

YEE SUE KOY AND YEE TIP ET AL., PETITIONERS, VS MARIANO G. ALMEDA AND JOSE ESTRADA ET AL., RESPONDENTS.*G.R. No. 47021. June 25, 1940*

Ponente: LAUREL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-47021/>**LAUREL, J.:**

In response to a sworn application of Mariano G. Almeda, chief agent of the Anti-Usury Board, dated May 5, 1938, the justice of the peace of Sagay, Occidental Negros, after taking the testimony of applicant's witness, Jose Estrada, special agent of the Anti-Usury Board, issued on the same date a search warrant commanding any peace officer to search during day time the store and premises occupied by Sam Sing & Co., situated at Sagay, Occidental Negros, as well as the person of said Sam Sing & Co., and to seize the documents, notebooks, lists, receipts and promissory notes being used by said Sam Sing & Co. in connection with their activities of lending money at usurious rates of interest in violation of law, or such as may be found, and to bring them forthwith before the aforesaid justice of the peace of Sagay. On the same date, May 5, 1938, at 10:30 a. m., search was accordingly made by Mariano G. Almeda, Jose Estrada, two internal revenue agents and two members of the Philippine Army, who seized certain receipt books, vales or promissory notes, chits, notebooks, journal book, and collection list belonging to Sam Sing & Co. and enumerated in the inventory receipt issued by Mariano G. Almeda to the owner of the documents, papers and articles seized. Immediately after the search and seizure thus effected, Mariano G. Almeda filed a return with the justice of the peace of Sagay together with a request that the office of the Anti-Usury Board be allowed to retain possession of the articles seized for examination, pursuant to section 4 of Act 4109, which request was granted. The first unsuccessful effort exerted by Sam Sing & Co. with a view to recovering the articles seized, was when their attorney, Godofredo P. Escalona, under date of March 4, 1939, addressed a letter to the Executive Officer of the Anti-Usury Board requesting the return of said articles, on the ground that the search warrant and seizure of May 5, 1938 were illegal, only to receive the reply that the request "cannot be complied with until after they have served the purpose for which they were seized" and that "the return of the papers must be with the consent and knowledge of the court which issued the search warrant." Thereafter, under date of March 11, 1939, the same attorney filed a motion with the Court of First Instance of Occidental Negros praying that the search warrant issued on May 5, 1938 by the justice of the peace of Sagay and the seizure effected thereunder be declared illegal and set aside and that the articles in question be ordered returned to Sam Sing & Co., which motion was denied in the order dated July 24, 1939. A similar motion was presented to the justice of the peace of Sagay on October 27, 1939 but was denied the next day, October 28, 1939. Meanwhile, an information dated September 30, 1939 had been filed in the Court of First Instance of Occidental Negros, charging Yee Fock alias Yee Sue Koy, Y. Tip and A. Sing, managers of Sam Sing & Co., with a violation of Act No. 2655, the case being docketed as No. 11591. Before this criminal case could be tried, the present petition was filed in this court on November 6, 1939, in which the petitioners pray that the search warrant of May 2, 1938 and the seizure of May 5, 1938 of the articles described in annex "D" of the petition be declared illegal and set aside; that the respondents Mariano G. Almeda and Jose S. Estrada, as agents of the Anti-Usury Board, be ordered and directed to return to the petitioners the articles listed in said annex "D" of the petition; that pending

these proceedings the provincial fiscal of Occidental Negros be commanded to refrain from using said articles as evidence in criminal case No. 11591 which was set for trial on November 13, 1939; that the respondent Judge of the Court of First Instance of Occidental Negros, in case all or some of the articles in question should be introduced as evidence for the prosecution in said criminal case No. 11591, entitled "People of the Philippines vs. Yee Fock (alias Yee Sue Koy), Y. Tip and A. Sins," be likewise commanded to refrain from admitting the same.

