



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**CHARLIE TE,**  
Petitioner,

**G.R. No. 164974**

- versus -

Present:

**HON. AUGUSTO V. BREVA,**  
**IN HIS CAPACITY AS THE**  
**PRESIDING JUDGE OF THE**  
**REGIONAL TRIAL COURT,**  
**11<sup>TH</sup> JUDICIAL REGION,**  
**BRANCH 10, DAVAO CITY;**  
**U R. BAHINTING, IN HIS**  
**CAPACITY AS SPECIAL**  
**INVESTIGATOR OF THE**  
**NATIONAL BUREAU OF**  
**INVESTIGATION, SARANGGANI**  
**DISTRICT OFFICE; and**  
**PRYCE GASES, INC.,**  
Respondents.

SERENO, *C.J.*,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
PEREZ, and  
PERLAS-BERNABE, *JJ.*

Promulgated:

**AUG 05 2015**

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**DECISION**

**BERSAMIN, J.:**

The issue for resolution is whether the People of the Philippines should be impleaded as respondents in the petition for *certiorari* filed in the Court of Appeals (CA) to annul and set aside the order of the Regional Trial Court (RTC) denying the petitioner's motion to quash the search warrant issued against him.

**Antecedents**

It appears that respondent Presiding Judge issued a search warrant against the petitioner upon the application of respondent Special Investigator U R. Bahinting of the Sarangani District Office of the National Bureau of Investigation (NBI SARDO) on the basis of his finding of probable cause for

a violation of Section 2(b) of Batas Pambansa Blg. 33, as amended by Presidential Decree No. 1865, for hoarding large quantities of liquefied petroleum gas (LPG) in steel cylinders belonging to respondent Pryce Gases, Inc. (Pryce Gases). The application for the search warrant was filed at the instance of Pryce Gases through its letter dated September 28, 2003 to the NBI SARDO complaining about the collection and hoarding by the petitioner of embossed or name-plated Pryce Gases' LPG cylinders in violation of Sections 155, 156, 168 and 169 of Republic Act No. 8293 (*Intellectual Property Code of the Philippines*).

On October 14, 2003, the petitioner presented his *Omnibus Motion to Quash Warrant and/or Suppress Evidence and to Order Return of Seized Items*, raising therein the lack of probable cause, failure to specify the single offense committed, illegality of the nighttime search, improper application of the plain view doctrine, and inclusion of other offenses.

In his order of November 20, 2003,<sup>1</sup> respondent Presiding Judge denied the petitioner's *Omnibus Motion to Quash Warrant and/or Suppress Evidence and to Order Return of Seized Items* by observing that he had issued the search warrant for one specific offense; that there was probable cause to issue the search warrant; that the search began late in the day and continued into the night, but the actual seizure was carried out in the daytime of the next day; and that the seizure of the blue cylinders with the markings and logo of Pryce Gases was justified under the plain view doctrine because they were found among the large stockpile of cylinders in the petitioner's warehouse.

The petitioner's motion for reconsideration was denied on January 5, 2004.<sup>2</sup>

### **Decision of the CA**

The petitioner assailed the order of November 20, 2003 on *certiorari*,<sup>3</sup> mainly positing that respondent Presiding Judge had committed grave abuse of discretion amounting to excess of jurisdiction:

x x x in issuing the November 20, 2003 Order by ruling that the search warrant was issued based on the existence of probable cause in connection with a specified offense and validly implemented even if the same was served starting at nighttime and including the seizure of blue colored steel cylinders and steel cylinders of different brand names despite the fact that the steel cylinders were either empty or effectively empty having been received and possessed by petitioner in the ordinary course of his business being a legitimate dealer of Shellane brand LPG, a petroleum

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<sup>1</sup> *Rollo*, pp. 245-254.

<sup>2</sup> *Id.* at 271-272.

