

## SECOND DIVISION

**[ G.R. NO. 165122, November 23, 2007 ]**

**ROWLAND KIM SANTOS, PETITIONER, VS. PRYCE GASES, INC.,  
RESPONDENT.**

### **D E C I S I O N**

**TINGA, J.:**

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure assailing the Decision dated 16 January 2004<sup>[1]</sup> and Resolution dated 26 July 2004 of the Court of Appeals in CA-G.R. SP No. 74563. The decision reversed the twin orders of the Regional Trial Court (RTC) of Iloilo City, Branch 29, quashing the search warrant it issued and ordering the return of liquefied petroleum gas (LPG) cylinders seized from petitioner, whereas the resolution denied petitioner's motion for reconsideration of the said decision.

As culled from the records, the following antecedents appear:

Respondent Pryce Gases, Inc. is a domestic corporation engaged in the manufacture of oxygen, acetylene and other industrial gases as well as in the distribution of LPG products in the Visayas and Mindanao regions. Its branch in Iloilo City has been selling LPG products directly or through various dealers to hospitals, restaurants and other business establishments. The LPG products are contained in 11-kg, 22-kg or 50-kg steel cylinders that are exclusively manufactured for respondent's use. The LPG cylinders are also embossed with the Pryce marking and logo.<sup>[2]</sup>

In the beginning of the year 2002, respondent noticed the decline in the return of its LPG cylinders for refilling. Respondent's employees suspected that the LPG cylinders had been removed from market circulation and refilled by respondent's competitors, one of whom was Sun Gas, Inc. Petitioner Rowland Kim Santos is the manager of Sun Gas, Inc.<sup>[3]</sup>

Arnold T. Figueroa, respondent's sales manager for Panay, sought the assistance of the Criminal Investigation and Detection Group (CIDG) to recover the LPG cylinders allegedly in the possession of Sun Gas, Inc. Acting on Figueroa's complaint, CIDG operatives conducted surveillance on the warehouse of Sun Gas, Inc. located at 130 Timawa Avenue, Molo, Iloilo. The CIDG operatives requested the Bureau of Fire Protection (BFP) to conduct a routine fire inspection at Sun Gas, Inc.'s warehouse with some of the CIDG operatives led by PO2 Vicente D. Demandara, Jr. posing as BFP inspectors. The CIDG operatives entered the warehouse and were able to take photographs of the LPG cylinders.

On 4 June 2002, PO2 Vicente D. Demandara, Jr. applied before the RTC of Iloilo City for a warrant to search the premises described as No. 130, Timawa Avenue, Molo, Iloilo. The application alleged that petitioner was in possession of Pryce LPG tanks,

the Pryce logos of some of which were scraped off and replaced with a Sun Gas, Inc. marking, and other materials used in tampering Pryce gas tanks.<sup>[4]</sup> It also averred that petitioner was illegally distributing Pryce LPG products without the consent of respondent, in violation of Section 2 of Republic Act (R.A.) No. 623,<sup>[5]</sup> as amended by R.A. No. 5700.<sup>[6]</sup>

After conducting searching questions on witnesses PO1 Aldrin Ligan, a CIDG operative, and Richard Oliveros, an employee of Pryce Gases, Inc., Hon. Rene B. Honrado, the presiding judge of Branch 29, issued the corresponding search warrant. The search warrant authorized the seizure of the following items:

1. Assorted sizes of PRYCE LPG GAS TANKS CYLINDERS in different kilograms.
2. Suspected LPG gas tanks cylinders with printed/mark SUN GAS INC., trademark and embossed Pryce Gas Trademark scrapped off.
3. Other materials used in tampering the PRYCE LPG GAS TANKS cylinders.<sup>[7]</sup>

On the same day, CIDG agents served the search warrant on petitioner and were able to recover the following items:

- Five Hundred Forty Four (544) empty 11 Kgs[.] PRYCE LPG tank cylinders;
- Two (2) filled 11 Kgs. PRYCE LPG tank cylinders with seal;
- Seven (7) filled 11 Kgs. Pryce LPG tank cylinders without seal;
- Forty Four (44) empty 22 Kgs. PRYCE LPG tank cylinders;
- Ten (10) empty 50 Kgs. Pryce LPG tank cylinders; and
- One (1) filled 6 Kgs. PRYCE LPG tank cylinder without seal.<sup>[8]</sup>

On 7 June 2002, petitioner filed a Motion to Quash<sup>[9]</sup> the search warrant on the grounds of lack of probable cause as well as deception and fraud employed in obtaining evidence in support of the application therefor, in violation of Article III, Section 2 of the Constitution and Rule 126, Sections 4 and 5 of the Rules of Court. Respondent opposed petitioner's Motion to Quash.

On the same day, the CIDG filed a criminal complaint before the Office of the City Prosecutor of Iloilo against petitioner, charging the latter with violation of R.A. No. 623, as amended.

After hearing, the trial court issued an Order<sup>[10]</sup> dated 16 July 2002, granting petitioner's Motion to Quash. The trial court upheld the validity of the surveillance conducted on petitioner's warehouse in order to obtain evidence to support the application for a search warrant and declared that based on the evidence gathered in support of the application for search warrant, the CIDG was able to establish probable cause that petitioner was tampering with Pryce LPG cylinders and making them appear to be those of Sun Gas, Inc. This conclusion, notwithstanding, the trial court made a turnaround, stating that the probable cause as found by it at the time of the application for search warrant fell short of the requisite probable cause necessary to sustain the validity of the search warrant.

