

SECOND DIVISION

[G.R. No. 205010, July 18, 2016]

PETRON GASUL LPG DEALERS ASSOCIATION AND TOTALGAZ LPG DEALERS ASSOCIATION, PETITIONERS, VS. ELENA LAO, IMELDA LAO, POMPIDOU GOLANGCO, JEREMY WILSON GOLANGCO, CARMEN CASTILLO, AND/OR OCCUPANTS OF BAGUIO GAS CORPORATION, RESPONDENTS.

DECISION

DEL CASTILLO, J.:

Assailed in this Petition for Review on *Certiorari* is the April 16, 2012 Decision^[1] of the Court of Appeals (CA) in CA-GR. CV Nos. 88723 and 89313. The CA partially granted the appeal by setting aside the December 29, 2005 Resolution^[2] and May 22, 2006 Order^[3] of the Regional Trial Court of La Trinidad, Benguet, Branch 8 (RTC-La Trinidad) which granted the Motions to Quash Search Warrant (SW) Nos. 05-70 and 05-71 against Zenaida Co, Wilson Tan, Wilbert Tan, Norma Yao, Lino Sandil, Hemiogenes Pacheco and/or occupants of Benguet Gas Corporation (Benguet Gas); but affirmed the December 29, 2005 Resolution^[4] and March 30, 2006 Order^[5] of the RTC-La Trinidad which granted the Motions to Quash SW Nos, 05-72 and 05-73 against Elena Lao, Imelda Lao, Pompidou Golangco, Jeremy Wilson Golangco, Carmen Castillo and/or occupants of Baguio Gas Corporation (Baguio Gas) for violation of Section 2(a),^[6] in relation to Sections 3(c)^[7] and 4^[8] of *Batas Pambansa Bilang* 33 (BP 33),^[9] as amended, and for violation of Section 2(c),^[10] in relation to Section 4 of BP 33, as amended. Also assailed is the December 12, 2012 CA Resolution^[11] denying the Motion for Partial Reconsideration of its April 16, 2012 Decision.

Factual Antecedents

In his separate Affidavits^[12] dated May 19, 2005, Darwin Lising (Using), Supervising Agent of the National Bureau of Investigation-Cordillera Administrative Region (NBI-CAR), stated that on March 1, 2005, Atty. Genesis Adarlo (Atty. Adarlo), counsel of private complainants LPG Dealers Associations (Shellane Dealers Association, Inc., Petron Gasul Dealers Association, Inc., Totalgaz Dealers Association, Inc. and Caltex Starflame LPG Dealers Association) requested assistance from NBI-CAR. for the investigation and if necessary, the prosecution of persons and/or establishments in the Cordillera and Mountain Province engaged in illegal trade of petroleum products and/or sale of underfilled liquefied petroleum gas (LPG) or possession of underfilled LPG cylinders in violation of BP 33, as amended.^[13]

Lising averred that upon his verification, among the suspected persons and/or establishments that violated BP 33, as amended, were Benguet Gas, is located at

Km. 14, Caponga, Tublay, Benguet, and Baguio Gas, which is located at Km. 3, Naguilian Road, Irisan, Baguio City; based on their Articles of Incorporation^[14] and General Information Sheet^[15] respectively, Benguet Gas is majority-owned and controlled by Zenaida Co, Wilson Tan, Wilbert Tan, Norma Yao, Lino Sandil and Hermogenes Pacheco (Benguet Gas owners); while Baguio Gas is majority-owned and controlled by Elena Lao, Imelda Lao, Pompidou Golangco, Jeremy Wilson Golangco and Carmen Castillo (Baguio Gas owners).

Lising also averred that Atty. Adarlo certified that Benguet Gas and Baguio Gas were not authorized to refill LPG cylinders bearing the brands of Pilipinas Shell Petroleum Corporation, Petron Gasul Corporation, Total (Philippines) Corporation/Superkalan Gaz Corporation, and Caltex (Philippines), Inc.^[16] He added that for several days in March 2005, he and other NBI-CAR operatives, particularly, Security Officer I William A. Fortea (Fortea), conducted surveillance on Benguet Gas and Baguio Gas, On April 1, 2005, he and Fortea brought empty LPG cylinders with assorted brands and executed "test-buy" operations in both Benguet Gas and Baguio Gas. He confirmed that he witnessed the actual refilling of these tanks by the Benguet Gas employees for a total consideration of P3,300.00; and by the Baguio Gas employees for P3,650.00.

Upon purchase of said illegally refilled LPG tanks, Lising and Fortea brought and marked them in their office. Lising also asserted that such tanks were underfilled and had fake seals. He added that after the initial test-buy, the NBI-CAR conducted further surveillance and investigation on Benguet Gas' and Baguio Gas' illegal activities from the third week of April 2005 up to the second week of May 2005.

