Republic of the Philippines
SUPREME COURT
Manila

THIRD DIVISION

[G.R. No. 156804. March 14, 2005]

SONY MUSIC ENTERTAINMENT (PHILS.), INC. and IFPI (SOUTHEAST ASIA), LTD., *petitioners,*

vs.

HON. JUDGE DOLORES L. ESPAN.OL OF THE REGIONAL TRIAL COURT, BRANCH 90, DASMARIÑAS, CAVITE, ELENA S. LIM, SUSAN L. TAN, DAVID S. LIM, JAMES H. UY, WILSON ALEJANDRO, JR., JOSEPH DE LUNA, MARIA A. VELA CRUZ, DAVID CHUNG, JAMES UY, JOHN DOES AND JANE DOES, AND SOLID LAGUNA CORPORATION, *respondents*.

GARCIA, *J*.:

Assailed and sought to be nullified in this petition for certiorari with application for injunctive relief are the orders issued by the respondent judge on June 25, 2002[1] and January 6, 2003,[2] the first quashing Search Warrant No. 219-00, and the second, denying reconsideration of the first.

From the petition, the comment thereon of private respondents, their respective annexes, and other pleadings filed by the parties, the Court gathers the following relevant facts:

In a criminal complaint filed with the Department of Justice (DOJ), the Videogram Regulatory Board (VRB) [3] charged herein private respondents James Uy, David Chung, Elena Lim and another officer of respondent Solid Laguna Corporation (SLC) with violation of Presidential Decree (PD) No. 1987.[4] As alleged in the complaint, docketed as I.S. No. 2000-1576, the four (4) were engaged in the replication, reproduction and distribution of videograms without license and authority from VRB. On account of this and petitioners' own complaints for copyright infringement, the National Bureau of Investigation (NBI), through Agent Ferdinand M. Lavin, applied on September 18, 2000, with the Regional Trial Court at Dasmariñas, Cavite, Branch 80, presided by the respondent judge, for the issuance of search warrants against private respondents David Chung, James Uy, John and Jane Does, doing business under the name and style "Media Group" inside the factory and production facility of SLC at Solid corner Camado Sts., Laguna International Industrial Park, Biñan, Laguna.[5]

During the proceedings on the application, Agent Lavin presented, as witnesses, Rodolfo Pedralvez, a deputized agent of VRB, and Rene C. Baltazar, an investigator retained by the law firm R.V. Domingo & Associates, petitioners' attorney-in-fact. In their sworn statements, the three stated that petitioners sought their assistance, complaining about the manufacture, sale and distribution of various titles of compact discs (CDs) in violation of petitioners' right as copyright owners; that acting on the complaint, Agent Lavin and the witnesses conducted an investigation, in the course of which unnamed persons informed them that allegedly infringing or pirated discs were being manufactured somewhere in an industrial park in Laguna; that in the process of their operation, they were able to enter, accompanied by another unnamed source, the premises of SLC and to see various replicating equipment and stacks of CDs; and that they were told by their anonymous source that the discs were being manufactured in the same premises. They also testified that private respondents were (1) engaged in the reproduction or replication of audio and video compacts discs without the requisite authorization from VRB, in violation of Section 6 of PD No. 1987, presenting a VRB certification to such effect; and (2) per petitioners' certification and a

listing of Sony music titles, infringing on petitioners' copyrights in violation of Section 208 of Republic Act (RA) No. 8293, otherwise known as Intellectual Property Code.[6]

On the basis of the foregoing sworn statements, the respondent judge issued Search Warrant No. 219-00[7] for violation of Section 208 of R.A. No. 8293 and Search Warrant No. 220-00[8] for violation of Section 6 of PD No. 1987.

The following day, elements of the Philippine National Police Criminal Investigation and Detection Group, led by PO2 Reggie Comandante, enforced both warrants and brought the seized items to a private warehouse of Carepak Moving and Storage at 1234 Villonco Road, Sucat, Paranaque City and their custody turned over to VRB.[9] An inventory of seized items,[10] as well as a "Return of Search Warrant" were later filed with the respondent court.

