

**MHP GARMENTS, INC., AND LARRY C. DE GUZMAN, PETITIONERS,
VS. THE HONORABLE COURT OF APPEALS, AGNES VILLA CRUZ,
MIRASOL LUGATIMAN, AND GERTRUDES GONZALES,
RESPONDENTS.**

G.R. No. 86720. September 02, 1994

Ponente: PUNO, J.

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PUNO, J.:

The constitutional protection of our people against unreasonable search and seizure is not merely a pleasing platitude. It vouchsafes our right to privacy and dignity against undesirable intrusions committed by any public officer or private individual. An infringement of this right justifies an award for damages.

On February 22, 1983, petitioner MHP Garments, Inc., was awarded by the Boy Scouts of the Philippines, the exclusive franchise to sell and distribute official Boy Scouts uniforms, supplies, badges, and insignias. In their Memorandum Agreement, petitioner corporation was given the authority to “undertake or cause to be undertaken the prosecution in court of all illegal sources of scout uniforms and other scouting supplies.”[1]

Sometime in October 1983, petitioner corporation received information that private respondents Agnes Villa Cruz, Mirasol Lugatiman, and Gertrudes Gonzales were selling Boy Scouts items and paraphernalia without any authority. Petitioner de Guzman, an employee of petitioner corporation, was tasked to undertake the necessary surveillance and to make a report to the Philippine Constabulary (PC).

On October 25, 1983, at about 10:30 A.M., petitioner de Guzman, Captain Renato M. Peñafiel, and two (2) other constabulary men of the Reaction Force Battalion, Sikatuna Village, Diliman, Quezon City went to the stores of respondents at the Marikina Public Market. Without any warrant, they seized the boy and girl scouts pants, dresses, and suits on display at respondents’ stalls. The seizure caused a commotion and embarrassed private respondents. Receipts were issued for the seized items. The items were then turned over by Captain Peñafiel to petitioner corporation for safekeeping.

A criminal complaint for unfair competition was then filed against private respondents.[2] During its pendency, petitioner de Guzman exacted from private respondent Lugatiman the sum of THREE THOUSAND ONE HUNDRED PESOS (P3,100.00) in order to be dropped from the complaint. On December 6, 1983, after a preliminary investigation, the Provincial Fiscal of Rizal dismissed the complaint against all the private respondents. On February 6, 1984, he also ordered the return of the seized items. The seized items were not immediately returned despite demands.[3] Private respondents had to go personally to petitioners’ place of business to recover their goods. Even then, not all the seized items were returned. The other items returned were of inferior quality.

Private respondents then filed Civil Case No. 51144 against the petitioners for sums of money and damages.[4] In its Decision dated January 9, 1987, the trial court ruled for the private respondents, thus:

“WHEREFORE, judgment is hereby rendered in favor of plaintiffs and against defendants, ordering the latter jointly and severally:

1. To return the amount of P3,100.00 to plaintiff Mirasol Lugatiman with interest at 12% per annum from January 12, 1984, the date of the last receipt issued, until fully paid;
2. To pay plaintiff Agnes Villa Cruz the sum of P2,000.00 for the 26 pieces of girl scout items not returned;
3. To pay plaintiffs the amount of P50,000.00 for and as moral damages and P15,000.00 for and as exemplary damages; and
4. P5,000.00 for and as attorney’s fees and litigation expenses.

Costs against the defendants.

SO ORDERED.”

The decision was appealed to the respondent court. On January 18, 1989, its Fifth Division,[5] affirmed the Decision with modification, thus:

“WHEREFORE, the decision appealed from is AFFIRMED with MODIFICATION; and, as modified, the dispositive portion thereof now reads as follows:

Judgment is hereby rendered in favor of plaintiffs (private respondents) and against defendants (petitioners), ordering the latter jointly and severally;

1. To return the amount of P3,100.00 to plaintiff (respondent) Mirasol Lugatiman and cancel her application for distributor’s license;
2. To pay plaintiff (respondent) Agnes Villa Cruz the sum of P2,000.00 for the unreturned 26 pieces of girl scouts items with interest at 12% per annum from June 4, 1984 (date the complaint was filed) until it is fully paid;
3. To pay plaintiffs (respondents) the amount of P10,000.00 each, or a total of P30,000.00, for and as moral damages; and P5,000.00 each, or a total of P15,000.00, for and as exemplary damages; and
4. To pay plaintiffs (respondents) P5,000.00 for and as attorney’s fees and litigation expenses.

