



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**MICROSOFT CORPORATION and  
ADOBE SYSTEMS INCORPORATED,**  
Petitioners,

**G.R. No. 205800**

Present:

CARPIO, *Acting C.J.*,  
Chairperson,  
BRION,  
DEL CASTILLO,  
VILLARAMA, JR.,\* and  
LEONEN, *JJ.*

- versus -

**SAMIR FARAJALLAH,  
VIRGILIO D.C. HERCE,  
RACHEL P. FOLLOSCO,  
JESUSITO G. MORALLOS,  
and MA. GERALDINE S. GARCIA**  
(directors and officers of NEW  
FIELDS (ASIA PACIFIC), INC.),  
Respondents.

Promulgated:

SEP 10 2014

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**DECISION**

**CARPIO, *Acting C.J.*:**

**The Case**

Before this Court is a petition for review on certiorari under Rule 45 of the Rules of Court which seeks to reverse and set aside the Decision<sup>1</sup> of the Court of Appeals (CA) dated 28 June 2012 in CA-G.R. SP No. 116771 and the Resolution<sup>2</sup> of the CA dated 30 January 2013. The Decision and Resolution sustained the orders of the Regional Trial Court of Manila, Branch 21 (RTC) quashing Search Warrant Nos. 10-15912 and 10-15913.

\* Designated Acting Member per Special Order No. 1767 dated 27 August 2014.

<sup>1</sup> *Rollo*, pp. 46-61. Penned by Associate Justice Angelita A. Gacutan with Associate Justices Magdangal M. De Leon and Francisco P. Acosta, concurring.

<sup>2</sup> *Id.* at 64-66. Penned by Associate Justice Angelita A. Gacutan with Associate Justices Magdangal M. De Leon and Francisco P. Acosta, concurring.

### **The Facts**

Microsoft Corporation and Adobe Systems Incorporated (petitioners) are corporations organized and existing under the laws of the United States. Microsoft Corporation is the owner of all rights including copyright relating to all versions and editions of Microsoft software<sup>3</sup> and the corresponding user's manuals, and the registered owner of the "Microsoft" "MS DOS" trademarks in the Philippines. Adobe Systems Incorporated is the owner of all rights including copyright relating to all versions and editions of Adobe Software.<sup>4</sup>

Samir Farajallah, Virgilio D.C. Herce, Rachel P. Follosco, Jesusito G. Morillos and Ma. Geraldine S. Garcia (respondents) are the directors and officers of New Fields (Asia Pacific), Inc., a domestic corporation with principal office at Unit 1603, East Tower, Philippine Stock Exchange Center, Exchange Road, Ortigas Center, Pasig City.

Petitioners claim that in September 2009, they were informed that New Fields was unlawfully reproducing and using unlicensed versions of their software. Orion Support, Inc. (OSI) was engaged by petitioners to assist in the verification of this information. Two OSI Market Researchers, Norma L. Serrano (Serrano) and Michael A. Moradoz (Moradoz) were assigned to confirm the informant's tip. Serrano and Moradoz were trained to detect unauthorized copies of Adobe and Microsoft software.<sup>5</sup>

On 17 March 2010, counsel for petitioners filed a letter-complaint with the Chief of the Philippine National Police Criminal Investigation and Detection Group. The case was assigned to Police Senior Inspector Ernesto V. Padilla (Padilla).<sup>6</sup>

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<sup>3</sup> Microsoft software includes: "Microsoft Windows Vista," "Microsoft Windows XP," "Microsoft Windows 2000," "Microsoft Windows Millenium Edition," "Microsoft Windows 98," "Microsoft Windows 95," and "Microsoft Windows 97" containing "Microsoft Word," "Microsoft Excel," "Microsoft Access" and "Microsoft Powerpoint."