On May 19, 2005, on behalf of the People of the Philippines, Lising filed with the RTC-La Trinidad separate Applications^[17] for Search Warrant (SW) against Benguet Gas and its owners; and Baguio Gas and its owners (respondents) for illegal trade of LPG products, and underfilling of LPG products and/or possession of underfilled LPG cylinders. He affirmed that Benguet Gas and Baguio Gas were respectively in control of the following items being utilized, kept, displayed and/or stored at their respective premises:

- A) Empty/filled Fifty Kilogram (50 Kg.) and/or Twenty-Two Kilogram (22 Kg.) and/or Eleven Kilogram (11 Kg.) and/or Five and 5/10 Kilogram (5.5 Kg.) and/or Two and 7/10 Kilogram (2.7 Kg.) [LPG] cylinders being used and/or intended to be vised for the illegal trading of LPG products, *i.e.*, refilling of the branded LPG cylinders enumerated hereunder without the written authorization of their respective companies, [and for the underfilling beyond authorized limits of LPG products for the purpose of sale, distribution, transportation, exchange or barter]^[18] more particularly described as follows:
 - (a) Empty/filled Shellane 50 Kg. and/or 11 Kg. LPG cylinders owned by Pilipinas Shell Petroleum Corporation;
 - (b) Empty/filled Petron Gasul 50 Kg. and/or 11 Kg. LPG cylinders owned by Petron Corporation;
 - (c) Empty/filled Petron Gasulette 2.7 Kg. LPG cylinders owned by Petron Corporation;
 - (d) Empty/filled Totalgaz 50 Kg. and/or 22 Kg. and/or 11 Kg. LPG cylinders owned by Total (Philippines) Corporation;

- (e) Empty/filled Superkalan Gaz 2.7 Kg. LPG cylinders owned by Superkalan Gaz Corporation; and
- (f) Empty/filled Caltex Starflame 50 Kg. and/or 11 Kg. LPG cylinders owned by Caltex Philippines, Inc.;
- B) Machinery and/or equipment, such as but not limited to, LPG bullet tanks, LPG filling heads, LPG filling scales, LPG seals bearing the marks of the abovementioned companies, compressors, pumps, electric switches, and/or panel boards, being used or intended to be used for the illegal trading [and for the underfilling beyond authorized limits x x x for the purpose of sale, distribution, transportation, exchange or barter]^[19] of the abovementioned LPG cylinders owned by the aforementioned companies;
- C) Invoices, ledgers, journals, delivery receipts, official receipts, purchase orders, cash and/or check vouchers, counter-receipts, and all other books of accounts and/or documents showing the illegal trading [and the underfilling beyond authorized limits x x x for the purpose of sale, distribution, transportation, exchange or barter]^[20] of the abovementioned LPG cylinders owned by the aforementioned companies; and
- D) Delivery vehicles, tanker tony, and/or conveyances being used or intended to be used for the illegal trading of the abovementioned LPG cylinders owned by the aforementioned companies;^[21] [and for the underfilling beyond authorized limits of the above-mentioned LPG cylinders owned by the aforementioned companies for the purpose of sale, distribution, transportation, exchange or barter].^[22]

Moreover, Lising declared that his SW Applications with the RTC-La Trinidad included Baguio Gas even if it is located in Baguio City because of "compelling reasons of urgency, subject, time, and place." Using explained that a) time is of essence here as the volume of LPG cylinders being illegally refilled by Baguio Gas reflected the capacity of its facilities to perpetrate illegal acts resulting to unhampered illegal trade of LPG and unhampered underfilling of LPG products or possession of underfilled LPG cylinders for the purpose of sale, distribution, exchange or barter; b) the brisk sales of LPG cylinders may result in the depletion of stocks, leaving nothing to be seized if an SW will be eventually issued but at a later date; and, c) the immediate hearing on and issuance of SW are precautions against possible leakage of information to Baguio Gas.

On May 19, 2005, the RTC-La Trinidad issued SW Nos. 05-70 and 05-71^[23] against Benguet Gas and its owners; and SW Nos. 05-72 and 05-73^[24] against respondents. It ordered Lising to make an immediate search on the above-described premises, and seize the personal properties subject of the SWs.