Meanwhile, the respondents in I.S. No. 2000-1576 belabored to prove before the DOJ Prosecutorial Service that, since 1998 and up to the time of the search, they were licensed by VRB to operate as replicator and duplicator of videograms.

On the stated finding that "*respondents cannot . . . be considered an unauthorized reproducers of videograms"*, being *"licensed to engage in reproduction in videograms under SLC in which they are the officers and/or or officials"*, the DOJ, *via* a resolution dated January 15, 2001,[11] dismissed VRB's complaint in I.S. No. 2000-1576.

On February 6, 2001, private respondents, armed with the DOJ resolution adverted to, moved to quash the search warrants thus issued.[12] VRB interposed an opposition for the reason that the DOJ has yet to resolve the motion for reconsideration it filed in I.S. No. 2000-1576.

Eventually, the DOJ denied VRB's motion for reconsideration, prompting private respondents to move anew for the quashal of the search warrants. In its supplement to motion, private respondents attached copies of SLC's license as videogram duplicator and replicator.

In an order dated October 30, 2001,[13] the respondent judge, citing the January 15, 2001 DOJ resolution in I.S. No. 2000-1576, granted private respondents' motion to quash, as supplemented, dispositively stating:

"Nonetheless, such being the case, the aforesaid Search Warrants are QUASHED"

Petitioners forthwith sought clarification on whether or not the quashal order referred to both search warrants or to Search Warrant No. 220-00 alone, since it was the latter that was based on the charge of violation of PD No. 1987.[14] The respondent judge, in a modificatory order dated January 29, 2002,[15] clarified that her previous order quashed only Search Warrant No. 220-00.

Meanwhile, or on November 22, 2001, petitioners filed with the DOJ an affidavit-complaint, docketed thereat as I.S. No. 2001-1158, charging individual private respondents with copyright infringement in violation of Sections 172 and 208 in relation to other provisions of RA No. 8293.[16] Attached to the affidavit-complaint were certain documents and records seized from SLC's premises, such as production and delivery records.

Following their receipt of DOJ-issued subpoenas to file counter-affidavits, private respondents moved, in the search warrant case, that they be allowed to examine the seized items to enable them to intelligently prepare their defense.[17] On January 30, 2002, respondent judge issued an order allowing the desired examination, provided it is made under the supervision of the court's sheriff and in the "*presence of the applicant of Search Warrant No. 219-00*".[18]

On February 8, 2002, the parties, represented by their counsels, repaired to the Carepak warehouse. An NBI agent representing Agent Lavin appeared. The examination, however, did not push through on account of petitioners' counsel insistence on Agent Lavin's physical presence.[19] Private respondents were able to make an examination on the following scheduled setting, February 15, 2002, albeit it was limited, as the minutes of the inspection discloses, to inspecting only one (1) box containing 35 assorted CDs, testing stampers, diskettes, a calendar, organizers and some folders and documents. The minutes also contained an entry stating - "O*ther items/machines were not examined because they cannot be identified as they are not properly segregated from other items/machines in the warehouse. The parties agreed to schedule another examination on (to be agreed by the parties) after the items/machines subject of the examination shall have been segregated from the other items/machines by Carepak Moving and Storage , Inc*."[20]

During the preliminary investigation conducted on February 26, 2002 in I.S. No. 2001-1158, however, petitioners' counsel objected to any further examination, claiming that such exercise was a mere subterfuge to delay proceedings.[21]

On April 11, 2002, individual private respondents, through counsel, filed a *"Motion To Quash Search Warrant (And To Release Seized Properties)*" grounded on lack of probable cause to justify issuance of search warrant, it being *inter alia* alleged that the applicant and his witnesses lacked the requisite personal knowledge to justify the valid issuance of a search warrant; that the warrant did not sufficiently describe the items to be seized; and that the warrant was improperly enforced.[22] To this motion to quash, petitioners interposed an opposition dated May 7, 2002 predicated on four (4) grounds.[23] On June 26, 2002, respondent SLC filed a Manifestation joining its co-respondents in, and adopting, their motion to quash.[24]

