

## THIRD DIVISION

[ G.R. No. 196045, February 21, 2018 ]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. AMADOR  
PASTRANA AND RUFINA ABAD, RESPONDENTS.**

### DECISION

#### MARTIRES, J.:

The sacred right against an arrest, search or seizure without valid warrant is not only ancient. It is also zealously safeguarded. The Constitution guarantees the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. Any evidence obtained in violation of said right shall thus be inadmissible for any purpose in any proceeding. Indeed, while the power to search and seize may at times be necessary to the public welfare, still it must be exercised and the law implemented without contravening the constitutional rights of the citizens; for the enforcement of no statute is of sufficient importance to justify indifference to the basic principles of government.<sup>[1]</sup>

This is a petition for review on certiorari seeking to reverse and set aside the Decision,<sup>[2]</sup> dated 22 September 2010, and Resolution,<sup>[3]</sup> dated 11 March 2011, of the Court of Appeals (CA) in CA-G.R. CV No. 77703. The CA affirmed the Omnibus Order,<sup>[4]</sup> dated 10 May 2002, of the Regional Trial Court, Makati City, Branch 58 (RTC), which nullified Search Warrant No. 01-118.

### THE FACTS

On 26 March 2001, National Bureau of Investigation (NBI) Special Investigator Albert Froilan Gaerlan (*SI Gaerlan*) filed a Sworn Application for a Search Warrant<sup>[5]</sup> before the RTC, Makati City, Branch 63, for the purpose of conducting a search of the office premises of respondents Amador Pastrana and Rufina Abad at Room 1908, 88 Corporate Center, Valero Street, Makati City. SI Gaerlan alleged that he received confidential information that respondents were engaged in a scheme to defraud foreign investors. Some of their employees would call prospective clients abroad whom they would convince to invest in a foreign-based company by purchasing shares of stocks. Those who agreed to buy stocks were instructed to make a transfer for the payment thereof. No shares of stock, however, were actually purchased. Instead, the money collected was allocated as follows: 42% to respondent Pastrana's personal account; 32% to the sales office; 7% to investors-clients, who threatened respondents with lawsuits; 10% to the cost of sales; and 8% to marketing. Special Investigator Gaerlan averred that the scheme not only constituted *estafa* under Article 315 of the Revised Penal Code (RPC), but also a violation of Republic Act (R.A.) No. 8799 or the Securities Regulation Code (SRC).<sup>[6]</sup>

In support of the application for search warrant, SI Gaerlan attached the affidavit of

Rashed H. Alghurairi, one of the complainants from Saudi Arabia;<sup>[7]</sup> the affidavits of respondents' former employees who actually called clients abroad;<sup>[8]</sup> the articles of incorporation of domestic corporations used by respondents in their scheme;<sup>[9]</sup> and the sketch of the place sought to be searched.<sup>[10]</sup>

On 26 March 2001, Judge Tranquil Salvador, Jr. (*Judge Salvador, Jr.*) of the RTC, Branch 63, Makati City, issued Search Warrant No. 01-118, viz:

PEOPLE OF THE PHILIPPINES,	Search Warrant No. 01-118
-versus-	For: Violation of R.A. 8799 (The Securities Regulation Code) and Estafa (Art. 315, RPC)

AMADOR  
PASTRANA AND  
RUFINA ABAD of  
1908 88  
Corporate  
Center, Valero  
St.,  
Makati City

#### SEARCH WARRANT

TO ANY PEACE OFFICER:

GREETINGS:

It appearing to the satisfaction of the undersigned after examining under oath the applicant NBI [Special Investigator] ALBERT FROILAN G. GAERLAN and his witnesses RONNIE AROJADO and MELANIE O. BATO, that there is probable cause to believe that AMADOR PASTRANA and RUFINA ABAD have in their possession/control located in [an] office premises located at 1908 88 Corporate Center, Valero St., Makati City, as shown in the application for search warrant the following documents, articles and items, to wit:

Telephone bills showing the companies['] calls to clients abroad; list of brokers and their personal files; incorporation papers of all these companies[, ] local and abroad; sales agreements with clients; copies of official receipts purposely for clients; fax messages from the clients; copies of credit advise from the banks; clients['] message slips; company brochures; letterheads; envelopes; copies of listings of personal assets of Amador Pastrana; list of clients and other showing that these companies acted in violation of their actual registration with the SEC.

which should be seized and brought to the undersigned.

You are hereby commanded to make an immediate search anytime of the day of the premises above-described and forthwith seize and take possession thereof and bring said documents, articles and items to the

undersigned to be dealt with as the law directs.

The officer(s) making the search shall make a return of their search within the validity of the warrant.

This search warrant shall be valid for ten (10) days from this date.<sup>[11]</sup>

Thus, on 27 March 2001, NBI agents and representatives from the Securities and Exchange Commission (SEC) proceeded to respondents' office to search the same. The search was witnessed by Isagani Paulino and Gerardo Derma, Chief Security Officer and Building Administrator, respectively of 88 Corporate Center. Pursuant to the Return,<sup>[12]</sup> dated 2 April 2001, and the Inventory Sheet<sup>[13]</sup> attached thereto, the NBI and the SEC were able to seize the following:

1. Eighty-nine (89) boxes containing the following documents:

- a. Telephone bills of the company calls to clients;
- b. List of brokers and 201 files;
- c. Sales agreements;
- d. Official receipts;
- e. Credit advise;
- f. Fax messages;
- g. Clients message slips;
- h. Company brochures;
- i. Letterheads; and
- j. Envelopes.

