

ROMER SY TAN, PETITIONER, VS. SY TIONG GUE, FELICIDAD CHAN SY, SY CHIM, SY TIONG SAN, SY YU BUN, SY YU SHIONG, SY YU SAN, AND BRYAN SY LIM, RESPONDENTS.

G.R. No. 174570. December 15, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

On February 17, 2010, this Court rendered a Decision[1] in G.R. No. 174570 entitled *Romer Sy Tan v. Sy Tiong Gue, et al.*, the decretal portion of which reads, as follows:

WHEREFORE, premises considered, the petition is GRANTED. The Decision and Resolution dated December 29, 2005 and August 18, 2006, respectively, of the Court of Appeals in CA-G.R. SP No. 81389 are REVERSED and SET ASIDE. The Orders of the RTC dated September 1, 2003 and October 28, 2003 are REINSTATED. The validity of Search Warrant Nos. 03-3611 and 03-3612 is SUSTAINED.

On March 22, 2010, respondents filed a Motion for Reconsideration[2] wherein respondents informed this Court, albeit belatedly, that the Regional Trial Court (RTC) granted their motion for the withdrawal of the Information filed in Criminal Case No. 06-241375. As such, respondents prayed that the decision be reconsidered and set aside and that the quashal of the subject search warrants be rendered moot and academic on the basis of the dismissal of the criminal case.

In his Comment[3] dated July 7, 2010, petitioner maintains that the motion is a mere reiteration of what respondents have previously alleged in their Comment and which have been passed upon by this Court in the subject decision. Petitioner alleges that he also filed with the Office of the City Prosecutor of Manila a Complaint for Qualified Theft against the respondents based on the same incidents and that should the Information for Qualified Theft be filed with the proper court, the items seized by virtue of the subject search warrants will be used as evidence therein.

On August 6, 2010, respondents filed their Reply.

On September 8, 2010, this Court issued a Resolution[4] wherein respondents were required to submit a certified true copy of the Order of the RTC dated November 14, 2008, which granted their motion to withdraw the information.

On October 22, 2010, respondents complied with the Court's directive and submitted a certified true copy of the Order.[5]

In granting the motion to withdraw the Information, the RTC took into consideration the Amended Decision of the Court of Appeals (CA) in CA-G.R. SP No. 90368 dated August 29, 2006, which affirmed the findings of the City Prosecutor of Manila and the Secretary of Justice that the elements of Robbery, i.e., unlawful taking with intent to gain, with force and intimidation, were absent. Thus, there was lack of probable cause, warranting the withdrawal of the Information.[6] The RTC also considered that the said pronouncements of the CA were

affirmed by no less than this Court in G.R. No. 177829 in the Resolution[7] dated November 12, 2007.

Accordingly, the RTC granted respondents' motion to withdraw the information without prejudice, the dispositive portion of which reads:

WHEREFORE, the motion to withdraw information is hereby GRANTED and the case is DISMISSED without prejudice.

SO ORDERED.

Consequently, in view of the withdrawal of the Information for Robbery, the quashal of the subject search warrants and the determination of the issue of whether or not there was probable cause warranting the issuance by the RTC of the said search warrants for respondents' alleged acts of robbery has been rendered moot and academic. Verily, there is no more reason to further delve into the propriety of the quashal of the search warrants as it has no more practical legal effect.[8]

Furthermore, even if an Information for Qualified Theft be later filed on the basis of the same incident subject matter of the dismissed case of robbery, petitioner cannot include the seized items as part of the evidence therein. Contrary to petitioner's contention, he cannot use the items seized as evidence in any other offense except in that in which the subject search warrants were issued. Section 4, Rule 126 of the Revised Rules of Court provides:

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 things to be seized which may be anywhere in the Philippines.

Thus, a search warrant may be issued only if there is probable cause in connection with only one specific offense alleged in an application on the basis of the applicant's personal knowledge and his or her witnesses. Petitioner cannot, therefore, utilize the evidence seized by virtue of the search warrants issued in connection with the case of Robbery in a separate case of Qualified Theft, even if both cases emanated from the same incident.

Moreover, considering that the withdrawal of the Information was based on the findings of the CA, as affirmed by this Court, that there was no probable cause to indict respondents for the crime of Robbery absent the essential element of unlawful taking, which is likewise an essential element for the crime of Qualified Theft, all offenses which are necessarily included in the crime of Robbery can no longer be filed, much more, prosper.

Based on the foregoing, the Court resolves to Grant the motion.

WHEREFORE, premises considered, the Motion for Reconsideration filed by the respondents is GRANTED. The Decision of this Court dated February 17, 2010 is RECONSIDERED and SET ASIDE. The petition filed by Romer Sy Tan is DENIED for being MOOT and ACADEMIC.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Nachura, and Mendoza, JJ., concur.

[1] Rollo, pp. 241-251.

[2] Id. at 252-272.

[3] Id. at 280-284.

[4] Id. at 346.

[5] Id. at 350-351.

[6] CA-G.R. SP No. 90368, Amended Decision dated August 26, 2006, p. 6; rollo, pp. 180-191.

[7] Rollo (Sy Siy Ho & SONA, Inc. v. Sy Tiong Gui, at al., G.R. No. 177829), pp. 906-907.

[8] See Drugmaker's Laboratories, Inc. v. Jose, G.R. No. 128766, October 9, 2006, 504 SCRA 9.

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