On June 25, 2002, the respondent judge issued the herein first assailed order quashing Search Warrant No. 219-00 principally on the ground that the integrity of the seized items as evidence had been compromised, commingled as they were with other articles. Wrote the respondent judge:

Based on the report submitted, it appears that on February 15, 2002, an examination was actually conducted. Unfortunately, the alleged seized items were commingled with and not segregated from thousands of other items stored in the warehouse. Only one box . . . were (sic) examined in the presence of both parties with the sheriff, such that another date was set . . . . On February 22, 2002, during the hearing before the Department of Justice (DOJ), [petitioners' counsel] Atty. Arevalo manifested their objection to the further examination on the alleged ground that all of the items subject of the DOJ complaint have been examined.

Analyzing the report and the incidents relative thereto, it shows that the items subject of the questioned Search Warrant were commingled with other items in the warehouse of Carepak resulting in the failure to identify the machines and other items subject of this Search Warrant, while the other items enumerated in the said Inventory of Seized Items and Certification of Legality, Orderliness and Regularity in the Execution and enforcement of Search Warrants were not examined, hence, the charge imputed against the respondents could not be established as the evidence to show such violation fails to determine the culpability of said respondents, thus, violating their constitutional rights.[25]

Excepting, petitioners moved for reconsideration, arguing on the main that the quashal order was erroneously based on a ground outside the purview of a motion to quash.[26] To this motion, private respondents interposed an opposition, against which petitioners countered with a reply.

On January 6, 2003, respondent judge issued the second assailed order denying petitioners' motion for reconsideration on the strength of the following premises:

Careful scrutiny of the records of the case reveals that the application of the above-entitled case stemmed from the application for Search Warrant alleging that the respondent was not licensed to duplicate or replicate CDs and VCDs. The Court was misled when the applicants declared that Solid Laguna Corporation (SLC) is not licensed to engage in replicating/duplicating CDs and VCDs, when in truth and in fact, SLC was still a holder of a valid and existing VRB license. Considering the fact that respondent was duly licensed which facts (sic) was not laid bare to this Court when the application for writ was filed by the private complainant through the National Bureau of Investigation, this Court hereby recalls and quashes the above writ.

Lastly, taking into account that respondents were licensed to engage in replicating/duplicating CDs and VCDs, the issuance of search warrant was of no force and effect as there was absence of probable cause to justify said issuance.xxx[27]

Hence, petitioners' present recourse.

In a Resolution dated February 19, 2003,[28] the Court issued a temporary restraining order enjoining the respondents from implementing and enforcing the respondent judge's questioned orders.

Petitioners ascribe on the respondent judge the commission of grave abuse of discretion amounting to lack or in excess of jurisdiction in issuing the first assailed order in that:

1. It was based on a ground that is not a basis for quashal of a search warrant, *i.e.,* private respondents' failure to examine the seized items, which ground is extraneous to the determination of the validity of the issuance of the search warrant.

2. Public respondent, in effect, conducted a *"preliminary investigation*" that absolved the private respondents from any liability for copyright infringement.

3. Public respondent recognized the motion to quash search warrant filed by persons who did not have any standing to question the warrant.

Petitioners also deplore the issuance of the second assailed order which they tag as predicated on a ground immaterial to Search Warrant No. 219-00.

Private respondents filed their Comment on May 13, 2003, essentially reiterating their arguments in the *"Motion To Quash Search Warrant (And To Release Seized Properties*)". Apart therefrom, they aver that petitioners violated the rule on hierarchy of courts by filing the petition directly with this Court. As to be expected, petitioners' reply to comment traversed private respondents' position.

