

THIRD DIVISION

[G.R. No. 174570, February 20, 2010]

ROMER SY TAN, PETITIONER, VS. SY TIONG GUE, FELICIDAD CHAN SY, SY CHIM, SY TIONG SAN, SY YU BUN, SY YU SHIONG, SY YU SAN AND BRYAN SY LIM, RESPONDENTS.

D E C I S I O N

PERALTA, J.:

This is a Petition for Review on *Certiorari* seeking to annul and set aside the Decision^[1] dated December 29, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 81389 and the Resolution^[2] dated August 18, 2006 denying petitioner's Motion for Reconsideration.

The antecedents are as follows:

On January 11, 2006, an Information^[3] for the crime of Robbery was filed against respondents Sy Tiong Gue, Felicidad Chan Sy, Sy Chim, Sy Tiong Yan, Sy Yu Bun, Sy Yu Siong, Sy Yu San, Bryan Sy Lim, Sy Yu Hui-Pabilona, Police Officer 1 (PO1) Mamerto J. Madronio, and PO1 Marvin Sumang for the alleged taking of P6,500,000.00 cash, 286 postdated checks, five boxes of Hennessy Cognac, a television set, a computer set, and other documents from the Guan Yiak Hardware, committed as follows:

That on or about April 15, 2003, in the city of Manila, Philippines, the said accused, conspiring and confederating together and helping one another, did then and there willfully, unlawfully and feloniously with intent of gain and by means of violence against or intimidation of persons and force upon things, to wit: by forcibly entering the Office of Guan Yiak Hardware located at 453-455 Tomas Pinpin Street, Binondo, Manila, while being armed with guns, and thereafter, take rob and carry away cash in the amount of P6,500,000.00 from the vault; 286 postdated checks with total face value of P4,325,642.00 issued by several customers payable to Guan Yiak Hardware, Five (5) boxes of Hennessy XO Cognac valued at P240,000.00 more or less; a television set valued at P20,000.00 more or less; Computer set valued at P50,000.00 more or less and other papers/documents or all valued at P11,135,642.00 more or less belonging to **SY SIY HO AND SONS, INC. (Guan Yiak Hardware)** represented by **Romer S. Tan**, to the damage and prejudice of the aforesaid owner in the total amount of P11,135,642.00 more or less, Philippine Currency.

Contrary to law.^[4]

Consequently, on April 22, 2003, Police Inspector (P/Insp.) Edgar A. Reyes filed two separate applications for the issuance of a search warrant before the Regional Trial Court (RTC), Manila. The applications were later docketed as Search Warrant Case Nos. 03-3611 and 03-3612 and raffled off to Branch 7, RTC, Manila.

In the said applications, P/Insp. Reyes alleged that he had personal knowledge that respondent Felicidad Chan Sy had in her possession five boxes of Hennessy XO, as well as 286 company checks taken from Guan Yiak Hardware. He prayed that the court issue a search warrant authorizing him or any other agent of the law to take possession of the subject property and bring them before the court.

In support of the applications, P/Insp. Reyes submitted the sworn statements of petitioner Romer Sy Tan^[5] and witnesses Maricho Sabelita^[6] and Anicita Almedilla.^[7] On April 22, 2003, presiding Judge Enrico A. Lanzanas posed searching questions to the applicant and his witnesses to determine if probable cause existed to justify the issuance of the search warrants.

Thereafter, or on April 22, 2003, Judge Lanzanas issued Search Warrant Nos. 03-3611^[8] and 03-3612,^[9] directing any peace officer to make an immediate search of the 8th floor, 524 T. Pinpin, Binondo, Manila for five boxes of Hennessy XO; and the 7th floor, 524 T. Pinpin, Binondo, Manila for various checks payable to the Guan Yiak Hardware, respectively; and, if found, to take possession thereof and bring the same before the court.

The warrants were later served in the afternoon of April 22, 2003. Under Search Warrant No. 03-3611, three boxes containing twelve Hennessy XOs and one box containing seven Hennessy XOs, were seized. However, the enforcement of Search Warrant No. 03-3612 yielded negative results.

On May 21, 2003, respondents filed a Motion to Quash Search Warrants,^[10] which petitioner opposed.^[11]

On September 1, 2003, the RTC issued an Order^[12] denying the motion. Respondents filed a Motion for Reconsideration,^[13] but it was denied in the Order^[14] dated October 28, 2003.