<sup>3</sup> *Id.* at 67-89.

product of the Pilipinas Shell Petroleum Corp. and thereafter in issuing the Order dated January 5, 2004 denying the motion for reconsideration.<sup>4</sup>

However, the CA promulgated the first assailed order on March 25, 2004,<sup>5</sup> dismissing the petition for *certiorari* for failure to implead the People of the Philippines as respondents, and for lack of any showing that a copy of the petition had been served on the OSG, to wit:

We resolve to **DISMISS** the petition pursuant to Section 3, Rule 46 of the Revised Rules of Court for the following reasons:

1. the People of the Philippines is not impleaded as a respondent;
2. no proof that a copy of the petition was served on the Office of the Solicitor General.

**SO ORDERED.**

The petitioner moved for reconsideration,<sup>6</sup> arguing that impleading the People of the Philippines as respondents was premature because no criminal case had yet been filed against him with only the application for the issuance of the search warrant having been made; and that serving the copy of the petition on the OSG pursuant to Section 3, Rule 46 of the *Rules of Court* was not indispensable. Nevertheless, he attached to his motion for reconsideration the affidavit of service executed by one Salvador R. Dumaop, Jr. presumably to conform with the rule on proof of service to the respondents, whereby the affiant attested that the copy of the petition and the motion for reconsideration were served on the OSG by registered mail.

On July 21, 2004, the CA denied the petitioner's motion for reconsideration<sup>7</sup> on the ground that although the petitioner had served on the OSG copies of the petition and the motion for reconsideration he did not file the appropriate motion or manifestation to amend the petition and to actually amend the petition in order to implead the People of the Philippines as respondents. The CA ratiocinated that:

We call the petitioner's attention to the fact that Section 1, Rule 126 of the Revised Rules of Court provides that "*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 bring it before the Court.*" A search warrant is issued in the name of the People of the Philippines because there is a finding of probable cause in connection with one specific offense that the object sought in connection with the offense are in

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<sup>4</sup> Id. at 72.

<sup>5</sup> Id. at 48-49; penned by Associate Justice Arturo D. Brion (now a Member of the Court), concurred in by Associate Justice Salvador J. Valdez, Jr. (retired/deceased) and Associate Justice Josefina Guevara-Salonga (retired).

<sup>6</sup> Id. at 50-54.

<sup>7</sup> Id. at 57-59.

the place sought to be searched. In legal contemplation, the crime or offense had been committed against the State – the People of the Philippines – and this is the State interest in the proceedings. If the petitioner wishes to contest the finding of probable cause or any other aspect of the issuance of the search warrant, then he must implead the entity who in legal contemplation made the finding and in whose name the finding was made; otherwise, there can be no final determination of the case because the party indispensable to its resolution had been omitted.<sup>8</sup>

Hence, according to the CA, it was left with no choice but to deny the motion for reconsideration.

Not satisfied, the petitioner has come to the Court on appeal to reverse and set aside the aforesaid resolutions by insisting that the failure to implead the People of the Philippines was not a fatal defect.

### Issue

In this appeal, the petitioner relevantly avers in his petition for review on *certiorari*,<sup>9</sup> as follows:

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20. It is humbly submitted that the Court of Appeals committed a reversible error in grave abuse of its discretion amounting to excess of jurisdiction in dismissing the petition by ruling that the failure to implead the People of the Philippines as an indispensable party is a fatal defect. The petition has shown a grave violation of a constitutional right that must necessarily override a rule on technicality, assuming it is applicable and correct.

21. Specifically, it is submitted that it is not a necessary requisite and an indispensable condition that the People of the Philippine (sic) be impleaded in a petition filed assailing the denial of a motion to quash a search warrant. And that such failure to so include it as an indispensable party is not a fatal defect more so with the fact that there was a showing of a gross violation of a constitutional right.<sup>10</sup>

X X X X

However, on November 8, 2004, the Court denied the petition for review,<sup>11</sup> viz.:

**G.R. No. 164974 (*Charlie Te vs. Augusto Breva, etc., et al.*).** -  
The Court Resolves to **DENY** the motion of petition for an extension of thirty (30) days from the expiration of reglementary period within which

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<sup>8</sup> Id. at 58-59.