The petition is grounded on the propositions (1) that the search warrant issued on May 2, 1938, by the justice of the peace of Sagay and the seizure accomplished thereunder are illegal, because the warrant was issued three days ahead of the application therefor and of the affidavit of the respondent Jose Estrada which is insufficient in itself to justify the issuance of a search warrant, and because the issuance of said warrant manifestly contravenes the mandatory provisions both of section 1, paragraph 3, of Article III of the Constitution and of section 97 of General Orders No. 58, and (2) that the seizure of the aforesaid articles by means of a search warrant for the purpose of using them as evidence in the criminal case against the petitioners, is unconstitutional because the warrant thereby becomes unreasonable and amounts to a violation of the constitutional prohibition against compelling the accused to testify against themselves.

In their answers the respondents deny that the articles in question were seized by the Anti-Usury Board to provide itself with evidence in the criminal prosecution against the petitioners, and allege that the seizure of said articles was an incident of the Government's duty of apprehending violations of the Usury Law, in connection with which the agents of the Anti-Usury Board are authorized, under section 4 of Act No. 4109 in relation to Act No. 4168, to examine the documents, papers and articles seized from the petitioners; that the search warrant complained of is valid and legal; that, granting the existence of any irregularity in the issuance of said warrant, the same has been waived by the petitioners; that the petitioners are not entitled to the return of the articles in question because the same constitute the corpus delicti or are pertinent or relevant thereto.

The petitioners contend that the search warrant herein complained of is illegal because it was issued three days before the application therefor and the supporting affidavit were signed by Mariano G. Almeda and Jose Estrada respectively. This contention finds no support in the record before us. In the letter of March 4, 1939, written by the attorney for Sam Sing & Co. to the Executive Officer of the Anti-Usury Board, requesting the return of the articles seized, reference was made to the search warrant and seizure "of May 5, 1938." (Annex F of the petition.) In the motion of March 11, 1939, filed by said attorney in the Court of First Instance of Occidental Negros, praying for the return of the aforesaid articles, the search warrant was again referred to as having been issued on "May 5, 1938." (Annex H of the petition.) It follows, therefore, that there is truth in the allegation of the respondents that although the original order on which the warrant was issued was prepared on May 2, 1938, when the justice of the peace signed the order for search warrant, he placed the date "May 5, 1938."

The criticism of the petitioners that the search warrant in question was not issued in accordance with the formalities described by section 1, paragraph 3, of Article III of the Constitution and of section 97 of General Orders No. 58, is unfounded. On the contrary, we are satisfied that strict observance of such formalities was followed. The applicant Mariano G. Almeda, in his application, swore that "he made his own personal investigation and ascertained that Sam Sing & Co. is lending money without license, charging usurious rate of interest and is keeping, utilizing and concealing in the store and premises occupied by it situated at Sagay, Occidental Negros, documents, notebooks, lists, receipts, promissory notes, and book of accounts and records, all of which are being used by it in connection with its activities of lending money at usurious rate of interest in violation of the Usury Law." In turn, the witness Jose Estrada, in his testimony before the justice of the peace of Sagay, swore that he knew that Sam Sing & Co. was lending money without license and charging usurious rate of interest, because he personally investigated the victims who had secured loans from said Sam Sing & Co. and were charged usurious

rate of interest; that he knew that the said Sam Sing & Co. was keeping and using books of accounts and records containing its transactions relative to its activities as money lender and the entries of the interest paid by its debtors, because he saw the said Sam Sing & Co. make entries and records of their debts and the interest paid thereon. As both Mariano G. Almeda and Jose Estrada swore that they had personal knowledge, their affidavits were sufficient for, thereunder, they could be held liable for perjury if the facts would turn out to be not as they were stated under oath. (Alvarez vs. Court of First Instance of Tayabas, et al., 35 Off. Gaz., 1183; People vs. Sy Juco, 37 Off. Gaz., 508; Rodriguez vs. Villamiel, 37 Off. Gaz., 2416.) That the existence of probable cause has been determined by the justice of the peace of Sagay before issuing the search warrant complained of, is shown by the following statement in the warrant itself, to wit: "After examination under oath of the complainant, Mariano G. Almeda, Chief Agent of the Anti-Usury Board, Department of Justice and Special Agent of the Philippine Army, Manila, and the witness he presented, * * * and this Court, finding that there is just and probable cause to believe as it does believe, that the above described articles, relating to the activities of said Sam Sing & Co. of lending money at usurious rate of interest, are being utilized and kept and concealed at its store and premises occupied by said Sam Sing & Co., all in violation of law." The description of the articles seized, as given in the search warrant, is likewise sufficient. Where, by the nature of the goods seized, their description must be rather general, it is not required that a technical description be given, as this would mean that no warrant could issue. (Alvarez vs. Court of First Instance of Tayabas et al., 35 Off. Gaz., 1183, citing People vs. Rubio, 57 Phil., 384; and People vs. Kahn, 256, 111. App., 415.) Neither can there be objection to the fact the objects seized from the petitioners were retained by the agents of the Anti-Usury Board, instead of being turned over to the justice of the peace of Sagay, for the reason that the custody of said agents is the custody of the issuing officer or court, the retention having been approved by the latter. (Molo vs. Yatco et al., 35 Off. Gaz., 1335.)