On May 20, 2005, Lising served upon Benguet Gas and its owners, and respondents the corresponding SWs against them. On the same day, he submitted to the RTC the respective Consolidated Returns^[25] and Inventory Sheets^[26] relating to the SWs. The Inventory Sheets revealed that the following were the items seized from Benguet Gas:

- 1) Gas Compressor - 1 unit
- 2) Pump Motor - 1 unit
- 3) Hydraulic Operator - 1 unit
- 4) Filling Scale - 4 unit[s]
- 5) Filling Heads with Hose - 4 pieces
- 6) Otex weighing Scale 100 Kg - 1 unit
- 7) Air Compressor (Vespa) 1.5 HP - 1 unit
- 8) Air Compressor (Vespa) 2.0 HP - 1 unit

Tampered Cylinders

- 1) Shell 11 Kg - 9 [Empty]
- 2) Caltex 11 Kg - 9 [Empty]
- 3) Caltex 22 Kg - 1 [Empty]
- 4) GasulllKg - 1 [Empty]
- 5) Caltex 11 Kg - 1 (Filled)

Grinded Nameplates - 11 Kgs - 9 cylinders^[27]

On the other hand, the items seized from Baguio Gas were as follows;

- 2 Units Wt. Scale w/o S/N Akiba
- 8 Units Wt. Scale No Brand Name w/o S/N
- 1 Unit Corken gas Compressor w/ S/N WC29794
- 2 Units Blackmer LPG Pump w/ SN - 2526 & BX110252 respectively
- 1 Unit Truck (Mitsubishi Canter) w/ P/N AHF 968
- 2 Units Pump Motor - US Electrical Frame# 213T
- Fuji Electric Co. Frame 1325
- 3 Units Weitex Toledo Wt. Scale - S/N 6844, 11444, & 18058 respectively
- 1 Unit Air Compressor, Quincy, Color Blue
- 100 Gasul Cylinders
- 20 Shellane Cylinders
- 15 Caltex Cylinders
- 1 Spare Tire 7.50 x 15 for Mitsubishi Canter PN # AHF968^[28]

Lising also filed with the RTC-La Trinidad Motions^[29] for Temporary Custody of the Seized Items alleging that the seized items were flammable, combustible and hazardous by nature, and the RTC and/or NBI-CAR were incapable of storing them.

On May 23, 2005, the RTC-La Trinidad granted^[30] Lising's Motions and ordered that the seized items be stored at the warehouse of Asephil Manufacturing Corporation in Antipolo deputizing the NBI-CAR to be responsible for its custody. It noted that such items shall remain in *custodia legis* subject to the control of the RTC-La Trinidad.

Thereafter, Benguet Gas and its owners, and respondents respectively moved for the quashal of the SWs against them.^[31]

According to Benguet Gas and its owners, there existed no probable cause for the issuance of SWs against them; such SWs failed to describe with particularity the place to be searched and the items to be seized; and the transfer of the seized items to another place will cause their deterioration resulting to business losses and inconvenience.

Meanwhile, respondents argued that the offenses imputed against them were committed outside the RTC-La Trinidad's territorial jurisdiction, and there is no showing of any compelling reason that would warrant the issuance of SWs against them. They further contended that the SWs were not supported by probable cause and that they failed to describe with particularity the place to be searched and the items to be seized.

On December 29, 2005, the RTC-La Trinidad granted the respective Motions to Quash SWs filed by Benguet Gas and its owners, and by respondents.

Lising and private complainants appealed.

On April 16, 2012, the CA partially granted the consolidated appeal, the dispositive portion of its Decision reads:

WHEREFORE, in view of the foregoing premises, the consolidated appeal is PARTIALLY GRANTED, thus:

1. We hereby REVERSE and SET ASIDE the Resolution dated 29 December 2005 of the Regional Trial Court of La Trinidad, Benguet, Branch 8 granting the Motion to Quash Search Warrant Nos. 05-70 and 05-71 and its Order dated 22 March 2006 denying complainants-appellants' Motion for Reconsideration. Accordingly, Search Warrant Nos. 05-70 and 05-71 are hereby REINSTATED.

2. We AFFIRM the Resolution dated 29 December 2005 of the Regional Trial Court of La Trinidad, Benguet, Branch 8 granting the Motion to Quash Search Warrant Nos. 05-72 and 05-73 and its Order dated 30 March 2006 denying complainants-appellants' Motion for Reconsideration-Complainants-appellants are hereby ordered to return to respondents-appellees Elena Lao, Imelda Lao, Pompidou Golangco, Jeremy Wilson Golangco, Carmen Castillo and/or occupants of Baguio Gas Corporation the items and equipment seized under Search Warrant Nos. 05-72 and 05-73.

No costs.

SO ORDERED.^[32]

The CA held that considering that the RTC-La Trinidad initially ordered the issuance of SWs against Benguet Gas and its owners, then there is probable cause, or such good and sufficient reason to believe that violation of BP 33 had been committed in the place sought to be searched. It added that it is rather unusual for the court to later on claim that its searching questions on Lising and his witness were not exhaustive enough. It also declared that the items to be seized were sufficiently described as circumstances would allow and the SWs were issued in relation to specific offenses indicated in each warrant.

However, the CA was unconvinced that there was any compelling reason for RTC-La Trinidad to issue SWs against respondents as Baguio Gas is located outside its jurisdiction, Echoing the RTC-La Trinidad's quashal of SWs against respondents, the CA noted that Lising received Atty. Adarlo's complaint on March 1, 2005; the test-