<sup>9</sup> Id. at 10-47.

<sup>10</sup> Id. at 19.

<sup>11</sup> Id. at 123.

to file petition for review on certiorari, for failing to pay the balance of ₱330.00 representing docket and other legal fees and deposit for costs within the reglementary period under Secs. 2 and 3, Rule 45 in relation to Sec. 5(c), Rule 56, 1997 Rules of Civil Procedure.

The Court further Resolves to **DENY** the ex-parte motion of petitioner to accept payment of fee amounting to ₱300.00, the payment being insufficient.

Pursuant to Rule 45 and other related provisions of the 1997 Rules of Civil Procedure, as amended, governing appeals by certiorari to the Supreme Court, only petitions which are accompanied by or which comply strictly with the requirements specified therein shall be entertained. On the basis thereof, the Court further more Resolves to **DENY** the instant petition for review on certiorari of the resolutions of the Court of Appeals dated March 25, 2004 and July 21, 2004 for late filing as the petition was filed beyond the reglementary period of fifteen (15) days fixed in Sec. 2, Rule 45 in relation to Sec. 5(a), Rule 56.<sup>12</sup>

Upon the petitioner's motion for reconsideration,<sup>13</sup> the Court reinstated the petition for review and required the respondents herein to comment within 10 days from notice on February 9, 2005.<sup>14</sup> On May 19, 2005, the respondents filed their compliance,<sup>15</sup> and attached thereto their comment dated April 20, 2005,<sup>16</sup> with annexes. On July 4, 2005, the Court noted the compliance of the respondents and the submission of the comment on the petition for review on *certiorari*; and required the petitioner to file his reply within 10 days from notice.<sup>17</sup>

### **Ruling of the Court**

The petition lacks merit.

The petitioner argues that his petition for *certiorari* did not need to implead the People of the Philippines because there was yet no criminal case commenced in court, averring:

To restate, a search warrant proceedings is not a criminal action, much less a civil action (WASHINGTON DISTILLERS INC. VS. COURT OF APPEALS, 260 SCRA 821, quoting Malaloan vs. Court of Appeals, 232 SCRA 249). While a search warrant is issued in the name of the People of the Philippines, the application is made not by the People of the Philippines but by the interested party or parties. In this instant case, it is the NBI-SARDO (through respondent SI Bahinting) and Pryce Gases, Inc. It is humbly submitted that since there is no criminal case filed and pending when the search warrant application was made, the People of the

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<sup>12</sup> Id.

<sup>13</sup> Id. at 127-133.

<sup>14</sup> Id. at 136.

<sup>15</sup> Id. at 147-148.

<sup>16</sup> Id. at 149-171.

<sup>17</sup> Id. at 287.

Philippines is not yet a proper party to be impleaded as respondent as required under Section 3 of Rule 46 of the Rules of Court.<sup>18</sup>

The argument of the petitioner is untenable.

Impleading the People of the Philippines in the petition for *certiorari* did not depend on whether or not an actual criminal action had already been commenced in court against the petitioner. It cannot be denied that the search warrant in question had been issued *in the name of* the People of the Philippines, and that fact rendered the People of the Philippines indispensable parties in the special civil action for *certiorari* brought to nullify the questioned orders of respondent Presiding Judge. We also note that the impleading is further expressly demanded in Section 3, Rule 46 of the *Rules of Court*, to wit:

Section 3. *Contents and filing of petition; effect of non-compliance with requirements.* – The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

x x x x

**The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.** (n) (emphasis supplied)

Accordingly, the omission of the People of the Philippines from the petition was fatal.

The requirement that the search warrant be issued in the name of the People of the Philippines is imposed by Section 1, Rule 126 of the *Rules of Court*, to wit:

Section 1. *Search warrant defined.* -- 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 bring it before the court.

