

**PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, PETITIONER,
VS. ABIGAIL R. RAZON ALVAREZ AND VERNON R. RAZON,
RESPONDENTS.**

G.R. No. 179408. March 05, 2014

Ponente: BRION, J.

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BRION, J.:

Before the Court is a petition for review on certiorari[1] assailing the decision[2] dated August 11, 2006 and the resolution[3] dated August 22, 2007 of the Court of Appeals (CA) in CA-G.R. SP No. 89213 on the validity of the four search warrants issued by the Regional Trial Court (RTC) of Pasay City, Branch 115.

The CA rulings (i) quashed the first two search warrants, similarly docketed as Search Warrant No. 03-063, issued for violation of Article 308, in relation to Article 309, of the Revised Penal Code (RPC), and (ii) declared void paragraphs 7, 8 and 9 of the other two search warrants, also similarly docketed as Search Warrant No. 03-064, issued for violation of Presidential Decree (PD) No. 401.[4]

FACTUAL ANTECEDENTS

Philippine Long Distance Telephone Company (PLDT) is the grantee of a legislative franchise[5] which authorizes it to carry on the business of providing basic and enhanced telecommunications services in and between areas in the Philippines and between the Philippines and other countries and territories,[6] and, accordingly, to establish, operate, manage, lease, maintain and purchase telecommunications system for both domestic and international calls.[7] Pursuant to its franchise, PLDT offers to the public wide range of services duly authorized by the National Telecommunications Commission (NTC).

PLDT's network is principally composed of the Public Switch Telephone Network, telephone handsets and/or telecommunications equipment used by its subscribers, the wires and cables linking these handsets and/or equipment, antennae, transmission facilities, the international gateway facility (IGF) and other telecommunications equipment providing interconnections.[8] To safeguard the integrity of its network, PLDT regularly conducts investigations on various prepaid cards marketed and sold abroad to determine alternative calling patterns (ACP) and network fraud that are being perpetrated against it.

To prevent or stop network fraud, PLDT's ACP Detection Division (ACPDD) regularly visits foreign countries to conduct market research on various prepaid phone cards offered abroad that allow their users to make overseas calls to PLDT subscribers in the Philippines at a cheaper rate.

The ACPDD bought The Number One prepaid card — a card principally marketed to Filipinos residing in the United Kingdom for calls to the Philippines - to make test calls using two telephone lines: the dialing phone - an IDD-capable[9] telephone line which makes the call and through which the access number and the PIN number printed at the back of the card are entered; and the receiving phone - a caller identification (caller id) unit-equipped telephone line which would receive the call and reflect the incoming caller's telephone number.

During a test call placed at the PLDT-ACPDD office, the receiving phone reflected a PLDT telephone number (2-8243285) as the calling number used, as if the call was originating from a local telephone in Metro Manila. Upon verification with the PLDT's Integrated Customer Management (billing) System, the ACPDD learned that the subscriber of the reflected telephone number is Abigail R. Razon Alvarez, with address at 17 Dominic Savio St., Savio Compound, Barangay Don Bosco, Parañaque City. It further learned that several lines are installed at this address with Abigail and Vernon R. Razon (respondents), among others, as subscribers.[10]

To validate its findings, the ACPDD conducted the same test calls on November 5, 2003 at the premises of the NTC in Quezon City (and in the presence of an NTC representative[11]) using the same prepaid card (validation test). The receiving phone at the NTC premises reflected the telephone numbers registered in the name of Abigail as the calling number from the United Kingdom.[12]

Similar test calls subsequently conducted using the prepaid cards Unity Card and IDT Supercalling Card revealed the same results. The caller-id-equipped receiving phone reflected telephone numbers[13] that are in the names of Experto Enterprises and Experto Phils, as subscribers, with a common address at No. 38 Indonesia St., Better Living Subdivision, Barangay Don Bosco, Parañaque City. It turned out that the actual occupant of these premises is also Abigail. Subsequently, a validation test was also conducted, yielding several telephone numbers registered in the name of Experto Phils./Experto Enterprises as the calling numbers supposedly from the United Kingdom.[14]

According to PLDT, had an ordinary and legitimate call been made, the screen of the caller-id-equipped receiving phone would not reflect a local number or any number at all. In the cards they tested, however, once the caller enters the access and pin numbers, the respondents would route the call via the internet to a local telephone number (in this case, a PLDT telephone number) which would connect the call to the receiving phone. Since calls through the internet never pass the toll center of the PLDT's IGF, users of these prepaid cards can place a call to any point in the Philippines (provided the local line is NDD-capable) without the call appearing as coming from abroad.[15]

On November 6, 2003 and November 19, 2003, Mr. Lawrence Narciso of the PLDT's Quality Control Division, together with the operatives of the Philippine National Police (PNP), conducted an ocular inspection at 17 Dominic Savio St., Savio Compound and at No. 38 Indonesia St., Better Living Subdivision - both in Barangay Don Bosco, Paranaque City - and discovered that PLDT telephone lines were connected to several pieces of equipment.[16] Mr. Narciso narrated the results of the inspection, thus -

10. During [the] ocular inspection [at 17 Dominic Savio St., Savio Compound], Ms. Abigail Razon Alvarez allowed us to gain entry and check the telephone installations within their premises. First, we checked the location of the telephone protectors that are commonly installed at a concrete wall boundary inside the compound. Some of these protectors are covered with a fabricated wooden cabinet. Other protectors are installed beside the said wooden cabinet, xxx. The inside wiring installations from telephone protectors to connecting block were routed to the said adjacent room passing through the house ceiling.