Owing to their inability to locate respondent David Chung, petitioners moved and the Court subsequently approved the dropping, without prejudice, of said respondent from the case.[29]

On February 20, 2004, private respondents filed their Rejoinder, therein inviting attention to petitioner IFPI's failure to execute the certification on non-forum shopping as required by Rule 7, Section 5 of the Rules of Court and questioning the validity of the Special Powers of Attorney of petitioners' attorney-in-fact to file this case.

In Resolution of March 31, 2004, the Court gave due course to the petition and directed the submission of memoranda which the parties, after each securing an extension, did submit.

The underlying issue before Us revolves on the propriety of the quashal of Search Warrant No. 219-00 which, in turn, resolves itself into question of the propriety of the warrant's issuance in the first place.

It has repeatedly been said that one's house, however, humble is his castle where his person, papers and effects shall be secured and whence he shall enjoy undisturbed privacy except, to borrow from *Villanueva vs. Querubin*,[30] *"in case of overriding social need and then only under the stringent procedural safeguards*." The protection against illegal searches and seizure has found its way into our 1935 and 1973 Constitutions and is now embodied in Article III, Section 2 of the 1987 Constitution, thus -

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause 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 persons or things to be seized, and in Section 4, Rule 126 of the Rules of Court, *viz* -

Sec. 4. Requisites for issuing search warrant. – A search warrant shall not issue but upon probable cause . . . 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.

Complementing the aforequoted provisions is Section 5 of the same Rule, reading:

SEC. 5. Examination of the complainant; record. The judge must, before issuing the warrant, personally examine in 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.

To prevent stealthy encroachment upon, or gradual depreciation of the right to privacy, a liberal construction in search and seizure cases is given in favor of the individual. Consistent with this postulate, the presumption of regularity is unavailing in aid of the search process when an officer undertakes to justify it.[31] For, the presumption *juris tantum* of regularity cannot, by itself, prevail against the constitutionally protected rights of an individual because zeal in the pursuit of criminals cannot ennoble the use of arbitrary methods that the Constitution itself detests.[32]

A core requisite before a warrant shall validly issue is the existence of a probable cause, meaning "*the existence of such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed and that the objects sought in connection with the offense are in the place to be searched*".[33] And when the law speaks of facts, the reference is to facts, data or information personally known to the applicant and the witnesses he may present. Absent the element of personal knowledge by the applicant or his witnesses of the facts upon which the issuance of a search warrant may be justified, the warrant is deemed not based on probable cause and is a nullity, its issuance being, in legal contemplation, arbitrary, as held by us in *Columbia Pictures, Inc. vs. Court of Appeals*.[34] Testimony based on what is supposedly told to a witness, being patent hearsay and, as rule, of no evidentiary weight[35] or probative value, whether objected to or not,[36] would, alone, not suffice under the law on the existence of probable cause.

In our view, the issuance of the search warrant in question did not meet the requirements of probable cause. The respondent judge did not accordingly err in quashing the same, let alone gravely abuse her discretion.

Petitioners argue that the instant petition is on all fours with *Columbia,*[37] wherein the *en banc* Court upheld the validity of search warrants based on the testimonies of the applicant and his witnesses who conducted an investigation on the unlawful reproduction and distribution of video tapes of copyrighted films.

We are not persuaded.

In *Columbia,* the issuing court probed the applicant's and his witnesses' personal knowledge of the fact of infringement. It was, however, determined by this Court that during the application hearing, therein petitioner's attorney-in-fact, a witness of the applicant, "*stated in his affidavit and further expounded in his deposition that he personally knew of the fact that private respondents had never been authorized by his clients to reproduce, lease and possess for the purposes of selling any of the copyrighted films.*"[38] Significantly, the Court, in upholding the validity of the writ issued upon complaint of Columbia Pictures, Inc., *et al*., stated that "*there is no allegation of misrepresentation, much less finding thereof by the lower court, on the part of petitioners' witnesses.*"[39]

Therein lies the difference with the instant case.

