

Republic of the Philippines
SUPREME COURT
Manila

SECOND DIVISION

G.R. No. 111267 September 20, 1996

COLUMBIA PICTURES ENTERTAINMENT, INC., MGM ENTERTAINMENT CO., ORION PICTURES CORPORATION, PARAMOUNT PICTURES CORP., UNIVERSAL CITY STUDIOS, INC., THE WALT DISNEY COMPANY and WARNER BROTHERS, INC., petitioners,

vs.

HONORABLE COURT OF APPEALS, 14TH DIVISION and JOSE B. JINGCO of SHOWTIME ENTERPRISES, INC., respondents.

ROMERO, J.:

Petitioners Columbia Pictures Industries, Inc., MGM Entertainment Co., Orion Pictures Corporation, Paramount Pictures Corp., Universal City Studios, Inc. The Walt Disney Company and Warner Brothers, Inc. question the decision¹ of the Court of Appeals which affirmed the Order of the Regional Trial Court of Pasig, Branch 168, the dispositive portion of which states:

WHEREFORE, finding that the issuance of the questioned warrants was not supported by probable cause, the "Urgent Motion (to Lift Search Warrant [No. 23] and for the Return of Seized Articles) is hereby GRANTED.

Accordingly, the Videogram Regulatory Board (VRB) and/or any Police Agency or other representatives of the VRB are hereby directed to return to the defendant/movant or his representative all articles/items in their possession seized under and by virtue of Search Warrant No. 23.

SO ORDERED.

The antecedent facts leading to the disputed Order are:

Alfredo G. Ramos, intelligence officer of the Videogram Regulatory Board (VRB), received information that private respondent Jose B. Jinco had in his possession pirated videotapes, posters, advertising materials and other items used or intended to be used for the purpose of sale, lease, distribution, circulation or public exhibition of the said pirated videotapes. Ramos ascertained the information to be true and filed a verified Application for Search Warrant dated July 28, 1986 with prayer for the seizure of the properties described in the search warrant.

On the same date, a hearing was conducted by Judge Florentino A. Flor of the Regional Trial Court of Pasig, Branch 168, wherein Ramos and his two witnesses, Analie Jimenez and Rebecca Benitez-Cruz testified on the need for the issuance of search warrant.

On July 28, 1986, the prayer for the issuance of the search warrant was granted and, on the same date, Search Warrant No. 23 was issued.

On July 2, 1987, private respondent filed a Motion to Quash Search Warrant No. 23 on the grounds that the Search Warrant did not state a specific offense and that, even assuming it stated a specific offense, it covered more than one specific offense. The VRB opposed the Motion to Quash stating that Search Warrant No. 23 was issued for a single specific offense

namely, violation of Section 56 and other related sections of Presidential Decree No. 49 as amended by Presidential Decree No. 1988.

On September 30, 1987, the trial court denied the Motion to Quash finding that the Search Warrant was issued for one specific offense. A Motion for Reconsideration was filed but the same was likewise denied.

Private respondent then filed an Urgent Motion To Lift the Search Warrant and For the Return of the Seized Articles alleging that Search Warrant No. 23 is a general warrant, and that it was issued without probable cause.

On May 22, 1989, the assailed order was issued by Judge Benjamin V. Pelayo, now presiding over Branch 168 of the Pasig RTC, granting the Motion to Quash and ordering the return of all seized articles to private respondent.

Petitioners appealed to the Court of Appeals, which affirmed the said Order *in toto*.

Hence, this petition.

In granting the Motion to Quash, the trial court relied on the Court's ruling in *20th Century Fox Film Corporation v. Court of Appeals, et al.*² which involved violation of Presidential Decree No. 49, (otherwise known as the Decree on the Protection of Intellectual Property). In said case, video outlets were raided pursuant to search warrants issued by the Regional Trial Court of Makati. However, the search warrants were later lifted by the same court on the ground of lack of probable cause because the master tapes of the alleged pirated tapes were never shown to the lower court. The Court affirmed the lifting of the search warrants holdings that the presentation of the master tapes was necessary for the validity of the search warrants against those who have the pirated films in their possession.