11. xxx. Upon entering the so-called adjacent room, we immediately noticed that the PLDT telephone lines were connected to the equipment situated at multi-layered rack. The equipment room contains the following:

- a. 6 Quintum router;
- b. 13 Com router;
- c. 1 Cisco 800 router;
- d. 1 Nokia Modem for PLDT DSL;

e. 1 Meridian Subscriber's Unit[;]

f. 5 Personal Computers[;]

g. 1 Computer Printer[; and]

h. 1 Flat-bed Scanner[.]

12. We also noticed that these routers are connected to the Meridian's subscriber unit ("SU") that has an outdoor antenna installed on the top of the roof. Meridian's SU and outdoor antenna are service components used to connect with wireless broadband internet access service of Meridian Telekoms.

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18. During the site inspection [at No. 38 Indonesia St., Better Living Subdivision], we noticed that the protector of each telephone line/number xxx were enclosed in a fabricated wooden cabinet with safety padlock. Said wooden cabinet was situated on the concrete wall inside the compound near the garage entrance gate. The telephone inside the wiring installations from the protector to the connecting blocks were placed in a plastic electrical conduit routed to the adjacent room at the second floor.[17]

On December 3, 2003, Police Superintendent Gilbert C. Cruz filed a consolidated application for a search warrant[18] before Judge Francisco G. Mendiola of the RTC, for the crimes of theft and violation of PD No. 401. According to PLDT, the respondents are engaged in a form of network fraud known as International Simple Resale (ISR) which amounts to theft under the RPC.

ISR is a method of routing and completing international long distance calls using lines, cables, antennae and/or wave frequencies which are connected directly to the domestic exchange facilities of the country where the call is destined (terminating country); and, in the process, bypassing the IGF at the terminating country.[19]

Judge Mendiola found probable cause for the issuance of the search warrants applied for. Accordingly, four search warrants[20] were issued for violations of Article 308, in relation to Article 309, of the RPC (SW A-1 and SW A-2) and of PD No. 401, as amended (SW B-1 and SW B-2) for the ISR activities being conducted at 17 Dominic Savio St., Savio Compound and at No. 38 Indonesia St., Better Living Subdivision, both in Barangay Don Bosco, Paranaque City. The four search warrants enumerated the objects to be searched and seized as follows:

1. MERIDIAN SUBSCRIBERS UNIT AND PLDT DSL LINES and/or CABLES AND ANTENNAS and/or similar equipment or device capable of transmitting air waves or frequency, such as a Meridian Subscriber's Unit, Broadband DSL and telephone lines;
2. PERSONAL COMPUTERS or any similar equipment or device capable of accepting information applying the prescribed process of the information and supplying the result of this process;
3. NOKIA MODEM or any similar equipment or device that enables data terminal equipment such as computers to communicate with other data terminal equipment via a telephone line;
4. QUINTUM Equipment or any similar equipment capable of receiving digital signals from the internet and converting those signals to voice;
5. QUINTUM, 3COM AND CISCO Routers or any similar equipment capable of switching packets of data to their assigned destination or addresses;
6. LINKS DSL SWITCH or any similar equipment capable of switching data;

7. COMPUTER PRINTERS AND SCANNERS or any similar equipment or device used for copying and/or printing data and/or information;
8. SOFTWARE, DISKETTES, TAPES or any similar equipment or device used for recording or storing information; and
9. Manuals, phone cards, access codes, billing statements, receipts, contracts, checks, orders, communications and documents, lease and/or subscription agreements or contracts, communications and documents relating to securing and using telephone lines and/or equipment[.][21]

On the same date, the PNP searched the premises indicated in the warrants. On December 10, 2003, a return was made with a complete inventory of the items seized.[22] On January 14, 2004, the PLDT and the PNP filed with the Department of Justice a joint complaint-affidavit for theft and for violation of PD No. 401 against the respondents.[23]

On February 18, 2004, the respondents filed with the RTC a motion to quash[24] the search warrants essentially on the following grounds: first, the RTC had no authority to issue search warrants which were enforced in Parañaque City; second, the enumeration of the items to be searched and seized lacked particularity; and third, there was no probable cause for the crime of theft.

On March 12, 2004, PLDT opposed the respondents' motion.[25]

In a July 6, 2004 order,[26] the RTC denied the respondents' motion to quash. Having been rebuffed[27] in their motion for reconsideration,[28] the respondents filed a petition for certiorari with the CA."[29]

RULING OF THE CA

On August 11, 2006, the CA rendered the assailed decision and resolution, granting the respondents' petition for certiorari. The CA quashed SW A-1 and SW A-2 (for theft) on the ground that they were issued for "non-existent crimes." [30] According to the CA, inherent in the determination of probable cause for the issuance of search warrant is the accompanying determination that an offense has been committed. Relying on this Court's decision in *Laurel v. Judge Abrogar*, [31] the CA ruled that the respondents could not have possibly committed the crime of theft because PLDT's business of providing telecommunication services and these services themselves are not personal properties contemplated under Article 308 of the RPC.

With respect to SW B-1 and SW B-2 (for violation of PD No. 401), the CA upheld paragraphs one to six of the enumeration of items subject of the search. The CA held that the stock phrase "or similar equipment or device" found in paragraphs one to six of the search warrants did not make it suffer from generality since each paragraph's enumeration of items was sufficiently qualified by the citation of the specific objects to be seized and by its functions which are inherently connected with the crime allegedly committed.

The CA, however, nullified the ensuing paragraphs, 7, 8 and 9, for lack of particularity and ordered the return of the items seized under these provisions. While the same stock phrase appears in paragraphs 7 and 8, the properties described therein - i.e., printer and scanner, software, diskette and tapes - include even those for the respondents' personal use, making the description of the things to be seized too general in nature.