Here, applicant Agent Lavin and his witnesses, Pedralvez and Baltazar, when queried during the application hearing how they knew that audio and video compact discs were infringing or pirated, relied for the most part on what alleged unnamed sources told them and/or on certifications or lists made by persons who were never presented as witnesses. In net effect, they testified under oath as to the truth of facts they had no personal knowledge of. The following excerpts of the depositions of applicant Lavin and his witnesses suggest as much:

A. Deposition of Agent Lavin

28. Question: What happened next?

Answer: We then went to the Laguna Industrial Park, your Honor . . . We then verified from an informant that David Chung, James Uy . . . under the name and style Media Group were the ones replicating the infringing CDs.

xxx xxx xxx

36. Question: How do you know that all of these VCDs and CDs you purchased or are indeed infringing?

Answer: I have with me the VRB certification that the VCDs are unauthorized copies. I also have with me the Complaint-Affidavit of Sony Music and IFPI that certified that these are infringing copies, as well as the title list of Sony Music wherein some of the CDs purchased are indicated. (Annex "10", Comment, Rollo, p. 841)

B. Deposition of Baltazar

18. Question: What did you see in that address?

Answer: We saw that they had in stock several infringing, pirated and unauthorized CDs. They also had videograms without VRB labels, aside from artworks and labels. John Doe gave us a "Wholesome" CD while Jane Doe gave us "Kenny Rogers Videoke" and "Engelbert Humperdinck Videoke" which the informant told us were being reproduced in that facility. The informant further showed us the rooms where the replicating and/or stamping machine was located.

19. Question: How did you determine that the CDs you purchased are counterfeit, pirated or unauthorized?

Answer: The Attorney-in-fact of Sony Music and IFPI certified in his Complaint-Affidavit that they are unauthorized copies. I also have with me a listing of Sony Music titles and some of the CDs I purchased are in that list.[40]

C. Deposition of Pedralvez

27. Question: What proof do you have they are producing infringing materials?

Answer: We were given some samples by John Doe and Jane Doe. These are Kenny Rogers Videoke, Engelbert Humperdinck Videoke, and Andrew E. Wholesome CD. The informant told us that the said samples were being reproduced in the facility.

28. Question: How do you know that all of these VCDs you purchased or got are indeed unauthorized?

Answer: The VRB has certified that they are unauthorized copies. (Annex "12", Comment, Rollo, pp. 849-852).

Unlike their counterparts in *Columbia* who were found to be personally knowledgeable about their facts, Agent Lavin and his witnesses, judging from their above quoted answers, had no personal knowledge that the discs they saw, purchased or received were, in fact, pirated or infringing on petitioners' copyrights. To us, it is not enough that the applicant and his witnesses testify that they saw stacks of several allegedly infringing, pirated and unauthorized discs in the subject facility. The more decisive consideration determinative of whether or not a probable cause obtains to justify the issuance of a search warrant is that they had personal knowledge that the discs were actually infringing, pirated or unauthorized copies.[41]

Moreover, unlike in *Columbia,* misrepresentation on the part of the applicant and his witnesses had been established in this case.

This is not to say that the master tapes should have been presented in evidence during the application hearing, as private respondents, obviously having in mind the holding in*20th Century Fox Film Corp. vs. Court of Appeals*,[42] would have this Court believe. It is true that the Court, in *20th Century Fox,* underscored the necessity, in determining the existence of probable cause in copyright infringement cases, of presenting the master tapes of the copyrighted work. But, as emphatically clarified in *Columbia* "*such auxiliary procedure, however, does not rule out the use of testimonial or documentary evidence, depositions, admissions or other classes of evidence xxx especially where the production in court of object evidence would result in delay, inconvenience or expenses out of proportion to its evidentiary value*.[43] What this Court is saying is that any evidence presented in lieu of the master tapes, if not readily available, in similar application proceedings must be reliable, and, if testimonial, it must, at the very least, be based on the witness' personal knowledge.