<sup>4</sup> Adobe software includes but is not limited to "Adobe Acrobat," "Adobe Acrobat Capture," "Adobe Acrobat Exchange," "Adobe Acrobat Pro," "Adobe Acrobat Reader," "Adobe After Effects," "Adobe After Effects Bundle," "Adobe Art Explorer," "Adobe Art Explorer Deluxe CD," "Adobe Classroom in a Book," "Adobe Design Collection," "Adobe Dimensions," "Adobe Distiller Server," "Adobe Document Server," "Adobe Dynamic Media Collection," "Adobe Extreme," "Adobe Font Folio," "Adobe Frame Maker + SGML," "Adobe Frame Viewer," "Retrireview Tools," "Adobe Gallery Effects," "Adobe GoLive," "Adobe Graphics Collection," "Adobe Home Publisher Deluxe CD," "Adobe Illustrator," "Adobe InCopy," "Adobe Indesign," "Adobe InProduction," "Adobe Image Club Graphics," "Adobe Image Library," "Adobe ImageReady," "Adobe LiveMotion," "Adobe PageMaker," "Adobe PageMill," "Adobe Persuasion," "Adobe PDF Merchant," "Adobe PhotoDeluxe," "Adobe PhotoDeluxe Business Edition," "Adobe PhotoDeluxe Home Edition," "Adobe Photoshop," "Adobe Photoshop Limited Edition," "Adobe PostScript," "Adobe Premiere," "Adobe Press," "Adobe PressReady," "Adobe Print Drivers," "Adobe Publishing Collection," "Adobe ScreenReady," "Adobe SiteMill," "Adobe Streamline," "Adobe SuperATM," "Adobe SuperPaint," "Adobe SuperPaint Deluxe," "Adobe TextureMaker," "Adobe Type Basics," "Adobe Type Library," "Adobe Type Manager Deluxe," "Adobe Type On Call," "Adobe Type Reunion Deluxe," "Adobe Type Set Value Pack," "Adobe Type Twister," "Adobe Wild Type" and "Adobe Web Type."

<sup>5</sup> Records, p. 29.

<sup>6</sup> *Rollo*, p. 8.

On 26 March 2010, Padilla, Serrano, and Moradoz went to the office of respondents. Using a legitimate business pretext, they were able to use two computers owned by New Fields and obtained the following information regarding the installed Microsoft and Adobe software:

#### First computer

Installed Software	Product I.D./Serial Number
Microsoft Windows XP Pro V2002 SP2	55274-640-1582543-23775
Microsoft Office Word 2007 Enterprise Edition 2007	89388-707-0358973-65509
Adobe Acrobat 8 Pro (1)	1118-1061-0904-4874-2027

#### Second computer

Installed Software	Product I.D./Serial Number
Microsoft Windows XP Pro V2002 SP2	55274-640-1582543-23442
Microsoft Office Word 2007 Enterprise Edition 2007	89388-707-0358973-65709
Adobe Acrobat 8 Pro (1)	1118-1061-0904-4874-2027

Padilla was trained to distinguish original from counterfeit software,<sup>7</sup> and he saw the screens of the computers used by the OSI staff, including the product I.D. Nos. of the installed software.

In their Joint Affidavit, Serrano and Moradoz stated that:

There are at least two (2) computers using common product identification and/or serial numbers of MICROSOFT and ADOBE software. This is one indication that the software being used is unlicensed or was illegally reproduced or copied. Based on the training we attended, all ADOBE and MICROSOFT software should only be installed in one computer, unless they avail of an Open License Agreement from the software developer, which is not the case in NEW FIELDS. In this case, the first three sets of numbers of the Product I.D. Nos. of the MICROSOFT Windows XP Pro operating System software program installed in the two (2) computer units we used, i.e., “55274-640-1582543-xxxxx”, were the same. We also observed that the first three sets of numbers of the Product I.D. Nos. of the MICROSOFT Office 2007 (Word) software in the two (2) computers we used, i.e., “89388-707-0358973-xxxxx”, were also the same. Ostensibly, this means that NEW FIELDS only used one (1) installer of the MICROSOFT Windows XP operating system software and one (1) installer of the MICROSOFT Office software program on two (2) computers. **Based on our training, if the first three sets of numbers of the Product I.D. Nos. of the MICROSOFT software installed are the same, it signifies that it came from one installer. It does not matter [if] the last 5 digits of the Product I.D. Nos. are different because this is computer-generated and therefore varies with every installation. Apart from the**

<sup>7</sup> Affidavit of Police Senior Inspector Ernesto V. Padilla. Id. at 205.

**MICROSOFT software, the serial numbers of the ADOBE software installed in the computer units we used were also the same, signifying that NEW FIELDS only used one (1) installer of the ADOBE software program on two (2) computers.**<sup>8</sup> (Emphasis supplied)

They also observed that New Fields had 90 computers in their office with Microsoft software, none of which had the Certificate of Authenticity issued by Microsoft.

