753 Phil. 707

THIRD DIVISION

[G.R. No. 189669, February 16, 2015]

PILIPINAS SHELL PETROLEUM CORPORATION AND PETRON CORPORATION, PETITIONERS, VS. ROMARS INTERNATIONAL GASES CORPORATION, RESPONDENT.

D E C I S I O N

PERALTA, J.:

This deals with the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court praying that the Decision[1] of the Court of Appeals (CA), dated March 13, 2009, and the Resolution[2] dated September 14, 2009, denying petitioner's motion for reconsideration thereof, be reversed and set aside.

The antecedent facts are as follow:

Petitioners received information that respondent was selling, offering for sale, or distributing liquefied petroleum gas (*LPG*) by illegally refilling the steel cylinders manufactured by and bearing the duly registered trademark and device of respondent Petron. Petron then obtained the services of a paralegal investigation team who sent their people to investigate. The investigators went to respondent's premises located in San Juan, Baao, Camarines Sur, bringing along four empty cylinders of Shellane, Gasul, Total and Superkalan and asked that the same be refilled. Respondent's employees then refilled said empty cylinders at respondent's refilling station. The refilled cylinders were brought to the Marketing Coordinator of Petron Gasul who verified that respondent was not authorized to distribute and/or sell, or otherwise deal with Petron LPG products, and/or use or imitate any Petron trademarks. Petitioners then requested the National Bureau of Investigation (*NBI*) to investigate said activities of respondent for the purpose of apprehending and prosecuting establishments conducting illegal refilling, distribution and/or sale of LPG products using the same containers of Petron and Shell, which acts constitute a violation of Section 168,[3] in relation to Section 170[4] of Republic Act (R.A.) No. 8293, otherwise known as the *Intellectual Property Code of the Philippines,* and/or Section 2[5] of R.A. No. 623, otherwise known as *An Act To Regulate the Use of Duly Stamped or Marked Bottles, Boxes, Casks, Kegs, Barrels and Other Similar Containers.*

The NBI proceeded with their investigation and reportedly found commercial quantities of Petron Gasul and Shellane cylinders stockpiled at respondent's warehouse. They also witnessed trucks coming from respondent's refilling facility loaded with Gasul, Shellane and Marsflame cylinders, which then deposit said cylinders in different places, one of them a store called "Edrich Enterprises" located at 272 National Highway, San Nicolas, Iriga City. The investigators then bought Shellane and Gasul cylinders from Edrich Enterprises, for which they were issued an official receipt.

Thus, the NBI, in behalf of Petron and Shell, **filed with the Regional Trial Court of Naga City (RTC-Naga), two separate Applications for Search Warrant** for Violation of Section 155.1,[6] in relation to Section 170[7] of R.A. No. 8293 against respondent and/or its occupants. On October 23, 2002, the RTC-Naga City issued an Order granting said Applications and Search Warrant Nos. 2002-27 and 2002-28 were issued. On the same day, the NBI served the warrants at the respondent's premises in an orderly and peaceful manner, and articles or items described in the warrants were seized.

On November 4, 2002, respondent filed a Motion to Quash Search Warrant Nos. 2002-27 and 2002-28, where the only grounds cited were: (a) there was no probable cause; (b) there had been a lapse of four weeks from the date of the test-buy to the date of the search and seizure operations; (c) most of the cylinders seized were not owned by respondent but by a third person; and (d) Edrich Enterprises is an authorized outlet of Gasul and Marsflame. In an Order dated February 21, 2003, the RTC-Naga denied the Motion to Quash.

However, on March 27, 2003, respondent's new counsel filed an Appearance with Motion for Reconsideration. It was only in said motion where respondent raised for the first time, the issue of the impropriety of filing the Application for Search Warrant at the RTC-Naga City when **the alleged crime was committed in a place within the territorial jurisdiction of the RTC-Iriga City**. Respondent pointed out that the **application filed with the RTC-Naga failed to state any compelling reason** to justify the filing of the same in a court which does not have territorial jurisdiction over the place of the commission of the crime, as required by Section 2 (b), Rule 126 of the Revised Rules of Criminal Procedure. Petitioner opposed the Motion for Reconsideration, arguing that it was already too late for respondent to raise the issue regarding the venue of the filing of the application for search warrant, as this would be in violation of the Omnibus Motion Rule.

In an Order dated July 28, 2003, the RTC-Naga issued an Order granting respondent's Motion for Reconsideration, thereby quashing Search Warrant Nos. 2002-27 and 2002-28.

Petitioner then appealed to the CA, but the appellate court, in its Decision dated March 13, 2009, affirmed the RTC Order quashing the search warrants. Petitioner's motion for reconsideration of the CA Decision was denied per Resolution dated September 14, 2009.

Elevating the matter to this Court *via* a petition for review on *certiorari*, petitioner presents herein the following issues:

A.

> THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT VENUE IN AN APPLICATION FOR SEARCH WARRANT IS JURISDICTIONAL. THIS IS BECAUSE A SEARCH WARRANT CASE IS NOT A CRIMINAL CASE.

B.

> THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT RESPONDENT'S MOTION TO QUASH IS NOT SUBJECT TO THE OMNIBUS MOTION RULE AND THAT THE ISSUE OF LACK OF JURISDICTION MAY NOT BE WAIVED AND MAY EVEN BE RAISED FOR THE FIRST TIME ON APPEAL.[8]

Petitioner's arguments deserve closer examination.

Section 2, Rule 126 of the Revised Rules of Criminal Procedure provides thus:

> SEC. 2. *Court where applications for search warrant shall be filed*. - An application for search warrant shall be filed with the following:
>
> > (a) Any court within whose territorial jurisdiction a crime was committed.
> >
> > (b) **For compelling reasons stated in the application, any court within the judicial region where the crime was committed if the place of the commission of the crime is known, or any court within the judicial region where the warrant shall be enforced.**
>
> However, if the criminal action has already been filed, the application shall only be made in the court where the criminal action is pending. (Emphasis supplied)

The above provision is clear enough. Under paragraph (b) thereof, the application for search warrant in this case should have stated compelling reasons why the same was being filed with the RTC-Naga instead of the RTC-Iriga City, considering that it is the latter court that has territorial jurisdiction over the place where the alleged crime was committed and also the place where the search warrant was enforced. The wordings of the provision is of a mandatory nature, requiring a statement of compelling reasons if the application is filed in a court which does not have territorial jurisdiction over the place of commission of the crime. Since Section 2, Article III of the 1987 Constitution guarantees the right of persons to be free from unreasonable searches and seizures, and search warrants constitute a limitation on this right, then Section 2, Rule 126 of the Revised Rules of Criminal Procedure should be construed strictly against state authorities who would be enforcing the search warrants. On this point, then, petitioner's application for a search warrant was indeed insufficient for failing to comply with the requirement to state therein the compelling reasons why they had to file the application in a court that did not have territorial jurisdiction over the place where the alleged crime was committed.

Notwithstanding said failure to state the compelling reasons in the application, the more pressing question that would determine the outcome of the case is, did the RTC-Naga act properly in taking into consideration the issue of said defect in resolving respondent's motion for reconsideration where the issue was raised for the very first time? The record bears out that, indeed, respondent failed to include said issue at the first instance in its motion to quash. Does the omnibus motion rule

cover a motion to quash search warrants?

The omnibus motion rule embodied in Section 8, Rule 15, in relation to Section 1, Rule 9, demands that all available objections be included in a party's motion, otherwise, **said objections shall be deemed waived**; and, the only grounds the court could take cognizance of, even if not pleaded in said motion are: (a) **lack of jurisdiction over the subject matter;** (b) existence of another action pending between the same parties for the same cause; and (c) bar by prior judgment or by statute of limitations.[9] It should be stressed here that the Court has ruled in a number of cases that the omnibus motion rule is applicable to motions to quash search warrants.[10] Furthermore, the Court distinctly stated in *Abuan v. People*, [11] that "**the motion to quash the search warrant which the accused may file shall be governed by the omnibus motion rule, provided, however, that objections not available, existent or known during the proceedings for the quashal of the warrant may be raised in the hearing of the motion to suppress x x x**."[12]

In accordance with the omnibus motion rule, therefore, the trial court could only take cognizance of an issue that was not raised in the motion to quash **if**, (1) said issue was not available or existent when they filed the motion to quash the search warrant; or (2) the issue was one involving jurisdiction over the subject matter. Obviously, the issue of the defect in the application was available and existent at the time of filing of the motion to quash. What remains to be answered then is, if the newly raised issue of the defect in the application is an issue of jurisdiction.

In resolving whether the issue raised for the first time in respondent's motion for reconsideration was an issue of jurisdiction, the CA rationcinated, thus:

> It is jurisprudentially settled that the concept of venue of actions in criminal cases, unlike in civil cases, is jurisdictional. The place where the crime was committed determines not only the venue of the action but is an essential element of jurisdiction. It is a fundamental rule that for jurisdiction to be acquired by courts in criminal cases, the offense should have been committed or any one of its essential ingredients should have taken place within the territorial jurisdiction of the court. Territorial jurisdiction in criminal cases is the territory where the court has jurisdiction to take cognizance or to try the offense allegedly committed therein by the accused. Thus, it cannot take jurisdiction over a person charged with an offense allegedly committed outside of that limited territory.[13]

Unfortunately, the foregoing reasoning of the CA, is inceptionally flawed, because as pronounced by the Court in *Malaloan v. Court of Appeals*,[14] and reiterated in the more recent *Worldwide Web Corporation v. People of the Philippines*,[15] to wit:

> x x x as we held in *Malaloan v. Court of Appeals*, **an application for a search warrant is a "special criminal process," rather than a criminal action:**