and perjurious;
- No probable cause exists for the issuance of the warrant;
- The search conducted was illegal;
- The place to be searched was not described with particularity;
- No bond was posted by the applicant.[4]

SCEI filed an Opposition[5] to the motion, to which BFTI filed a Reply,[6] the latter arguing that SCEI had no personality to represent the People of the Philippines in the case and to file the opposition to the motion because SCEI's agents were mere witnesses of the applicant for the issuance of the search warrants.[7]

On April 11, 2005, acting on a Very Urgent Motion to Inhibit[8] filed by SCEI to which BFTI interposed its objection, Judge Eugenio "voluntarily inhibited" himself from the case.[9] The case was thereafter raffled to Branch 21 of the Manila RTC, presided by Judge Amor A. Reyes.[10]

In the meantime or on April 14, 2005, SCEI, through counsel, filed with the Department of Justice Task Force on Anti-Intellectual Property Piracy a complaint-affidavit against the directors and officers of BFTI.[11]

By Order[12] dated April 18, 2005, the RTC denied BFTI's motion to quash the warrants, it finding that they were regularly issued and implemented, and that a bond is not required in the application for their issuance.

BFTI filed a Motion for Reconsideration[13] of the denial of its motion to quash. It also filed joint motions "for the inhibition of the Honorable Judge Amor Reyes," "for reconsideration of the order of voluntary inhibition dated April 11, 2005," and "for the return of the case to the executive judge." [14]

In an Order dated May 20, 2005, Judge Reyes transmitted the records of the case to the Executive Judge pursuant to A.M. No. 03-8-02.[15] The case was then re-raffled to Branch 8 of the Manila RTC, presided by Judge Felixberto T. Olalia, Jr.[16]

In addressing the issue of SCEI's personality to appear in the proceedings, the RTC held that it would treat SCEI's counsel as "an officer of [the] Court to argue the other side, so to speak, for the clarification of issues related to search and seizure cases and to arrive at a better conclusion and resolution of issues in this case." [17]

The RTC, however, found that the two-witness rule under Section 8 of Rule 126 which provides:

SEC. 8. Search of house, room, or premises to be made in presence of two witnesses. ? No search of a house, room or any other premise shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality. (Underscoring supplied),

was violated and that the searching team's use of a bolt cutter to open the searched premises was unnecessary, hence, it granted BFTI's Motion for Reconsideration of its April 18, 2005 Order by Order of August 8, 2005.[18]

BFTI subsequently filed on August 9, 2005 an Ex Parte Motion to Return Seized Articles[19] which the RTC granted, by Order of August 10, 2005, subject to the filing of a bond.[20] BFTI filed the required bond alright,[21]

and the seized items were turned over to its custody.[22]

Hence, arose SCEI's present Petition for Review on Certiorari under Rule 45[23] which assails the August 8 and August 10, 2005 Orders of the court a quo, contending that the RTC erred

- (1) . . . when it disregarded [its] clear right . . . to appear and participate as a private complainant in the search warrant proceedings;
- (2) . . . when it granted respondent's Motion to Quash based on questions of alleged irregularities by the peace officers in enforcing the search warrants.
- (a) . . . when it ruled that the use of the bolt cutter violated Section 7 of Rule 126.
- (b) . . . when it ruled that the enforcement of the search warrant violated the two-witness rule provided in Section 8 of Rule 126;
- [3] . . . when it ordered the immediate release of the seized property prior to the finality of the order quashing the search warrants.
- (a) . . . when it released the seized properties by virtue of the filing of a bond by the respondent.[24]

The issue of whether a private complainant, like SCEI, has the right to participate in search warrant proceedings was addressed in the affirmative in *United Laboratories, Inc. v. Isip*: [25]

. . . [A] private individual or a private corporation complaining to the NBI or to a government agency charged with the enforcement of special penal laws, such as the BFAD, may appear, participate and file pleadings in the search warrant proceedings to maintain, inter alia, the validity of the search warrant issued by the court and the admissibility of the properties seized in anticipation of a criminal case to be filed; such private party may do so in collaboration with the NBI or such government agency. The party may file an opposition to a motion to quash the search warrant issued by the court, or a motion for the reconsideration of the court order granting such motion to quash.[26] (Emphasis and underscoring supplied)

When SCEI then opposed BFTI's Urgent Motion to Quash and/or to Suppress or Exclude Evidence and Return Seized Articles (emphasis supplied), the RTC correctly recognized the participation of SCEI in the proceedings.

As for the use of a bolt cutter to gain access to the premises of BFTI, it was, under the circumstances, reasonable, contrary to the RTC's finding that it was unnecessary. For, as the RTC itself found, after the members of the searching team introduced themselves to the security guards of BFTI and showed them the search warrants, the guards refused to receive the warrants and to open the premises, they claiming that "they are not in control of the case." [27] The conditions required under Section 7 of Rule 126 were thus complied with:

The officer, if refused admittance to the place of directed search after giving notice of his purpose and authority, may break open any outer or inner door or window of a house or any part of a house or anything therein to execute the warrant or liberate himself or any person lawfully aiding him when unlawfully detained therein. (Underscoring supplied)

The RTC's finding that the two-witness rule governing the execution of search warrant was not complied with, which rule is mandatory to ensure regularity in the execution of the search warrant,[28] is in order, however.