Costs of the case a quo and the instant appeal are assessed jointly and severally against defendants-appellants (petitioners) MHP Garments, Inc. and Larry de Guzman.

SO ORDERED.”

In this petition for certiorari, petitioners contend:

FIRST ASSIGNMENT OF ERROR

THE COURT OF APPEALS ERRED IN IMPUTING LIABILITY FOR DAMAGES TO THE PETITIONERS WHO DID NOT EFFECT THE SEIZURE OF THE SUBJECT MERCHANDISE.

SECOND ASSIGNMENT OF ERROR

THE COURT OF APPEALS ERRED WHEN IT MADE A FINDING THAT THE MANNER WITH WHICH THE CONFISCATION OF PRIVATE RESPONDENTS WAS TORTIOUS BUT PENALIZED INSTEAD THE PETITIONERS WHO DID NOT COMMIT THE ACT OF CONFISCATION.

THIRD ASSIGNMENT OF ERROR

THE COURT OF APPEALS ERRED WHEN IT FOUND FOR THE PRIVATE RESPONDENTS AND AGAINST THE PETITIONERS.

We affirm.

Article III, section 2, of the Constitution protects our people from unreasonable search and seizure. It provides:

“The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature 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.”

This provision protects not only those who appear to be innocent but also those who appear to be guilty but are nevertheless to be presumed innocent until the contrary is proved.[6] In the case at bench, the seizure was made without any warrant. Under the Rules of Court,[7] a warrantless search can only be undertaken under the following circumstance:

“SEC. 12. Search incident to a lawful arrest. - A person lawfully arrested may be searched for dangerous weapons or anything which may be used as proof of the commission of an offense, without a search warrant.”

We hold that the evidence did not justify the warrantless search and seizure of private respondents' goods. Petitioner corporation received information that private respondents were illegally selling Boy Scouts items and paraphernalia in October 1983. The specific date and time are not established in the evidence adduced by the parties. Petitioner de Guzman then made a surveillance of the stores of private respondents. They reported to the Philippine Constabulary and on October 25, 1983, the raid was made on the stores of private respondents and the supposed illicit goods were seized. The progression of time between the receipt of the information and the raid of the stores of private respondents shows there was sufficient time for petitioners and the PC raiding party to apply for a judicial warrant. Despite the sufficiency of time, they did not apply for a warrant and seized the goods of private respondents. In doing so, they took the risk of a suit for damages in case the seizure would be proved to violate the right of private respondents against unreasonable search and seizure. In the case at bench, the search and seizure were clearly illegal. There was no probable cause for the seizure. Probable cause for a search has been defined as “such facts and circumstances which 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.”[8] These facts and circumstances were not in any way shown by the petitioners to justify their warrantless search and seizure. Indeed, after a preliminary investigation, the Provincial Fiscal of Rizal dismissed their complaint for unfair competition and later ordered the return of the seized goods.

Petitioners would deflect their liability with the argument that it was the Philippine Constabulary that conducted the raid and their participation was only to report the alleged illegal activity of private respondents.

While undoubtedly, the members of the PC raiding team should have been included in the complaint for violation of the private respondents' constitutional rights, still, the omission will not exculpate petitioners.

In the case of *Lim vs. Ponce de Leon*,[9] we ruled for the recovery of damages for violation of constitutional rights and liberties from public officer or private individual, thus:

“ART. 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages.

“x x x x x

“(9) The rights to be secure in one’s person, house, papers, and effects against unreasonable searches and seizures.

“x x x x x

“The indemnity shall include moral damages. Exemplary damages may also be adjudged.”