Petitioners argue, citing *People v. Chua Uy*,[44] that Agent Lavin's informants' testimonies are not indispensable as they would only be corroborative.[45] Like *Columbia, Chua Uy* is not a winning card for petitioners, for, in the latter case, there was a reliable testimony to corroborate what the applicant testified to, *i.e*., the testimony of the police poseur-buyer in a buy-bust operation involving prohibited drugs. The circumstances are different in this case wherein the applicant and his witnesses had no personal knowledge that the discs they purchased were infringing or pirated

copies. It cannot be overemphasized that not one of them testified seeing the pirated discs being manufactured at SLC's premises. What they stated instead was that they were given copies of "*Kenny Rogers Videoke*", "*Engelbert Humperdinck Videoke*" and "*Andrew E. Wholesome CD*" by two anonymous sources, while yet another informant told them that the discs were manufactured at said premises.

Initial hearsay information or tips from confidential informants could very well serve as basis for the issuance of a search warrant, if followed up personally by the recipient and validated,[46] as what transpired in *Columbia.* Unfortunately, the records show that such is not the case before us.

On the issue that the public respondent gravely abused her discretion in conducting what petitioners perceived amounted to a "*preliminary investigation*", this Court has already ruled in *Solid Triangle Sales Corp. vs. Sheriff of RTC Quezon City, Branch 93*,[47] that "*in the determination of probable cause, the court must necessarily resolve whether or not an offense exists to justify the issuance or quashal of the warrant".* In the exercise of this mandate - which we can allow as being akin to conducting a preliminary investigation - abuse of discretion cannot plausibly be laid at the doorstep of the issuing court on account of its *prima facie* holding that no offense has been committed, even if consequent to such holding a warrant is recalled and the private complainant is incidentally deprived of vital evidence to prove his case. *Solid Triangle* succinctly explains why:

The proceedings for the issuance/quashal of a search warrant before a court on the one hand, and the preliminary investigation before an authorized officer on the other, are proceedings entirely independent of each other. One is not bound by the other's finding as regards the existence of a crime. The first is to determine whether a warrant should issue or be quashed, and the second, whether an information should be filed in court.

When the court, in determining probable cause for issuing or quashing a search warrant, finds that no offense has been committed, it does not interfere with or encroach upon the proceedings in the preliminary investigation. The court does not oblige the investigating officer not to file the information for the court's ruling that no crime exists is only of purposes of issuing or quashing the warrant. This does not, as petitioners would like to believe, constitute a usurpation of the executive function. Indeed, to shirk from this duty would amount to an abdication of a constitutional obligation.[48]

While the language of the first questioned Order may be viewed as encroaching on executive functions, nonetheless, it remains that the order of quashal is entirely independent of the proceedings in I.S. No. 2001-1158. And needless to stress, the DOJ is by no means concluded by the respondent judge's findings as regards the existence, or the non-existence, of a crime.

We can, to a point, accord merit to petitioners' lament that the basis of the first questioned order*, i.e.,* the mingling of the seized items with other items, is extraneous to the determination of the validity of the issuance of the search warrant. It is to be pointed out, though, that public respondent corrected her error when it was raised in petitioners' motion for reconsideration. There can really be no serious objection to a judge correcting or altogether altering his case disposition on a motion for reconsideration, it being the purpose of such recourse to provide the court an opportunity to cleanse itself of an error unwittingly committed, or, with like effect, to allow the aggrieved party the chance to convince the court that its ruling is erroneous.[49] A motion for reconsideration before resort to *certiorari* is required precisely "*to afford the public respondent an opportunity to correct any actual or fancied error attributed to it by way of re-examination of the legal and factual aspects of the case*".[50]

Similarly, as to the matter of the respondent judge's recognizing the April 11, 2002 motion to quash search warrant[51] filed by the individual private respondents, instead of by SLC, as presumptive owner of the seized items, such error was properly addressed when respondent SLC,

represented throughout the proceedings below by the same counsel of its co-respondents, formally manifested that it was adopting the same motion as its own.[52]