With the denial of its motion for reconsideration,[32] PLDT went to this Court via this Rule 45 petition.

THE PETITIONER'S ARGUMENTS

PLDT faults the CA for relying on Laurel on three grounds: first, Laurel cannot be cited yet as an authority under the principle of stare decisis because Laurel is not yet final and executory; in fact, it is the subject of a pending motion for reconsideration filed by PLDT itself; second, even assuming that Laurel is already final, the facts in Laurel vary from the present case. Laurel involves the quashal of an information on the ground that the information does not charge any offense; hence, the determination of the existence of the elements of the crime of theft is indispensable in resolving the motion to quash. In contrast, the present case involves the quashal of a search warrant. Third, accordingly, in resolving the motion, the issuing court only has to be convinced that there is probable cause to hold that: (i) the items to be seized are connected to a criminal activity; and (ii) these items are found in the place to be searched. Since the matter of quashing a search warrant may be rooted on matters "extrinsic of the search warrant,"[33] the issuing court does not need to look into the elements of the crime allegedly committed in the same manner that the CA did in Laurel.

PLDT adds that a finding of grave abuse of discretion in the issuance of search warrant may be justified only when there is "disregard of the requirements for the issuance of a search warrant[.]"[34] In the present case, the CA did not find (and could not have found) any grave abuse of discretion on the part of the RTC because at the time the RTC issued the search warrants in 2003, Laurel had not yet been promulgated.

In defending the validity of the nullified provisions of SW B-1 and SW B-2, PLDT argues that PD No. 401 also punishes unauthorized installation of telephone connections. Since the enumerated items are connected to the computers that are illegally connected to PLDT telephone lines, then these items bear a direct relation to the offense of violation of PD No. 401, justifying their seizure.

The enumeration in paragraph 8 is likewise a proper subject of seizure because they are the fruits of the offense as they contain information on PLDT's business profit and other information relating to the commission of violation of PD No. 401. Similarly, paragraph 9 specifies the fruits and evidence of violation of PD No. 401 since it supports PLDT's claim that the respondents have made a business out of their illegal connections to PLDT lines.

THE RESPONDENTS' ARGUMENTS

The respondents counter that while Laurel may not yet be final, at least it has a persuasive effect as the current jurisprudence on the matter. Even without Laurel, the CA's nullification of SW A-1 and SW A-2 can withstand scrutiny because of the novelty of the issue presented before it. The nullification of paragraphs 7, 8 and 9 of SW B-1 and SW B-2 must be upheld not only on the ground of broadness but for lack of any relation whatsoever with PD No. 401 which punishes the theft of electricity.

OUR RULING

We partially grant the petition.

Laurel and its reversal by the Court En Banc

Before proceeding with the case, a review of Laurel is in order as it involves substantially similar facts as in the present case.

Baynet Co., Ltd. (Baynet) sells prepaid cards, "Bay Super Orient Card," that allow their users to place a call to the Philippines from Japan. PLDT asserted that Baynet is engaged in ISR activities by using an international private leased line (IPL) to course Baynet's incoming international long distance calls. The IPL is linked to a switching equipment, which is then connected to PLDT telephone lines/numbers and equipment, with Baynet as subscriber.

To establish its case, PLDT obtained a search warrant. On the strength of the items seized during the search of Baynet's premises, the prosecutor found probable cause for theft against Luis Marcos Laurel (Laurel) and other Baynet officials. Accordingly, an information was filed, alleging that the Baynet officials "take, steal and use the international long distance calls belonging to PLDT by [ISR activities] xxx effectively stealing this business from PLDT while using its facilities in the estimated amount of P20,370,651.92 to the damage and prejudice of PLDT[.]"[35]

Laurel moved to quash the information on the bold assertion that ISR activities do not constitute a crime under Philippine law. Laurel argued that an ISR activity cannot entail taking of personal property because the international long distance telephone calls using PLDT telephone lines belong to the caller himself; the amount stated in the information, if at all, represents the rentals due PLDT for the caller's usage of its facilities. Laurel argued that the business of providing international long distance calls, i.e., PLDT's service, and the revenue derived therefrom are not personal property that can be appropriated.

Laurel went to the Court after failing to secure the desired relief from the trial and appellate courts,[36] raising the core issue of whether PLDT's business of providing telecommunication services for international long distance calls is a proper subject of theft under Article 308 of the RPC. The Court's First Division granted Laurel's petition and ordered the quashal of the information.

Taking off from the basic rule that penal laws are construed strictly against the State, the Court ruled that international long distance calls and the business of providing telecommunication or telephone services by PLDT are not personal properties that can be the subject of theft.

One is apt to conclude that "personal property" standing alone, covers both tangible and intangible properties and are subject of theft under the Revised Penal Code. But the words "Personal property" under the Revised Penal Code must be considered in tandem with the word "take" in the law. The statutory definition of "taking" and movable property indicates that, clearly, not all personal properties may be the proper subjects of theft. The general rule is that, only movable properties which have physical or material existence and susceptible of occupation by another are proper objects of theft, xxx.

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xxx. Business, like services in business, although are properties, are not proper subjects of theft under the Revised Penal Code because the same cannot be "taken" or "occupied." If it were otherwise, xxx there would be no juridical difference between the taking of the business of a person or the services provided by him for gain, vis-a-vis, the taking of goods, wares or merchandise, or equipment comprising his business. If it was its intention to include "business" as personal property under Article 308 of the Revised Penal Code, the Philippine Legislature should have spoken in language that is clear and definite: that business is personal property under Article 308 of the Revised Penal Code.