“ART. 2219. Moral damages may be recovered in the following and analogous cases:

“x x x x x

“(6) Illegal search;

“(1) Acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

Pursuant to the foregoing provisions, a person whose constitutional rights have been violated or impaired is entitled to actual and moral damages from the public officer or employee responsible therefor. In addition, exemplary damages may also be awarded.”

x x x x x x x x

“The very nature of Article 32 is that the wrong may be civil or criminal. It is not necessary therefore that there should be malice or bad faith. To make such a requisite would defeat the main purpose of Article 32 which is the effective protection of individual rights. Public officials in the past have abused their powers on the pretext of justifiable motives or good faith in the performance of their duties. Precisely, the object of the Article is to put an end to official abuse by plea of the good faith. In the United States this remedy is in the nature of a tort.” (emphasis supplied)

In the subsequent case of *Aberca vs. Ver*,^[10] the Court En Banc explained the liability of persons indirectly responsible, viz:

“[T]he decisive factor in this case, in our view, is the language of Article 32. The law speaks of an officer or employee or person “directly or indirectly” responsible for the violation of the constitutional rights and liberties of another. Thus, it is not the actor alone (i.e. the one directly responsible) who must answer for damages under Article 32; the person indirectly responsible has also to answer for the damages or injury caused to the aggrieved party.

x x x x x x x x

While it would certainly be too naive to expect that violators of human rights would easily be deterred by the prospect of facing damages suits, it should nonetheless be made clear in no uncertain terms that Article 32 of the Civil Code makes the persons who are directly, as well as indirectly, responsible for the transgression joint tortfeasors.

x x x x x x x x

[N]either can it be said that only those shown to have participated “directly” should be held liable. Article 32 of the Civil Code encompasses within the ambit of its provisions those directly, as well as indirectly, responsible for its violations.” (emphasis supplied)

Applying the aforecited provisions and leading cases, the respondent court correctly granted damages to private respondents. Petitioners were indirectly involved in transgressing the right of private respondents against unreasonable search and seizure. Firstly, they instigated the raid pursuant to their covenant in the Memorandum

Agreement to undertake the prosecution in court of all illegal sources of scouting supplies.[11] As correctly observed by respondent court:

“Indeed, the acts committed by the PC soldiers of unlawfully seizing appellees’ (respondents’) merchandise and of filing the criminal complaint for unfair competition against appellees (respondents) were for the protection and benefit of appellant (petitioner) corporation. Such being the case, it is, thus, reasonably fair to infer from those acts that it was upon appellant (petitioner) corporation’s instance that the PC soldiers conducted the raid and effected the illegal seizure. These circumstances should answer the trial court’s query -- posed in its decision now under consideration -- as to why the PC soldiers immediately turned over the seized merchandise appellant (petitioner) corporation.”[12]

The raid was conducted with the active participation of their employee. Larry de Guzman did not lift a finger to stop the seizure of the boy and girl scouts items. By standing by and apparently assenting thereto, he was liable to the same extent as the officers themselves.[13] So with the petitioner corporation which even received for safekeeping the goods unreasonably seized by the PC raiding team and de Guzman, and refused to surrender them for quite a time despite the dismissal of its complaint for unfair competition.

Secondly, Letter of Instruction No. 1299 was precisely crafted on March 9, 1983 to safeguard not only the privilege of franchise holder of scouting items but also the citizen’s constitutional rights, to wit:

“TITLE : APPREHENSION OF UNAUTHORIZED MANUFACTURERS AND DISTRIBUTORS OF SCOUT PARAPHERNALIA AND IMPOUNDING OF SAID PARAPHERNALIA.

ABSTRACT:

Directs all law enforcement agencies of the Republic of the Philippines, to apprehend immediately unauthorized manufacturers and distributors of Scout paraphernalia, upon proper application by the Boy Scouts of the Philippines and/or Girl Scouts of the Philippines for warrant of arrest and/or search warrant with a judge, or such other responsible officer as may be authorized by law; and to impound the said paraphernalia to be used as evidence in court or other appropriate administrative body. Orders the immediate and strict compliance with the Instructions.”[14]

Under the above provision and as aforesaid, petitioners miserably failed to report the unlawful peddling of scouting goods to the Boy Scouts of the Philippines for the proper application of a warrant. Private respondents’ rights are immutable and cannot be sacrificed to transient needs.[15] Petitioners did not have the unbridled license to cause the seizure of respondents’ goods without any warrant.

And thirdly, if petitioners did not have a hand in the raid, they should have filed a third-party complaint against the raiding team for contribution or any other relief,[16] in respect of respondents’ claim for Recovery of Sum of Money with Damages. Again, they did not.