The dispositive portion of the Order reads:

WHEREFORE, the Motion To Quash is hereby **GRANTED**. PO2 Vicente Dernadara, Jr. and the Criminal Investigation and Detection Group, Region VI are hereby directed to return the "Pryce" LPG cylinders enumerated in Return of Search Warrant Seized by virtue of the invalid Search Warrant No. 02-16 to the Rowland Kim Santos immediately upon receipt of this Order.

SO ORDERED.<sup>[11]</sup>

Respondent filed a manifestation and motion to hold in abeyance the release of the seized items. It also filed a motion for reconsideration<sup>[12]</sup> of the 16 July 2002 Order but was denied in an Order<sup>[13]</sup> dated 9 August 2002.

Respondent elevated the matter to the Court of Appeals via a special civil action for certiorari,<sup>[14]</sup> arguing that the trial court committed grave abuse of discretion in quashing the search warrant. The petition essentially questioned the quashal of the search warrant despite a prior finding of probable cause and the failure of petitioner to prove that he bought the seized items from respondent. It also challenged petitioner's personality to file the motion to quash.

On 16 January 2004, the Court of Appeals rendered the assailed Decision,<sup>[15]</sup> which set aside the two orders of the trial court dated 16 January 2002 and 9 August 2002. The appellate court also ordered the return of the seized items to respondent. Petitioner sought reconsideration but was denied in an order dated 16 July 2004.<sup>[16]</sup>

Hence, the instant petition for review on certiorari, raising the following issues:

I.

WHETHER PETITIONER ROWLAND KIM SANTOS HAS THE LEGAL PERSONALITY TO ASSAIL THE SEARCH WARRANT FOR HE WAS NAMED RESPONDENT THEREIN AND WAS SUBSEQUENTLY CHARGED FOR VIOLATION OF R.A. [No.] 623, AS AMENDED BY R.A. 5700, BEFORE THE OFFICE OF THE CITY PROSECUTOR OF ILOILO IN I.S. NO. 2015-2000 ENTITLED "*PNP-CIDG V. ROWLAND KIM SANTOS*."

II.

WHETHER THE PETITIONER SHOULD RETURN THE SUBJECT PRYCE LPG CYLINDER TO RESPONDENT DESPITE UNCONTROVERTED EVIDENCE THAT THE SAME WERE SOLD BY THE LATTER TO ITS CUSTOMERS.

III.

WHETHER THE PETITION FOR CERTIORARI FILED BY RESPONDENT PRYCE WITH THE COURT OF APPEALS SHOULD BE DISMISSED FOR NOT BEING THE PROPER REMEDY TO ASSAIL THE ORDERS OF THE TRIAL COURT.<sup>[17]</sup>

Briefly, the petition raises the following issues: (1) whether or not petitioner has authority to seek the quashal of the search warrant; (2) who has proper custody of

the seized items; and (3) whether or not respondent correctly availed of the special civil action for certiorari to assail the quashal of the search warrant.

As to the first issue, the Court of Appeals ruled against petitioner and reversed the trial court's quashal of the search warrant solely on the ground that petitioner, being a mere manager of Sun Gas, Inc., failed to show his authority to act on behalf of the corporation and, therefore, had no legal personality to question the validity of the search warrant. Thus, it concluded that the trial court committed grave abuse of discretion in entertaining and subsequently granting petitioner's motion to quash.

Petitioner takes exception to the Court of Appeals' conclusion, contending that petitioner may assail the questioned search warrant because he was named as respondent in the application for search warrant and in the criminal complaint subsequently filed before the Office of the City Prosecutor of Iloilo.

Well-settled is the rule that the legality of a seizure can be contested only by the party whose rights have been impaired thereby, and the objection to an unlawful search and seizure is purely personal and cannot be availed of by third parties.<sup>[18]</sup>

Petitioner is the real party-in-interest to seek the quashal of the search warrant for the obvious reason that the search warrant, in which petitioner was solely named as respondent, was directed against the premises and articles over which petitioner had control and supervision. Petitioner was directly prejudiced or injured by the seizure of the gas tanks because petitioner was directly accountable as manager to the purported owner of the seized items. It is noteworthy that at the time of the application for search warrant, respondent recognized the authority of petitioner as manager of Sun Gas, Inc. when the application averred that petitioner had in his possession and control the items subject of the alleged criminal offense. Respondent should not be allowed thereafter to question petitioner's authority to assail the search warrant. Moreover, the search warrant was directed against petitioner for allegedly using Pryce LPG cylinders without the authority of respondent.

The Court of Appeals misapplied the ruling in *Stonehill, et al. v. Diokno, et al.*<sup>[19]</sup> that only a corporation has the exclusive right to question the seizure of items belonging to the corporation on the ground that the latter has a personality distinct from the officers and shareholders of the corporation. Assuming *arguendo* that Sun Gas, Inc. was the owner of the seized items, petitioner, as the manager of Sun Gas, Inc., had the authority to question the seizure of the items belonging to Sun Gas, Inc. Unlike natural persons, corporations may perform physical actions only through properly delegated individuals; namely, their officers and/or agents.<sup>[20]</sup> As stated above, respondent cannot belatedly question petitioner's authority to act on behalf of Sun Gas, Inc. when it had already acknowledged petitioner's authority at the time of the application of the search warrant.

The resolution of the second issue as to who has legal custody of the seized items depends upon the determination of the existence of probable cause in the issuance of the search warrant. In the questioned Order dated 16 July 2002, the trial court reversed its earlier finding of probable cause on the ground that the failure of the CIDG agents to seize other materials and tools used by petitioner to tamper with the LPG cylinders invalidated the search warrant because "there would be nothing to show or prove that accused had committed the offense."<sup>[21]</sup> The trial court