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The petitioner is not charged, under the Amended Information, for theft of telecommunication or telephone services offered by PLDT. Even if he is, the term "personal property" under Article 308 of the Revised Penal Code cannot be interpreted beyond its seams so as to include "telecommunication or telephone services" or computer services for that matter. xxx. Even at common law, neither time nor services may be taken and occupied or appropriated. A service is generally not considered property and a theft of service would not, therefore, constitute theft since there can be no caption or asportation. Neither is the unauthorized use of the equipment and facilities of PLDT by [Laurel] theft under [Article 308].

If it was the intent of the Philippine Legislature, in 1930, to include services to be the subject of theft, it should have incorporated the same in Article 308 of the Revised Penal Code. The Legislature did not. In fact, the

Revised Penal Code does not even contain a definition of services.[37]

PLDT[38] moved for reconsideration and referral of the case to the Court En Banc. The Court's First Division granted the referral.

On January 13, 2009 (or while the present petition was pending in court), the Court En Banc unanimously granted PLDT's motion for reconsideration.[39] The Court ruled that even prior to the passage of the RPC, jurisprudence is settled that "any personal property, tangible or intangible, corporeal or incorporeal, capable of appropriation can be the object of theft." [40] This jurisprudence, in turn, applied the prevailing legal meaning of the term "personal property" under the old Civil Code as "anything susceptible of appropriation and not included in the foregoing chapter (not real property)." [41] PLDT's telephone service or its business of providing this was appropriable personal property and was, in fact, the subject of appropriation in an ISR operation, facilitated by means of the unlawful use of PLDT's facilities.

In this regard, the Amended Information inaccurately describes the offense by making it appear that what [Laurel] took were the international long distance telephone calls, rather than respondent PLDT's business.

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Indeed, while it may be conceded that "international long distance calls," the matter alleged to be stolen xxx, take the form of electrical energy, it cannot be said that such international long distance calls were personal properties belonging to PLDT since the latter could not have acquired ownership over such calls. PLDT merely encodes, augments, enhances, decodes and transmits said calls using its complex communications infrastructure and facilities. PLDT not being the owner of said telephone calls, then it could not validly claim that such telephone calls were taken without its consent. It is the use of these communications facilities without the consent of PLDT that constitutes the crime of theft, which is the unlawful taking of the telephone services and business.

Therefore, the business of providing telecommunication and the telephone service are personal property under Article 308 of the Revised Penal Code, and the act of engaging in ISR is an act of "subtraction" penalized under said article.[42]

The Court En Banc's reversal of its Laurel Division ruling during the pendency of this petition significantly impacts on how the Court should resolve the present case for two reasons:

First, the Laurel En Banc ruling categorically equated an ISR activity to theft under the RPC. In so doing, whatever alleged factual variance there may be between Laurel and the present case cannot render Laurel inapplicable.

Second, and more importantly, in a Rule 45 petition, the Court basically determines whether the CA was legally correct in determining whether the RTC committed grave abuse of discretion. Under this premise, the CA ordinarily gauges the grave abuse of discretion at the time the RTC rendered its assailed resolution. In quashing SW A-1 and SW A-2, note that the CA relied on the Laurel Division ruling at the time when it was still subject of a pending motion for reconsideration. The CA, in fact, did not expressly impute grave abuse of discretion on the RTC when the RTC issued the search warrants and later refused to quash these. Understandably, the CA could not have really found the presence of grave abuse of discretion for there was no Laurel ruling to speak of at the time the RTC issued the search warrants.

These peculiar facts require us to more carefully analyze our prism of review under Rule 45.

Requisites for the issuance of search warrant; probable cause requires the probable existence of an offense

Section 2, Article III of the 1987 Constitution guarantees the right of persons to be free from unreasonable

searches and seizures.

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause 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 persons or things to be seized.

The purposes of the constitutional provision against unlawful searches and seizures are to: (i) prevent the officers of the law from violating private security in person and property and illegally invading the sanctity of the home; and (ii) give remedy against such usurpations when attempted or committed.[43]

The constitutional requirement for the issuance of a search warrant is reiterated under Sections 4 and 5, Rule 126 of the Revised Rules of Criminal Procedure. These sections lay down the following requirements for the issuance of a search warrant: (1) the existence of probable cause; (2) the probable cause must be determined personally by the judge; (3) the judge must examine, in writing and under oath or affirmation, the complainant and the witnesses he or she may produce; (4) the applicant and the witnesses testify on the facts personally known to them; and (5) the warrant specifically describes the place to be searched and the things to be seized.[44] Should any of these requisites be absent, the party aggrieved by the issuance and enforcement of the search warrant may file a motion to quash the search warrant with the issuing court or with the court where the action is subsequently instituted.[45]

A search warrant proceeding is a special criminal and judicial process akin to a writ of discovery. It is designed by the Rules of Criminal Procedure to respond only to an incident in the main case, if one has already been instituted, or in anticipation thereof. Since it is at most incidental to the main criminal case, an order granting or denying a motion to quash a search warrant may be questioned only via a petition for certiorari under Rule 65.[46]

When confronted with this petition, the higher court must necessarily determine the validity of the lower court's action from the prism of whether it was tainted with grave abuse of discretion. By grave abuse of discretion, jurisprudence refers to the capricious and whimsical exercise of judgment equivalent to lack of jurisdiction, or to the exercise of power in an arbitrary or despotic manner by reason of passion or personal hostility or in a manner so patent and gross as to amount to an invasion of positive duty or to the virtual refusal to perform the duty enjoined or to act at all in contemplation of the law.[47]