When the trial court granted the Motion to Quash Search Warrant No. 23 on May 22, 1989, it used as its justification the fact that, as the master copies were not presented to the court in its hearing of July 28, 1986, there was no probable cause to issue the said warrant, based on the pronouncements in *20th Century Fox*.

Petitioners now question the retroactive application of the *20th Century Fox* decision which had not yet been promulgated in 1986 when the search warrant was issued. Petitioners further argue that, contrary to the trial court's finding, the search warrant was not a general warrant since the description of the items to be seized was specific enough. It removed from the serving officer any discretions as to which items to seize inasmuch as it described only those items which had a direct relation to the offense for which the search warrant was issued.

The threshold issued that must first be determined is whether or not petitioners have the legal personality and standing to file the appeal.

Private respondent asserts that the proceedings for the issuance and/or quashal of a search warrant are criminal in nature. Thus, the parties in such a case are the "People" as offended party and the accused. A private complainant is relegated to the role of a witness who does not have the right to appeal except where the civil aspect is deemed instituted with the criminal case.

Petitioners, on the other hand, argue that as the offended parties in the criminal case, they have the right to institute an appeal from the questioned order.

From the records it is clear that, as complainants, petitioners were involved in the proceedings which led to the issuance of Search Warrant No. 23. In *People v. Nano*,³ the Court declared that while the general rule is that it is only the Solicitor General who is authorized to bring or defend

actions on behalf of the People or the Republic of the Philippines once the case is brought before this Court or the Court of Appeals, if there appears to be grave error committed by the judge or a lack of due process the petition will be deemed filed by the private complainants therein as if were filed by the Solicitor General. In line with this ruling, the Court gives this petition due course and will allow petitioners to argue their case against the questioned order in lieu of the Solicitor General.

As regards the issue of the validity of Search Warrant No. 23, there are two questions to be resolved: first, whether the *20th Century Fox* decision promulgated on August 19, 1988 is applicable to the Motion to Quash Search Warrant No. 23 (issued on July 28, 1986).

We hold in the negative.

In the recent *Columbia Pictures, et al., v. Court of Appeals, et al.*⁴ case which resolved the same issue involving the same petitioners but with different respondents, the Court *en banc* held:

Mindful as we are of the ramifications of the doctrine of *stare decisis* and the rudiments of fair play, it is our considered view that the *20th Century Fox* ruling cannot be retroactively applied to the instant case to justify the quashal of Search case to justify the quashal of Search Warrant No. 87-053. Herein petitioners' consistent position that the order of the lower court of September 5, 1988 denying therein defendants' motion to lift the order of search warrant was properly issued, there having been satisfactory compliance with the then prevailing standards under the law for determination of probable cause, is indeed well taken. The lower court could not possibly have expected more evidence from petitioners in their application for a search warrant other than what the law and jurisprudence, *then existing and judicially accepted*, required with respect to the finding of probable cause.

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It is consequently clear that judicial interpretation becomes a part of the law as of the date that law was originally passed, subject only to the qualification that when a doctrine of this Court is over-ruled and a different view is adopted, and more so when there is a reversal thereof, the new doctrine should be applied prospectively and should not apply to parties who relied on the old doctrine and acted in good faith. (*People v. Jabinal*, L-30061, February 27, 1974, 55 SCRA 607; *Unciano Paramedical College, Inc., et al. v. Court of Appeals, et al.* G.R. No. 100335, April 7, 1993, 221 SCRA 285; *Tanada, et al. v. Guingona, Jr., etc., et al.*, G.R. No. 113888, August 19, 1994, 235 SCRA 507). To hold otherwise would be to deprive the law of its quality of fairness and justice then, if there if no recognition of what had transpired prior to such adjudication. (*De Agbayani v. Philippine National Bank, et al.* L-23127, April 29, 1971, 38 SCRA 429).

Likewise, the Court ruled therein that presentation of the master tapes in such cases is not an absolute requirement for as search warrant to issue:

More to the point, it is felt that the reasonableness of the added requirement in *20th Century Fox* calling for the production of the master tapes of the copyrighted films for determination of probable cause in copyright infringement cases needs revisiting and clarification.