But it is further contended that the articles seized should be ordered returned to the petitioners because the seizure is unconstitutional, having been made for the purpose of using the articles as evidence in the criminal case against the petitioners. While we reiterate the rule that the seizure of books and documents by means of a search warrant, for the purpose of using them as evidence in a criminal case against the person in whose possession they were found, is unconstitutional because it makes the warrant unreasonable, and it is equivalent to a violation of the constitutional provision prohibiting the compulsion of an accused to testify against himself (Rodriguez et al. vs. Villamiel et al., 37 Off. Gaz., 2416, citing Uy Kheylin vs. Villa-Real, 42 Phil., 886; Alvarez vs. Court of First Instance of Tayabas and Anti-Usury Board, 35 Off. Gaz., 1183; Brady vs. U. S., 266 U. S. 120; Temperani vs. U. S., 299 Fed. 365; U. S. vs. Madden, 197 Fed. 679; Boyd vs. U. S., 116 U. S. 616; Carroll vs. U. S., 167 U. S. 132), the said rule has no applicable force in the present case. While in the cases of Rodriguez et al. vs. Villamiel et al., supra, and Alvarez vs. Court of First Instance of Tayabas, supra, it appeared that the documents herein involved were in fact seized for the purpose of discovering evidence to be used against the persons from whom they were seized, in the case at bar this fact is not clear and is furthermore denied. In the application for the issuance of the search warrant in question, it was alleged that the articles seized were "being used by it (Sam Sing & Co.) in connection with its activities of lending money at usurious rate of interest in violation of the Usury Law," and it is now suggested (memoranda of respondents) that the only object of the agents of the Anti-Usury Board in keeping the articles is to prevent the petitioners from employing them as a means of further violations of the Usury Law. In this state of the record, without deciding the question whether the petitioners will in fact use the articles in question, if returned, for illegal purposes, we are not prepared to order the return prayed for by the petitioners. (Cf. People vs. Rubio, 57 Phil., 384, 394-395.) If it be true, furthermore, without, however, deciding the point, that as alleged by the respondents the articles in question constitute the corpus delicti of the violation of the Usury Law, their return to the petitioners cannot be ordered. (People vs. Judge of the Court of First Instance of Batangas et al., G. R. No. 46361, resolution of February 14, 1939, citing 56 C. J. 1166, 1250 and 1251; Uy Kheylin vs. Villareal, 42 Phil., 886; People vs. Rubio, 57 Phil., 384; People vs. Malasugui, 34 Off. Gaz., 2163, 2165.)

The petition is dismissed, with costs against the petitioner.

So ordered.

Avanceña, C.J., Imperial, and Diaz, JJ., concur.

Moran, J., concurs in the result.

Petition dismissed.

ABOUT BATAS.ORG

Study smarter at BATAS.org

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

The complete Philippine law library - free for everyone.

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

Audio case-brief lectures.

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

Bar review built on the science of memory.

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

The full law-school curriculum.

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

Mock exams that tell you where you stand.

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

A study planner that keeps you on pace.

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

Start free at <https://batas.org>

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

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

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