2. Forty (40) magazine stands of brokers' records;

3. Offshore incorporation papers;

4. Lease contracts; and

5. Vouchers/ledgers.

On 11 June 2001, respondent Abad moved to quash Search Warrant No. 01-118 because it was issued in connection with two (2) offenses, one for violation of the SRC and the other for *estafa* under the RPC, which circumstance contravened the basic tenet of the rules of criminal procedure that search warrants are to be issued only upon a finding of probable cause in connection with one specific offense. Further, Search Warrant No. 01-118 failed to describe with specificity the objects to be seized.<sup>[14]</sup>

On 19 September 2001, pending the resolution of the motion to quash the search

warrant, respondent Abad moved for the inhibition of Judge Salvador, Jr. She contended that the lapse of three (3) months without action on the motion to quash clearly showed Judge Salvador, Jr.'s aversion to passing judgment on his own search warrant.<sup>[15]</sup>

In an Order,<sup>[16]</sup> dated 15 November 2001, Judge Salvador, Jr. voluntarily inhibited himself from the case. Hence, the case was re-raffled to the RTC, Makati City, Branch 58.

### ***The Regional Trial Court Ruling***

In an Omnibus Order, dated 10 May 2002, the RTC ruled that the search warrant was null and void because it violated the requirement that a search warrant must be issued in connection with one specific offense only. It added that the SRC alone punishes various acts such that one would be left in limbo divining what specific provision was violated by respondents; and that even *estafa* under the RPC contemplates multifarious settings. The RTC further opined that the search warrant and the application thereto as well as the inventory submitted thereafter were all wanting in particularization. The *fallo* reads:

WHEREFORE, Search Warrant No. 01-118 issued on March 26, 2001 is hereby QUASHED and NULLIFIED. All documents, articles and items seized are hereby ordered to be RETURNED to petitioner/accused. Any and all items seized, products of the illegal search are INADMISSIBLE in evidence and cannot be used in any proceeding for whatever purpose. The petition to cite respondent SEC and NBI officers for contempt of court is DENIED for lack of merit.

SO ORDERED.<sup>[17]</sup>

Aggrieved, petitioner, through the Office of the Solicitor General elevated an appeal before the CA.

### ***The Court of Appeals Ruling***

In its decision, dated 22 September 2010, the CA affirmed the ruling of the RTC. It declared that Search Warrant No. 01-118 clearly violated Section 4, Rule 126 of the Rules of Court which prohibits the issuance of a search warrant for more than one specific offense, because the application failed to specify what provision of the SRC was violated or even what type of *estafa* was committed by respondents. The appellate court observed that the application for search warrant never alleged that respondents or their corporations were not SEC-registered brokers or dealers, contrary to petitioner's allegation that respondents violated Section 28.1 of the SRC which makes unlawful the act of buying or selling of stocks in a dealer or broker capacity without the requisite SEC registration.

The CA further pronounced that the subject search warrant failed to pass the test of particularity. It reasoned that the inclusion of the phrase "other showing that these companies acted in violation of their actual registration with the SEC" rendered the warrant all-embracing as it subjected any and all records of respondents inside the office premises to seizure and the implementing officers effectively had unlimited

discretion as to what property should be seized. The CA disposed the case in this wise:

WHEREFORE, premises considered, the appeal is hereby DENIED. The Omnibus Order dated May 10, 2002 of the Regional Trial Court, Branch 58, Makati City is AFFIRMED.

SO ORDERED.<sup>[18]</sup>

Petitioner moved for reconsideration but the motion was denied by the CA in its resolution, dated 11 March 2011. Hence, this petition.

### **ASSIGNMENT OF ERRORS**

**THE COURT OF APPEALS COMMITTED GRAVE ERROR IN SUSTAINING THE TRIAL COURT'S ORDER WHICH QUASHED SEARCH WARRANT NO. 01-118 CONSIDERING THAT:**

#### **I.**

**READ TOGETHER, THE ALLEGATIONS IN NBI AGENT GAERLAN'S APPLICATION FOR A SEARCH WARRANT AND SEARCH WARRANT NO. 01-118 SHOW THAT SAID WARRANT WAS ISSUED IN CONNECTION WITH THE CRIME OF VIOLATION OF SECTION 28.1 OF R.A. NO. 8799.**

#### **II.**

**SEARCH WARRANT NO. 01-118 PARTICULARLY DESCRIBED THE ITEMS LISTED THEREIN WHICH SHOW A REASONABLE NEXUS TO THE OFFENSE OF ACTING AS STOCKBROKER WITHOUT THE REQUIRED LICENSE FROM THE SEC. THE IMPUGNED STATEMENT FOUND AT THE END OF THE ENUMERATION OF ITEMS DID NOT INTEND TO SUBJECT ALL DOCUMENTS OF RESPONDENTS TO SEIZURE BUT ONLY THOSE "SHOWING THAT THESE COMPANIES ACTED IN VIOLATION OF THEIR ACTUAL REGISTRATION WITH THE SEC."<sup>[19]</sup>**

Petitioner argues that violation of Section 28.1 of the SRC and *estafa* are so intertwined that the punishable acts defined in one of them can be considered as including or are necessarily included in the other; that operating and acting as stockbrokers without the requisite license infringe Section 28.1 of the SRC; that these specific acts of defrauding another by falsely pretending to possess power or qualification of being a stockbroker similarly constitute *estafa* under Article 315 of the RPC; and that both Section 28.1 of the SRC and Article 315 of the RPC penalize the act of misrepresentation, an element common to both offenses; thus, the issuance of a single search warrant did not violate the "one specific offense rule."<sup>[20]</sup>

Petitioner further contends that the subject search warrant is not a general warrant because the items listed therein show a reasonable nexus to the offense of acting as