We may agree with the petitioner that the application for the search warrant was not a criminal action; and that the application for the search warrant was not of the same form as that of a criminal action. Verily, the search warrant is not similar to a criminal action but is rather a legal process that may be likened to a writ of discovery employed by no less than the State to procure relevant evidence of a crime. In that respect, it is an instrument or

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<sup>18</sup> Id. at 21.

tool, issued under the State's police power, and this is the reason why it must issue in the name of the People of the Philippines.<sup>19</sup>

Equally clear is that the sworn application for the search warrant<sup>20</sup> and the search warrant itself<sup>21</sup> were upon the behest of the People of the Philippines. It defies logic and common sense for the petitioner to contend, therefore, that the application against him was not made by the People of the Philippines but by the interested party or parties. The immutable truth is that every search warrant is applied for and issued by and under the authority of the State, regardless of who initiates its application or causes its issuance.

The petitioner could have quickly rectified his omission by the immediate amendment of the petition. However, although made aware of the omission as a fatal defect, he did not cause the amendment but continued to ignore the need to amend. He thereby exhibited his adamant refusal to recognize the People of the Philippines as indispensable parties, which impelled the CA to aptly remark in its denial of his motion for reconsideration, thusly:

We note that while the petitioner furnished the OSG with copies of the petition and the motion for reconsideration, he did not attempt to cure the defect of the petition – i.e. the failure to implead the People of the Philippines – by filing the appropriate motion or manifestation to amend the petition and by amending the petition to implead the Republic of the Philippines as a party to the proceedings. Hence, the first ground upon which we based our dismissal of the petition still holds and we are left with no choice but to deny the present motion.<sup>22</sup> (emphasis supplied)

With its dismissal of the petition for *certiorari* being proper and in accord with the pertinent rules of procedure, the CA did not abuse its discretion, least of all gravely. *Grave abuse of discretion*, as the ground for the issuance of the writ of *certiorari*, connotes whimsical and capricious exercise of judgment as is equivalent to excess, or lack of jurisdiction.<sup>23</sup> The abuse must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.<sup>24</sup>

**WHEREFORE**, the Court **DENIES** the petition for review on *certiorari*; **AFFIRMS** the resolution of the Court of Appeals promulgated

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<sup>19</sup> *United Laboratories, Inc. v. Isip*, G.R. No. 163858, June 28, 2005, 461 SCRA 574, 591.

<sup>20</sup> *Rollo*, pp. 175-182.

<sup>21</sup> *Id.* at 201-202.

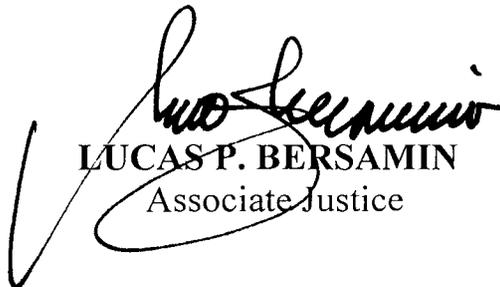
<sup>22</sup> *Id.* at 58.

<sup>23</sup> *Republic v. Sandiganbayan (Second Division)*, G.R. No. 129406, March 6, 2006, 484 SCRA 119, 127; *Litton Mills, Inc. v. Galleon Trader, Inc.*, G.R. No. L-40867, July 26, 1988, 163 SCRA 489, 494.

<sup>24</sup> *Angara v. Fedman Development Corporation*, G.R. No. 156822, October 18, 2004, 440 SCRA 467, 478; *Duero v. Court of Appeals*, G.R. No. 131282, January 4, 2002, 373 SCRA 11, 17.

on March 25, 2004 (dismissing the petition for *certiorari* in C.A.-G.R. SP No. 82797); and **ORDERS** the petitioner to pay the costs of suit.

**SO ORDERED.**



LUCAS P. BERSAMIN  
Associate Justice

**WE CONCUR:**



MARIA LOURDES P. A. SERENO  
Chief Justice



TERESITA J. LEONARDO-DE CASTRO  
Associate Justice



JOSE PORTUGAL PEREZ  
Associate Justice



ESTELA M. PERLAS-BERNABE  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO  
Chief Justice