Aggrieved, respondents filed a Petition for *Certiorari*^[15] under Rule 65 of the Rules of Court before the CA arguing that:

I.

The respondent judge committed grave abuse of discretion amounting to lack or excess of jurisdiction when he refused to quash the subject search warrants, notwithstanding the manifest absence of probable cause.

II.

There is no appeal, nor any other plain, speedy, and adequate remedy in

the ordinary course of law from the assailed Orders.^[16]

On December 29, 2005, the CA rendered the assailed Decision, the decretal portion of which reads:

WHEREFORE, premises considered, the petition is GRANTED. The assailed orders of the respondent court in *Search Warrant Case Nos. 03-3611 and 03-3612* are REVERSED and SET ASIDE. Accordingly, the Motion to Quash *Search Warrant Case Nos. 03-3611 and 03-3612* is GRANTED.

SO ORDERED.^[17]

The CA opined that quashing the search warrants for lack of personal knowledge was unwarranted. It added that the description of the items to be seized complied with the requirement of particularity. Moreover, the CA found the inquiries made by the judge to be sufficiently probing. However, the CA agreed with the respondents and concluded that there was no probable cause for the issuance of the subject search warrants; thus, respondents' motion to quash should have been granted by the RTC.

Petitioner filed a motion for reconsideration, but it was denied in the assailed Resolution dated August 18, 2006.

Hence, the petition assigning the following errors:

A

The honorable Court of Appeals committed error of law and error of jurisdiction in setting aside the search warrants issued by honorable executive judge enrico a. lanzanas of rtc 7, manila.

B

The honorable court of appeals committed error of law and error of jurisdiction in granting the petition for certiorari filed with it by the respondents, despite lack of showing that honorable executive judge enrico a. lanzanas of rtc 7, manila, committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its orders (*annexes "l" and "p"*) denying respondents' motion to quash search warrants and motion for reconsideration.

Petitioner argues that there was substantial basis for the findings of facts and circumstances, which led the issuing court to determine and conclude that the offense of robbery had been committed by the respondents. Petitioner insists that there was probable cause, which justified the issuing judge to issue the questioned search warrants. Petitioner maintains that the RTC issued the search warrants after determining the existence of probable cause based on the *Sinumpaang Salaysay* of the affiants and the testimonies given by them during the hearing of the applications

for search warrant.

On their part, respondents maintain that the CA's finding that there was no probable cause for the issuance of the search warrants was in accordance with the facts and the law. Respondents contend that the CA correctly appreciated the numerous statements and admissions of petitioner and his witnesses, all of which, taken together, clearly negate any finding of probable cause for the issuance of the subject search warrants.

The sole issue to be determined in the instant action is whether or not there was probable cause warranting the issuance by RTC of the subject search warrants. We answer in the affirmative

A search warrant is an order in writing issued in the name of the People of the Philippines, signed by a judge and directed to a peace officer, commanding him to search for personal property described therein and to bring it before the court.^[18] The issuance of a search warrant is governed by Rule 126 of the Rules of Court, the relevant sections of which provide:

Section 4. *Requisites for issuing search warrant.* -- A search warrant shall not issue except upon probable cause in connection with one specific offense 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 things to be seized which may be anywhere in the Philippines.

Section 5. *Examination of complainant; record.* -- The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he may produce on facts personally known to them and attach to the record their sworn statements together with the affidavits submitted.

Section 6. *Issuance and form of search warrant.* -- If the judge is satisfied of the existence of facts upon which the application is based or that there is probable cause to believe that they exist, he shall issue the warrant, which must be substantially in the form prescribed by these Rules.

Therefore, the validity of the issuance of a search warrant rests upon the following factors: (1) it must be issued upon probable cause; (2) the probable cause must be determined by the judge himself and not by the applicant or any other person; (3) in the determination of probable cause, the judge must examine, under oath or affirmation, the complainant and such witnesses as the latter may produce; and (4) the warrant issued must particularly describe the place to be searched and persons or things to be seized.^[19]

In the case at bar, the CA concluded that the RTC did not comply with any of the requisites required for the issuance of the subject search warrants. The CA ratiocinated that although the RTC judge personally determined if probable cause