It is apropos to point out at this juncture that petitioners have imputed on individual private respondents criminal liability, utilizing as tools of indictment the very articles and papers seized from the premises of SLC. Be that as it may, petitioners should be deemed in estoppel to raise the personality of individual private respondents to interpose a motion to quash. To be sure, it would be unsporting for petitioners to prosecute individual private respondents on the basis of seized articles but on the same breath deny the latter standing to question the legality of the seizure on the postulate that only the party whose rights have been impaired thereby, meaning SLC, can raise that challenge. There can be no quibbling that individual private respondents stand to be prejudiced or at least be inconvenient by any judgment in any case based on the seized properties. In a very real sense, therefore, they are real parties in interest who ought not to be prevented from assailing the validity of Search Warrant 219-00, albeit they cannot plausibly asked for the release and appropriate as their own the seized articles.

Petitioners' related argument that SLC could not have validly adopted individual private respondents' motion to quash due to laches is untenable.

The records show that the seizure in question was effected on September 19, 2000. The complaint in I.S. No. 2000-1576 was filed against the officers of SLC, all of whom, except for one, are also private respondents in the instant petition. I.S. No. 2000-1576 was only resolved on January 15, 2001 when the DOJ dismissed the complaint on the ground that SLC was, in fact, duly licensed by the VRB. Shortly thereafter, or on February 6, 2001, less than five (5) months after the seizure, private respondents moved to quash both search warrants.[53] The motion clearly indicates private respondents' desire for the return of the seized items, and there is nothing in the records showing that petitioners objected to the motion on the ground that the movants had no standing to question the warrants.

This bring us to the second assailed order. As earlier stated, DOJ, in I.S. No. 2000-1576, found respondent SLC to be licensed by VRB to engage in the business of replicating or duplicating videograms.

Petitioners would have the Court believe that the second questioned order was based on a ground immaterial to the charge of infringement. A scrutiny of the text of the said order, however, shows that the respondent judge denied petitioners' motion for reconsideration because she was misled by the applicant's and his witnesses' testimony. It may be that a VRB license is no defense to a charge of violating Section 208 of R.A. No. 8293. It must be stressed in this regard, however, that the core issue here is the validity of the warrant which applicant secured on the basis of, among others, his representation which turned out to be false.

As above discussed, the answers of Agent Lavin and his witnesses to the public respondent's searching questions, particularly those relating to how they knew that the compact discs they purchased or received were illegal, unauthorized or infringing, were based on certifications and not personal knowledge. The subject warrant, as well as Search Warrant No. 220-00, was issued nonetheless. It may well have been that the issuing judge was, in the end, convinced to issue the warrants by means of the erroneous VRB certification presented during the joint application hearing, overriding whatever misgivings she may have had with the applicant's and his witnesses' other answers. This Court, however, cannot engage in such speculation and sees no need to.

Summing up, the issuance of Search Warrant No. 219-00 was, at bottom, predicated on the sworn testimonies of persons without personal knowledge of facts they were testifying on and who

relied on a false certification issued by VRB. Based as it were on hearsay and false information, its issuance was without probable cause and, therefore, invalid.

Given the foregoing perspective, the peripheral issues of (a) whether or not petitioner IFPI (South East Asia), Ltd. failed to comply with the rules requiring the filing of a certification on non-forum shopping; and (b) whether or not IFPI's board of directors ratified its conditional authorization for its attorney-in-fact to represent IFPI in this petition, need not detain us long. In our review of the records, R.V. Domingo & Associates, whose authority to represent the petitioners in this petition continues, had duly executed the sworn certification on non- forum shopping.

In the same manner, this Court, having taken cognizance of this petition, need not belabor the issue of whether or not petitioners have cavalierly breached the rule on hierarchy of courts. Suffice it to state that, while the Court looks with disfavor on utter disregard of its rules,[54] it is within its power to suspend its own rules or to except a particular case from its operation whenever the ends of justice so requires, as here.