In a certiorari proceeding, the determination translates to an inquiry on whether the requirements and limitations provided under the Constitution and the Rules of Court were properly complied with, from the issuance of the warrant up to its implementation. In view of the constitutional objective of preventing stealthy encroachment upon or the gradual depreciation of the rights secured by the Constitution, strict compliance with the constitutional and procedural requirements is required. A judge who issues a search warrant without complying with these requirements commits grave abuse of discretion.[48]

One of the constitutional requirements for the validity of a search warrant is that it must be issued based on probable cause which, under the Rules, must be in connection with one specific offense. In search warrant proceedings, probable cause is defined as such facts and circumstances that 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.[49]

In the determination of probable cause, the court must necessarily determine whether an offense exists to justify the issuance or quashal of the search warrant[50] because the personal properties that may be subject of the search warrant are very much intertwined with the "one specific offense" requirement of probable cause.[51] Contrary to

PLDT's claim, the only way to determine whether a warrant should issue in connection with one specific offense is to juxtapose the facts and circumstances presented by the applicant with the elements of the offense that are alleged to support the search warrant.

Reviewing the RTC's denial of the motion to quash SWA-1 and SW A-2

a. From the prism of Rule 65

The facts of the present case easily call to mind the case of *Columbia Pictures, Inc. v. CA*[52] involving copyright infringement. In that case, the CA likewise voided the search warrant issued by the trial court by applying a doctrine that added a new requirement (i.e., the production of the master tape for comparison with the allegedly pirate copies) in determining the existence of probable cause for the issuance of search warrant in copyright infringement cases. The doctrine referred to was laid down in *20[th] Century Fox Film Corporation v. Court of Appeals*. *20[th] Century Fox*, however, was promulgated more than eight months after the search warrants were issued by the RTC. In reversing the CA, the Court ruled:

Mindful as we are of the ramifications of the doctrine of stare decisis and the rudiments of fair play, it is our considered view that the *20[th] Century Fox* ruling cannot be retroactively applied to the instant case to justify the quashal of Search Warrant No. 87-053. [The] petitioners' consistent position that the order of the lower court[,] xxx [which denied the respondents'] motion to lift the order of search warrant^] was properly issued, [because there was] satisfactory compliance with the then prevailing standards under the law for determination of probable cause, is indeed well taken. The lower court could not possibly have expected more evidence from petitioners in their application for a search warrant other than what the law and jurisprudence, then existing and judicially accepted, required with respect to the finding of probable cause.[53]

Columbia could easily be cited in favor of PLDT to sustain the RTC's refusal to quash the search warrant. Indeed, in quashing SW A-1 and SW A-2, the CA never intimated that the RTC disregarded any of the requisites for the issuance of a search warrant as these requirements were interpreted and observed under the then prevailing jurisprudence. The CA could not have done so because precisely the issue of whether telephone services or the business of providing these services could be the subject of theft under the RPC had not yet reached the Court when the search warrants were applied for and issued.

However, what distinguishes Columbia from the present case is the focus of Columbia's legal rationale. Columbia's focus was not on whether the facts and circumstances would reasonably lead to the conclusion that an offense has been or is being committed and that the objects sought in connection with the offense were in the place to be searched - the primary points of focus of the present case. Columbia's focus was on whether the evidence presented at the time the search warrant was applied for was sufficient to establish the facts and circumstances required for establishing probable cause to issue a search warrant.

Nonetheless, Columbia serves as a neat guide for the CA to decide the respondents' certiorari petition. In Columbia, the Court applied the principle of non-retroactivity of its ruling in *20[th] Century Fox*, whose finality was not an issue, in reversing a CA ruling. The Court's attitude in that case should have been adopted by the CA in the present case a fortiori since the ruling that the CA relied upon was not yet final at the time the CA resolved to quash the search warrants.

b. Supervening events justifying a broader review under Rule 65

Ordinarily, the CA's determination under Rule 65 is limited to whether the RTC gravely abused its discretion in granting or denying the motion to quash based on facts then existing. Nonetheless, the Court recognizes that supervening facts may transpire after the issuance and implementation of the search warrant that may provide

justification for the quashal of the search warrant via a petition for certiorari.

For one, if the offense for which the warrant is issued is subsequently decriminalized during the pendency of the petition for certiorari, then the warrant may be quashed.[54] For another, a subsequent ruling from the Court that a similar set of facts and circumstances does not constitute an offense, as alleged in the search warrant application, may be used as a ground to quash a warrant.[55] In both instances, the underlying reason for quashing the search warrant is the absence of probable cause which can only possibly exist when the combination of facts and circumstances points to the possible commission of an offense that may be evidenced by the personal properties sought to be seized. To the CA, the second instance mentioned justified the quashal of the search warrants.

We would have readily agreed with the CA if the Laurel Division ruling had not been subsequently reversed. As things turned out, however, the Court granted PLDT's motion for reconsideration of the Court First Division's ruling in Laurel and ruled that "the act of engaging in ISR is xxx penalized under xxx article [308 of the RPC]."[56] As the RTC itself found, PLDT successfully established in its application for a search warrant a probable cause for theft by evidence that Laurel's ISR activities deprived PLDT of its telephone services and of its business of providing these services without its consent.

b1. the stare decisis aspect

With the Court En Banc's reversal of the earlier Laurel ruling, then the CA's quashal of these warrants would have no leg to stand on. This is the dire consequence of failing to appreciate the full import of the doctrine of stare decisis that the CA ignored.