We have consistently ruled that moral damages are not awarded to penalize the defendant but to compensate the plaintiff for the injuries he may have suffered.[17] Conformably with our ruling in *Lim vs. Ponce de Leon*, op. cit., moral damages can be awarded in the case at bench. There can be no doubt that petitioners must have suffered sleepless nights, serious anxiety, and wounded feelings due the tortious raid caused by petitioners. Private respondents’ avowals of embarrassment and humiliation during the seizure of their merchandise were supported by their testimonies. Respondent Cruz declared:

“I felt very nervous. I was crying to loss (sic) my goods and capital because I am doing business with borrowed money only, there was commotion created by the raiding team and they even stepped on some of the pants and dresses on display for sale. All passersby stopped to watch and stared at me with accusing expressions. I was trembling and terribly ashamed, sir.”[18]

Respondent Lugatiman testified:

“I felt very nervous. I was crying and I was very much ashamed because many people have been watching the PC soldiers hauling my items, and many/I (sic) heard say ‘nakaw pala ang mga iyan’ for which I am claiming P25,000.00 for damages.”[19]

While respondent Gonzalez stated thus:

“I do not like the way the raid was conducted by the team sir because it looked like that what I have been selling were stolen items that they should be confiscated by uniformed soldiers. Many people were around and the more the confiscation was made in a scandalous manner; every clothes, T-shirts, pants and dresses even those not wrapped dropped to the ground. I was terribly shamed in the presence of market goers that morning.”[20]

Needles to state, the wantonness of the wrongful seizure justifies the award of exemplary damages.[21] It will also serve as a stern reminder to all and sundry that the constitutional protection against unreasonable search and seizure is a virile reality and not a mere burst of rhetoric. The all encompassing protection extends against intrusions directly done both by government and indirectly by private entities.

IN VIEW WHEREOF, the appealed decision is AFFIRMED WITH MODIFICATION. We impose a SIX PERCENT (6%) interest from January 9, 1987 on the TWO THOUSAND PESOS (P2,000.00) for the unreturned twenty--six (26) pieces of girl scouts items and a TWELVE PERCENT (12%) interest, in lieu of SIX PERCENT (6%), on the said amount upon finality of this Decision until the payment thereof.[22] Costs against petitioners.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Mendoza, JJ., concur.

[1] Exhibit “1”.

[2] I.S. No. 83-15275 before the Rizal Provincial Fiscal’s Office.

[3] Demand letters were sent on March 22, 1984 and April 11, 1984.

[4] RTC, NJCR, Pasig, Branch 151.

[5] Penned by Mr. Justice Jesus M. Elbinias, and concurred by Justices Florelia C. Bartolome and Antonio M. Martinez.

[6] Bagalihog vs. Fernandez, G.R. No. 96356, June 27, 1991, 198 SCRA 614.

[7] Section 12, Rule 126 of the Rules of Court.

[8] Burgos, Sr. vs. Chief of Staff, AFP, No. L-64261, December 26, 1984, 133 SCRA 800.

[9] No. L-22554, August 29, 1975, 66 SCRA 299.

[10] No. L-69866, April 15, 1988, 160 SCRA 590.

[11] Supra.

[12] Rollo, p. 22, Court of Appeals Decision, p. 9.

[13] Am. Jur., 47 [1943], see Hebrew vs. Pulis, 73 NJL 621, 64 A 121, 7 LRA(NS) 580, 118 Am St Rep 716.

[14] Court of Appeals Decision, pp. 5-6; Rollo, pp. 18--19.

[15] See, *Aberca vs. Ver*, *op cit*.

[16] Section 12, Rule 6, Rules of Court.

[17] *Simex International (Manila), Inc. vs. Court of Appeals*, G.R. No. 88013, March 19, 1990, 183 SCRA 360.

[18] Rollo, p. 17.

[19] *Id.*, pp. 17-18.

[20] *Id.*, p. 18.

[21] Article 2229, Civil Code.

[22] *Eastern Shipping Lines, Inc., vs. Hon. Court of Appeals and Mercantile Insurance Company, Inc.*, G.R. No. 97412, July 12, 1994.

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