WHEREFORE, the instant petition is hereby DISMISSED and the temporary restraining order issued on February 19, 2003 is consequently RECALLED.

Costs against petitioners.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, and *Corona, JJ.,* concur.

Carpio-Morales, J., on leave.

Footnotes:

[1] *Rollo*, pp. 60-62.
[2] *Rollo*, pp. 64-65.
[3] Now the Optical Media Board.
[4] An Act Creating the Videogram Regulatory Board.
[5] Petition, pp. 4-5.
[6] Petition, p. 37; Annex "V", Petition, *Rollo*, pp. 669-678.
[7] Annex "D", Petition, *Rollo*, p. 67.
[8] Annex "E", Petition, *Rollo*, pp. 69-70.
[9] Petition, pp. 5-6.
[10] Annex "F", Petition, *Rollo*, pp. 72-77.
[11] Annex "1", Comment, Rollo, pp. 746-749.
[12] Comment, p. 5; *Rollo* 712.
[13] Annex "G", Petition, *Rollo*. 79-81.
[14] Annex "H", Petition, *Rollo*, pp. 83-88.
[15] Annex "K", Petition, *Rollo*, p. 160.
[16] Annex "I", Petition, *Rollo*, pp. 92-111.
[17] Annex "J", Petition, *Rollo*, pp. 113-116.
[18] Annex "L", Petition, *Rollo*, p. 162.
[19] Comment, p.8, *Rollo*, p. 715; Reply, p. 33, *Rollo*, p. 940.
[20] Annex "M", Petition, *Rollo*, pp. 164-166.
[21] Reply, pp. 33-34; *Rollo*, pp. 940-941.
[22] Annex "N", Petition, *Rollo*, pp. 168-183.
[23] Annex "O", Petition, *Rollo*, 223-249.
[24] Annex "Q", Petition, *Rollo*, p. 258.
[25] Supra, Note 1, Words in bracket and underlining supplied.
[26] Annex "R", Petition, *Rollo*, p.12.
[27] *Supra,* Note 2.
[28] Rollo, p. 675.
[29] *Rollo*, p. 976.
[30] 48 SCRA 345 [1972].
[31] People *vs*. Benhur Mamaril, 420 SCRA 662 [2004] citing Mata *vs*. Bayona, 128 SCRA 388 [1984].
[32] Tambasen *vs*. People, 246 SCRA 184 [[1995].

[33] People *vs*. Aruta, 288 SCRA 262 [1998].
[34] 261 SCRA 144 [1996], citing 79 CJS, Search and Seizures, Sec. 74, 862.
[35] AMEX *vs*. Court of Appeals, 308 SCRA 65 [1999].
[36] People *vs*. Miclat, 386 SCRA 515 [2002]; People *vs*. Villaviray, 262 SCRA 13 [1996]; People *vs*. Valdez, 347 SCRA 594 [2000].
[37] *Supra.*
[38] At p. 173.
[39] At p. 74.
[40] Annex "11", Comment, *Rollo*, pp. 846-848.
[41] Paper Industries Corp. of the Philippines *vs*. Asuncion, 307 SCRA 253 [1999]).
[42] 164 SCRA 655, [1988].
[43] At p. 175.
[44] 380 SCRA 700 [2002].
[45] Petitioners' Memorandum, p.19.
[46] Cupcupin *vs*. People, 392 SCRA 203 [2002].
[47] 370 SCRA 491 [2001]
[48] At pp. 504-505.
[49] Phil. Advertising Counselors *vs*. Revilla, 52 SCRA 246 [1973].
[50] Pure Foods Corp. *vs*. NLRC, 171 SCRA 415 [1989] cited in Sevillana *vs*. I.T.(International) Corp., 356 SCRA 451 [2001]
[51] *Supra*, Note 22.
[52] *Supra,* Note 24.
[53] *Supra,* See Note 12.
[54] Loquias *vs*. Office of the Ombudsman, 338 SCRA 62 [2000].