Under Article 8 of the Civil Code, the decisions of this Court form part of the country's legal system. While these decisions are not laws pursuant to the doctrine of separation of powers, they evidence the laws' meaning, breadth, and scope and, therefore, have the same binding force as the laws themselves.[57] Hence, the Court's interpretation of a statute forms part of the law as of the date it was originally passed because the Court's construction merely establishes the contemporaneous legislative intent that the interpreted law carries into effect.[58]

Article 8 of the Civil Code embodies the basic principle of stare decisis et non quieta movere (to adhere to precedents and not to unsettle established matters) that enjoins adherence to judicial precedents embodied in the decision of the Supreme Court. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. The doctrine of stare decisis, in turn, is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.[59] The doctrine of (horizontal) stare decisis is one of policy, grounded on the necessity of securing certainty and stability of judicial decisions.[60]

In the field of adjudication, a case cannot yet acquire the status of a "decided" case that is "deemed settled and closed to further argument" if the Court's decision is still the subject of a motion for reconsideration seasonably filed by the moving party. Under the Rules of Court, a party is expressly allowed to file a motion for reconsideration of the Court's decision within 15 days from notice.[61] Since the doctrine of stare decisis is founded on the necessity of securing certainty and stability in law, then these attributes will spring only once the Court's ruling has lapsed to finality in accordance with law. In *Ting v. Velez-Ting*, [62] we ruled that:

The principle of stare decisis enjoins adherence by lower courts to doctrinal rules established by this Court in its final decisions. It is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.

In applying Laurel despite PLDT's statement that the case is still subject of a pending motion for

reconsideration,[63] the CA legally erred in refusing to reconsider its ruling that largely relied on a non-final ruling of the Court. While the CA's dutiful desire to apply the latest pronouncement of the Court in Laurel is expected, it should have acted with caution, instead of excitement, on being informed by PLDT of its pending motion for reconsideration; it should have then followed the principle of stare decisis. The appellate court's application of an exceptional circumstance when it may order the quashal of the search warrant on grounds not existing at the time the warrant was issued or implemented must still rest on prudential grounds if only to maintain the limitation of the scope of the remedy of certiorari as a writ to correct errors of jurisdiction and not mere errors of judgment.

Still, the respondents attempt to justify the CA's action by arguing that the CA would still rule in the way it did[64] even without Laurel. As PLDT correctly pointed out, there is simply nothing in the CA's decision that would support its quashal of the search warrant independently of Laurel. We must bear in mind that the CA's quashal of SW A-1 and SW A-2 operated under the strictures of a certiorari petition, where the presence of grave abuse of discretion is necessary for the corrective writ to issue since the appellate court exercises its supervisory jurisdiction in this case. We simply cannot second-guess what the CA's action could have been.

Lastly, the CA's reliance on *Savage v. Judge Taypin*[65] can neither sustain the quashal of SW A-1 and SW A-2. In *Savage*, the Court granted the certiorari petition and quashed the search warrant because the alleged crime (unfair competition involving design patents) that supported the search warrant had already been repealed, and the act complained of, if at all, gave rise only to civil liability (for patent infringement). Having been decriminalized, probable cause for the crime alleged could not possibly exist.

In the present case, the issue is whether the commission of an ISR activity, in the manner that PLDT's evidence shows, sufficiently establishes probable cause for the issuance of search warrants for the crime of theft. Unlike in *Savage*, the Court in Laurel was not confronted with the issue of decriminalization (which is a legislative prerogative) but whether the commission of an ISR activity meets the elements of the offense of theft for purposes of quashing an information. Since the Court, in Laurel, ultimately ruled then an ISR activity justifies the elements of theft that must necessarily be alleged in the information a fortiori, the RTC's determination should be sustained on certiorari.

The requirement of particularity in SWB-1 and SWB-2

On the issue of particularity in SW B-1 and SW B-2, we note that the respondents have not appealed to us the CA ruling that sustained paragraphs 1 to 6 of the search warrants. Hence, we shall limit our discussion to the question of whether the CA correctly ruled that the RTC gravely abused its discretion insofar as it refused to quash paragraphs 7 to 9 of SW B-1 and SWB-2.

Aside from the requirement of probable cause, the Constitution also requires that the search warrant must particularly describe the place to be searched and the things to be seized. This requirement of particularity in the description, especially of the things to be seized, is meant to enable the law enforcers to readily identify the properties to be seized and, thus, prevent the seizure of the wrong items. It seeks to leave the law enforcers with no discretion at all regarding these articles and to give life to the constitutional provision against unreasonable searches and seizures.[66] In other words, the requisite sufficient particularity is aimed at preventing the law enforcer from exercising unlimited discretion as to what things are to be taken under the warrant and ensure that only those connected with the offense for which the warrant was issued shall be seized.[67]

The requirement of specificity, however, does not require technical accuracy in the description of the property to be seized. Specificity is satisfied if the personal properties' description is as far as the circumstances will ordinarily allow it to be so described. The nature of the description should vary according to whether the identity

of the property or its character is a matter of concern.[68] One of the tests to determine the particularity in the description of objects to be seized under a search warrant is when the things described are limited to those which bear direct relation to the offense for which the warrant is being issued.[69]

Additionally, the Rules require that a search warrant should be issued "in connection with one specific offense" to prevent the issuance of a scatter-shot warrant.[70] The one-specific-offense requirement reinforces the constitutional requirement that a search warrant should issue only on the basis of probable cause.[71] Since the primary objective of applying for a search warrant is to obtain evidence to be used in a subsequent prosecution for an offense for which the search warrant was applied, a judge issuing a particular warrant must satisfy himself that the evidence presented by the applicant establishes the facts and circumstances relating to this specific offense for which the warrant is sought and issued.[72] Accordingly, in a subsequent challenge against the validity of the warrant, the applicant cannot be allowed to maintain its validity based on facts and circumstances that may be related to other search warrants but are extrinsic to the warrant in question.