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In fine, the supposed *pronunciamento* in said case regarding the necessity for the presentation of the master tapes of the copy-righted films for the validity of search

warrants should at most be understood to merely serve as a guidepost in determining the existence of probable cause in copy-right infringement cases *where there is doubt as to the true nexus between the master tape and the pirated copies*. An objective and careful reading of the decision in said case could lead to no other conclusion than that said directive was hardly intended to be a sweeping and inflexible requirement in all or similar copyright infringement cases. Judicial dicta should always be construed within the factual matrix of their parturition, otherwise a careless interpretation thereof could unfairly fault the writer with the vice of over statement and the reader with the fallacy of undue generalization.

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It is evidently incorrect to suggest, as the ruling in *20th Century Fox* may appear to do, that in copyright infringement cases, the presentation of master tapes of the copyright films is always necessary to meet the requirement of probable cause for the issuance of a search warrant. It is true that such master tapes are object evidence, with the merit that in this class of evidence the ascertainment of the controverted fact is made through demonstration involving the direct use of the senses of the presiding magistrate. (*City of Manila v. Cabangis*, 10 Phil. 151 [1908]; *Kabase v. State*, 31 Ala, App. 77, 12 So. 2nd, 758, 764). Such auxiliary procedure, however, does not rule out the use of testimonial or documentary evidence, depositions, admissions or other classes of evidence tending to prove the *factum probandum*, (See *Phil. Movie Workers Association v. Premiere Productions, Inc.* 92 Phil. 843 [1953]) especially where the production in court of object evidence would result in delay, inconvenience or expenses out of proportion to its evidentiary value. (See 3 Jones on Evidence, Sec. 1400).

The instant case also differs from *20th Century Fox* in that what herein private respondent put in issue was the application of the ruling in that case, *not* the conduct of Judge Flor in the issuance of Search Warrant No. 23. From the records, it is clear that Judge Flor observed all the requirement necessary before the search warrant was issued: he heard the testimonies and studied the dispositions of the witnesses for the petitioners, namely, Ms. Rebecca Benitez-Cruz, Ms. Analie I. Jimenez and the VRB's Intelligence Officer, Alfredo G. Ramos on the existence of probable cause before issuing the warrant.

Under Sec. 3 and 4, Rule 126 of the Rules of Court, the requirements for the issuance of valid search warrant are:

Sec. 3. Requisites for issuing search warrant.

A search warrant shall not issue but upon probable cause in connection with one specific offense to be determined by the judge or such other responsible officer authorized by law 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 thing to be seized.

Sec. 4. 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 any witnesses he may produce on facts personally known to them and attach to the record their sworn statements together with any affidavits submitted.

Having satisfied these requirements, Judge Flor committed no grave abuse of discretion in issuing the warrant.

Private respondent contends that Search Warrant No. 23 also violates the constitutional requirements of particularity of the description of the warrant, being a general warrant and thus, is null and void.

In several cases, this Court had held that:

To be valid, a search warrant must be supported by probable cause to be determined by the judge or some other authorized officer after examining the complainant and the witnesses he may produce. *No less important, there must be a specific description of the place to be searched and the things to be seized, to prevent arbitrary and indiscriminate use of the warrant* (Sec. 3, Art. IV, 1974 Constitution, now Sec. 2, Art. III of the 1986 Constitution; Sec. 3, Rule 126 of the New Rules of Court; *Stonehill v. Diokno*, 20 SCRA 383, *Lime v. Ponce de Leon*, 66 SCRA 299; *Uy Kheytin v. Villareal*, 42 Phil. 886; *People v. Veloso*, 48 Phil. 169; *People v. Rubio*, 57 Phil. 384; *Bache & Co., (Phil.) Inc. v. Ruiz*, 37 SCRA 823; *Roan v. Gonzalez*, 145 SCRA 687) ⁵(emphasis supplied)

When may a search warrant be deemed to satisfy the legal requirements of specificity?