Observed the RTC:

At this point, it is worthy of note [sic] the two statements issued by Barangay Police Subrino P. de Castro and Gaudencio A. Masambique who affirmed in their testimonies in Court that, to wit:

x x x x

3. Noong ako ay makarating sa nasabing lugar nadatnan ko ang mga pulis at mga miyembro ng Raiding Team na nasa loob na ng gusali ng Bright Future at nagsisiyasat sa mga gamit at makinaryang naroroon. Pagkatapos ay nilapitan ako ng isang pulis at ipinatanggap sa akin ang nasabing search warrant.

The police were already searching (“nagsisiyasat”) the area of respondent BFTI in clear violation of the two-witness rule provided for by Section 8 of Rule 126. These statements of the two Barangay Police ostensibly arriving late while a search was going on was corroborated by Insp. Macatlang’s testimony that the Barangay officials arrived at about 11:30 PM to 12 AM.[29] (Underscoring supplied)

The RTC did not thus err in ordering the quashal of the search warrants.

SCEI insists, however, that the searching team waited for the arrival of the barangay officials who were summoned to witness the search,[30] and that “[e]ven when the enforcing officers were moving towards the actual BFTI premises . . . they were accompanied at all times by one of the security guards on duty until the barangay officials arrived.”[31] SCEI’s position raises an issue of fact which is not proper for consideration in a petition for review on certiorari before this Court under Rule 45, which is supposed to cover only issues of law.[32] In any event, a security guard may not be considered a “lawful occupant” or “a member of [the lawful occupant’s] family” under the earlier quoted Section 8 of Rule 126.

As the two-witness rule was not complied with, the objects seized during the April 1, 2005 search are inadmissible in evidence. Their return, on motion of BFTI, was thus in order.[33]

A final word. The RTC order requiring BFTI to file a bond to ensure the return of the seized items should the Department of Justice find probable cause against it in I.S. No. 2005-315, SCEI v. Anthony Bryan B. Sy, et al., has no basis in law. Besides, the seized items being inadmissible in evidence, it would serve no purpose to ensure their return.

WHEREFORE, the petition is DENIED.

The August 8, 2005 Order of the Regional Trial Court of Manila, Branch 8 granting the Urgent Motion to Quash filed by respondent, Bright Future Technologies, Inc., is AFFIRMED.

The August 10, 2005 Order granting the Ex Parte Motion to Return Seized Articles filed by respondent is AFFIRMED, with the MODIFICATION that the portion requiring respondent to file a bond is SET ASIDE. Let the bond then filed by respondent be CANCELLED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga and Velasco, Jr., JJ., concur.

[1] RTC records, Vol. I, pp. 181-182, 184-185, 187-188, 190-191, 193-194, 196-197, 199-200, 202-203.

[2] Id. at 305-306.

[3] Id. at 240-258.

[4] Id. at 243-244.

[5] Id. at 493-514.

[6] Id. at 528-535.

[7] Id. at 529.

- [8] Id. at 428-436.
- [9] Id. at 462.
- [10] Vide RTC records, Vol. I, p. 527.
- [11] RTC records, Vol. 2, pp. 222-231; Rollo, p. 14.
- [12] RTC records, Vol. 1, pp. 538-540.
- [13] Id. at 556-567.
- [14] Id. at 547-555.
- [15] Id. at 596.
- [16] Vide RTC records, Vol. 2, p. 4.
- [17] RTC records, Vol. 3, p. 261.
- [18] Id. at 264-265.
- [19] Id. at 266-268.
- [20] Id. at 272-274.
- [21] Id. at 275.
- [22] Id. at 279-284.
- [23] Rollo, pp. 3-44.
- [24] Id. at 20.
- [25] G.R. No. 163858, June 28, 2005, 461 SCRA 574.
- [26] Id. at 592, citing 20[th] Century Fox v. Court of Appeals (G.R. No. L-76649-51, August 19, 1988, 164 SCRA 655). In 20[th] Century Fox v. Court of Appeals, this Court did not deny the private complainant the personality to appear in the search warrant proceedings.
- [27] RTC records, Vol. 3, p. 264.
- [28] People v. Gesmundo, G.R. No. 89373, March 9, 1993, 219 SCRA 743, 751.
- [29] RTC records, Vol. 3, pp. 263-264. Vide RTC records, Vol. 2, pp. 191-192; RTC records, Vol. 3, pp. 129-133, 136-139.
- [30] Rollo, p. 35.
- [31] Id. at 34.
- [32] Vide Rules of Court, Rule 41, Section 2 (c); Sps. Calvo v. Sps. Vergara, 423 Phil. 939, 947 (2001).
- [33] Vide Rep. of the Philippines v. Sandiganbayan, 454 Phil. 504, 550 (2003).

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