Under the Rules, the following personal property may be subject of search warrant: (i) the subject of the offense; (ii) fruits of the offense; or (iii) those used or intended to be used as the means of committing an offense. In the present case, we sustain the CA's ruling nullifying paragraphs 7, 8 and 9 of SW B-1 and SW B-2 for failing the test of particularity. More specifically, these provisions do not show how the enumerated items could have possibly been connected with the crime for which the warrant was issued, i.e., P.D. No. 401. For clarity, PD No. 401 punishes:

Section 1. Any person who installs any water, electrical, telephone or piped gas connection without previous authority from xxx the Philippine Long Distance Telephone Company, xxx, tampers and/or uses tampered water, electrical or gas meters, jumpers or other devices whereby water, electricity or piped gas is stolen; steals or pilfers water, electric or piped gas meters, or water, electric and/or telephone wires, or piped gas pipes or conduits; knowingly possesses stolen or pilfered water, electrical or gas meters as well as stolen or pilfered water, electrical and/or telephone wires, or piped gas pipes and conduits, shall, upon conviction, be punished with prision correccional in its minimum period or a fine ranging from two thousand to six thousand pesos, or both.[73]

Paragraphs 7 to 8 of SW B-1 and SW B-2 read as follows:

7. COMPUTER PRINTERS AND SCANNERS or any similar equipment or device used for copying and/or printing data and/or information;
8. SOFTWARE, DISKETTES, TAPES or any similar equipment or device used for recording or storing information; and
9. Manuals, phone cards, access codes, billing statements, receipts, contracts, checks, orders, communications and documents, lease and/or subscription agreements or contracts, communications and documents relating to securing and using telephone lines and/or equipment[.][74]

According to PLDT, the items in paragraph 7 have a direct relation to violation of PD No. 401 because the items are connected to computers that, in turn, are linked to the unauthorized connections to PLDT telephone lines. With regard to the software, diskette and tapes in paragraph 8, and the items in paragraph 9, PLDT argues that these items are "fruits of the offense" and that the information it contains "constitutes the business profit" of PLDT. According to PLDT, it corroborates the fact that the respondents have made a business out of their illegal connections to its telephone lines.

We disagree with PLDT. The fact that the printers and scanners are or may be connected to the other illegal connections to the PLDT telephone lines does not make them the subject of the offense or fruits of the offense,

much less could they become a means of committing an offense.

It is clear from PLDT's submission that it confuses the crime for which SW B-1 and SW B-2 were issued with the crime for which SW A-1 and SW A-2 were issued: SW B-1 and SW B-2 were issued for violation of PD No. 401, to be enforced in two different places as identified in the warrants. The crime for which these search warrants were issued does not pertain to the crime of theft - where matters of personal property and the taking thereof with intent to gain become significant - but to PD No. 401.

These items could not be the subject of a violation of PD No. 401 since PLDT itself does not claim that these items themselves comprise the unauthorized installations. For emphasis, what PD No. 401 punishes is the unauthorized installation of telephone connection without the previous consent of PLDT. In the present case, PLDT has not shown that connecting printers, scanners, diskettes or tapes to a computer, even if connected to a PLDT telephone line, would or should require its prior authorization.

Neither could these items be a means of committing a violation of PD No. 401 since these copying, printing and storage devices in no way aided the respondents in making the unauthorized connections. While these items may be accessory to the computers and other equipment linked to telephone lines, PD No. 401 does not cover this kind of items within the scope of the prohibition. To allow the seizure of items under the PLDT's interpretation would, as the CA correctly observed, allow the seizure under the warrant of properties for personal use of the respondents.

If PLDT seeks the seizure of these items to prove that these installations contain the respondents' financial gain and the corresponding business loss to PLDT, then that purpose is served by SW A-1 and SW A-2 since this is what PLDT essentially complained of in charging the respondents with theft. However, the same reasoning does not justify its seizure under a warrant for violation of PD No. 401 since these items are not directly connected to the PLDT telephone lines and PLDT has not even claimed that the installation of these items requires prior authorization from it.

WHEREFORE, premises considered, the petition is **PARTIALLY GRANTED**. The decision and the resolution of the Court of Appeals in CA-G.R. SP No. 89213 are hereby **MODIFIED** in that SW A-1 and SW A-2 are hereby declared valid and constitutional.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Perez, and Perlas-Bernabe, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Rebecca de Guia-Salvador, and concurred in by Presiding Justice Ruben T. Reyes (now a retired member of this Court) and Associate Justice Vicente Q. Roxas; rollo, pp. 60-81.

[3] Id. at 84.

[4] Penalizing the Unauthorized Installation of Water, Electrical or Telephone Connections, the Use of Tampered Water or Electrical Meters and Other Acts.

[5] Republic Act No. 7082.

[6] Republic Act No. 7082, Section 1.

[7] Rollo, p. 90.

[8] Id. at 807-808.

[9] International Direct Dialing. An IDD capable phone enables the caller to access the toll-free number of the prepaid card.

[10] Teresita S. Alcantara, Dante S. Cunanan and Abigail; rollo, p. 94.

[11] Engr. Policarpio G. Tolentino, Jr.; *ibid*.

[12] The following are the telephone numbers and their subscribers: 2-8222363 - Abigail; 2-8210268 - Vernon; 2-7764922 - Abigail; 2-7764909 - Abigail; 2-8243817 - Abigail; and 2-8243285 - Abigail; *id.* at 95.

[13] 2-8245911 and 2-8245244; *id.* at 95-96.