In *Bache and Co., (Phil.) Inc. v. Ruiz*, we said

A search warrant may be said to particularly describe the things to be seized when the description therein is as specific as the circumstances will ordinarily allow (*People v. Rubio*, 57 Phil. 384); or when the description expresses a conclusion of fact — not of law — by which the warrant officer may be guided in making the search and seizure (*idem.*, dissent of *Abad Santos, J.*); or when the things described are limited to those which bear direct relation to the offense for which the warrant is being issued (Sec. 2, Rule 126, Revised Rules of Court). . . . If the articles desired to be seized have any direct relation to an offense committed, the applicant must necessarily have some evidence, other than those articles, to prove the said offense; and the articles subject of search and seizure should come in handy merely to strengthen such evidence. . . .

An examination of Search Warrant No. 23 shows that it was worded in such a manner that the enumerated items to be seized bear a direct relation to the offense of violation of Sec. 56 of Presidential Decree No. 49, as amended, which states:

(1) Transfer or cause to be transferred, directly or indirectly any sound recording or motion picture, or other audio-visual work that has been recorded on a phonograph record, disc, wire, tape, film or other article on which sounds, motion pictures, or other audio-visual works are recorded, with intent to sell, lease, publicly exhibit or cause to be sold, leased or publicly exhibited, or to use for cause to be used for profit, such article on which sounds, motion pictures, or other audio visual works are so transferred, WITHOUT THE WRITTEN CONSENT OF HIS ASSIGNEE; or

(2) Sell, lease, distribute, circulate, exhibit, offer for sale, lease, distribution, circulation or public exhibit, offer for sale, lease, distribution, or possess for the purpose of sale, lease, distribution, circulation or public exhibition, any such article to which the sounds, motion pictures or audio-visual recordings thereon have been so transferred, without the written consent of the owner or his assignee; or

(3) Offer or make available for a fee, rental or any other form of compensation, directly or indirectly, any equipment, machinery, paraphernalia or any material with the knowledge that such equipment, machinery, paraphernalia or material,

will be used by another to reproduce, without the consent of the owners any phonograph record, disc, wire, tape film or other article on which sound, motion pictures, or other audio-visual recordings may be transferred.

In other words, it authorized only the seizure of articles used or intended to be used in the unlawful sale, lease and other acts in violation of the said decree. The search warrant ordered the seizure of the following properties:

- (a) Pirated video tapes of the copyright motion pictures/films the titles of which are mentioned in the attached list;
- (b) Posters, advertising leaflets, brochures, invoices, journals, ledgers, and books of accounts bearing and/or mentioning the pirated films with titles (as per attached list);
- (c) Television sets, video cassettes records, rewinders, tape head cleaners, accessories, equipment and other machines and paraphernalia or material used in the unlawful sale, lease, distribution, or possession for purpose of sale, lease, distribution, circulation or public exhibition of the above-mentioned pirated video tapes which he is keeping and concealing in the premises above-described.

Clearly, the above items could not be anymore specific as the circumstances will allow since they are all used or intended to be used in the unlawful sale or lease of pirated tapes. Therefore, the pending of the appellate court that Search Warrant No. 23 is a "general" warrant of devoid of basis.

WHEREFORE, the assailed decision and resolution of respondent Court of Appeals, and necessarily inclusive of the order of the trial court dated May 22, 1989, are hereby REVERSED and SET ASIDE. The order of the trial court dated July 28, 1986 upholding the validity of Search Warrant No. 23 is hereby REINSTATED.

Costs against private respondent.

SO ORDERED.

Regalado, Puno and Torres, Jr., JJ., concur.

Mendoza, J., is on leave.

Footnotes:

1 *Rollo*, p. 24.

2 162 SCRA 655 (1988).

3 205 SCRA 155 (1992).

4 G.R. No. 110318, August 28, 1996.

5 *Bachelor Express Incorporated v. Court of Appeals*, G.R. No. 85691, 31 July 1990, 188 SCRA 216; *Villa Rey Transit, Inc. v. Court of Appeals*, No. L- 25499, 18 February 1970, 31 SCRA 511.