[14] The following are the telephone numbers and their subscribers: 2-8245056 - Experto Phils.; 2- 8224192 - Experto Phils.; 2-8247704 - Experto Enterprises; 2-8245786 - Experto Enterprises; and 2- 8245245 - Experto Enterprises; *id.* at 97.

[15] Id. at 98.

[16] Id. at 811.

[17] Id. at 122-124; citation omitted.

[18] Id. at 206-214. The application attached the affidavits of Wilfredo Abad, Jr., a Section Supervisor of the PLDT's ACPDD, and of Mr. Narciso, a Revenue Assurance Analyst of the PLDT's ACPDD.

[19] Rollo, p. 92.

[20] Id. at 358-369; Search Warrant No. 03-063 covering two different places and Search Warrant No. 03-064 covering, as well, two different places.

[21] Id. at 360.

[22] Id. at 371-375.

[23] Id. at 438-446.

[24] Subsequently, the respondents also filed an Amended Motion to Quash Search Warrants; *id.* at 391-401.

[25] Id. at 405-435.

[26] Id. at 455-459.

[27] Id. at 479.

[28] Id. at 461-464.

[29] Id. at 481-502.

[30] Id. at 66.

[31] 518 Phil. 409 (2006).

[32] Rollo, pp. 614-637.

[33] Citing *Abuan v. People*, 536 Phil. 672, 692 (2006).

[34] Citing *Uy v. Bureau of Internal Revenue*, 397 Phil. 892, 903 (2000).

[35] Laurel v. Judge Abrogar, *supra* note 31, at 422.

[36] Under Rule 45 of the Rules of Court.

[37] Laurel v. Judge Abrogar, *supra* note 31, at 434-441; citations omitted, underscore ours.

[38] Rollo, pp. 640-717. Joined by the Office of the Solicitor General.

[39] In its Urgent Manifestation and Motion with Leave of Court, PLDT called the Court's attention of this recent ruling; *id.* at 872-875.

[40] Laurel v. Abrogar, G.R. No. 155076, January 13, 2009. 576 SCRA 41, 50-51.

[41] *Id.* at 51, citing Article 335 of the Civil Code of Spain.

[42] *Id.* at 55-57; underscores ours.

[43] Silva v. Presiding Judge, RTC of Negros Oriental, Br. XXXIII, G.R. No. 81756, October 21, 1991, 203 SCRA 140, 144.

[44] Abuan v. People, G.R. No. 168773, October 27, 2006, 505 SCRA 799, 822.

[45] Rules of Court, Rule 126, Section 14.

[46] Vallejo v. Court of Appeals, 471 Phil. 670 (2004).

[47] Dra. Nepomuceno v. Court of Appeals, 363 Phil. 304, 307-308 (1999).

[48] Vallejo v. Court of Appeals, *supra* note 46, at 686; and Uy v. Bureau of Internal Revenue, *supra* note 34, at 906.

[49] Del Castillo v. People, G.R. No. 185128, January 30, 2012, 664 SCRA 430, 438-439.

[50] Solid Triangle Sales Corp. v. Sheriff, RTC, Q.C., Br. 93, 422 Phil. 72 (2001); and Manly Sportswear Mfg., Inc. v. Dadodette Enterprises, and/or Hermes Sports Center, 507 Phil. 375 (2005).

[51] Under Section 3, Rule 126 of the Revised Rules of Criminal Procedure, the personal properties that may be subject of seizure under a search warrant are the subject, the fruits and/or the means of committing the offense.

[52] 329 Phil. 875(1996).

[53] *Id.* at 905; italics supplied.

[54] See Savage v. Judge Taypin, 387 Phil. 718, 728 (2000).

[55] CIVIL CODE, Article 8.

[56] Laurel v. Abrogar, *supra* note 40, at 57.

[57] People v. Jabinal, 154 Phil. 565, 571 (1974), cited in Columbia Pictures, Inc. v. CA, *supra* note 52, at 906-908.

[58] Civil Code of the Philippines, Commentaries and Jurisprudence, Volume I, Arturo M. Tolentino, p. 37.

[59] Philippine Guardians Brotherhood, Inc. (PGBI) v. Commission on Elections, G.R. No. 190529, April 29, 2010, 619 SCRA 585, 594-595.

[60] Chinese Young Men's Christian Association of the Philippine Islands v. Remington Steel Corporation, G.R.

No. 159422, March 28, 2008, 550 SCRA 180, 197-198.

[61] RULES OF COURT, Rule 52, Section 1, in relation to Rule 56, Section 1.

[62] G.R. No. 166562, March 31, 2009, 582 SCRA 694, 704; citation omitted, italics supplied, emphasis ours.

[63] See PLDT's motion for reconsideration before the CA; rollo, p. 616.

[64] Memorandum of Respondents; *id.* at 865.

[65] *Supra* note 54.

[66] *Hon Ne Chan v. Honda Motor Co., Ltd.*, 565 Phil. 545, 557 (2007).

[67] *Vallejo v. Court of Appeals*, *supra* note 46, at 686-687.

[68] *Microsoft Corp. v. Maxicorp, Inc.*, 481 Phil 550, 568-571 (2004).

[69] *Bache and Co. (Phil.), Inc. v. Ruiz*, No. L-32409, February 27, 1971, 37 SCRA 823, 835, cited in *Al-Ghoul v. Court of Appeals*, 416 Phil. 759, 771 (2001).

[70] *Tambasen v. People*, 316 Phil. 237, 243-244 (1995).

[71] See *Stonehill v. Diokno*, No. L-19550, June 19, 1967. 20 SCRA 383, 391-392.

[72] See *Tambasen v. People*, *supra* note 70.

[73] Emphases and underscores ours.

[74] *Supra* note 21.

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