After being informed of the results of the investigation, petitioners then issued certifications that they have not authorized New Fields to “copy, print, reproduce and/or publish unauthorized copies of Microsoft and Adobe software products.”<sup>9</sup>

An application for search warrants was filed by Padilla on 20 May 2010, before Judge Amor Reyes in her capacity as Executive Judge of the RTC. Search Warrant Nos. 10-15912 and 10-15913 were issued on the same date.<sup>10</sup>

The warrants were served on respondents on 24 May 2010. New Fields employees witnessed the search conducted by the authorities. Several items were seized, including 17 CD installers and 83 computers containing unauthorized copies of Microsoft and/or Adobe software.

On 6 June 2010, New Fields filed a motion seeking to quash one of the two warrants served (Search Warrant No. 10-15912).<sup>11</sup> The motion was received by petitioners on 10 June 2010 and was set for hearing on 11 June 2010. During the hearing on the motion, petitioners were allowed by the RTC to file their Comment/Opposition on or before 21 June 2010.<sup>12</sup>

In their Comment/Opposition dated 21 June 2010,<sup>13</sup> petitioners alleged that:

The Motion [to Quash] failed to comply with the mandatory 3-day notice rule under the Rules of Court. Hence it is nothing but a worthless piece of paper.

x x x x

In this case, the Motion of Respondents was scheduled for hearing on 11 June 2010. However, Respondents only furnished [petitioners] a copy of the Motion on 10 June 2010, or just 1 day before the scheduled hearing, which was in clear violation of the 3-day notice rule.<sup>14</sup>

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<sup>8</sup> Records, pp. 34-35.

<sup>9</sup> *Rollo*, p. 9.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 865.

<sup>12</sup> *Id.* at 401.

<sup>13</sup> *Id.* at 401-413.

<sup>14</sup> *Id.* at 402.

On 29 June 2010, the RTC issued an Order quashing both warrants and directing that “**all** the items seized from the respondents be returned x x x.”<sup>15</sup> According to the RTC, petitioners should have identified which specific computer had the pirated software.<sup>16</sup> The RTC added that no criminal charge has been filed yet, despite the fact that the seized items have been in petitioners’ possession for several weeks since the warrants were issued. Lastly, the RTC dismissed the petitioners’ contention that the three-day notice rule was not complied with because petitioners were already notified of the motion personally.<sup>17</sup>

On 8 July 2010, petitioners received a copy of the Order, and Deputy Sheriff Edgardo Reyes of the RTC also effected the return of the seized items, in compliance with the RTC’s Order.<sup>18</sup>

Petitioners filed an Urgent Manifestation and Motion for the Issuance of a Status Quo Order on 8 July 2010 wherein they alleged that: (1) they intend to file a Motion for Reconsideration of the Order; and (2) the Order was not immediately executory.<sup>19</sup> Respondents received a copy of the motion the day it was filed.

On 9 July 2010, respondents moved to expunge petitioners’ motion for reconsideration, saying that petitioners failed to comply with the three-day notice rule.<sup>20</sup> The hearing on the motion was set on 13 July 2010. A copy of the motion was received by petitioners on 20 July 2010.<sup>21</sup>

On 15 July 2010, petitioners filed a motion for reconsideration of the Order.<sup>22</sup> Respondents filed their Comment/Opposition<sup>23</sup> to the motion, which was received by petitioners on 12 August 2010.<sup>24</sup>

The RTC denied petitioners’ motion for reconsideration in its Order dated 27 August 2010.<sup>25</sup>

Petitioners filed a petition for certiorari<sup>26</sup> under Rule 65 on 8 November 2010 before the Court of Appeals. Petitioners alleged that the RTC committed grave abuse of discretion in granting the Motion to Quash despite: (1) respondents’ failure to comply with the three-day notice requirement; and (2) the existence of probable cause, and personal

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<sup>15</sup> Id. at 251.

<sup>16</sup> Id. at 250.

<sup>17</sup> Id. at 251.

<sup>18</sup> Id. at 11.

<sup>19</sup> Id.

<sup>20</sup> Id. at 281-284.

<sup>21</sup> Id. at 11.

<sup>22</sup> Id. at 769.

<sup>23</sup> Id. at 286-292.

<sup>24</sup> Id. at 12.

<sup>25</sup> Id. at 294.

<sup>26</sup> Id. at 296-323.

knowledge of the warrant applicant.

### **The Ruling of the CA**

The CA denied the petition for certiorari. The appellate court held that:

In the instant case, when the court *a quo* ordered petitioners to submit their comment on the motion to quash, it was, in effect, giving petitioners their day in court. Thus, while the [three]-day notice rule was not strictly observed, its purpose was still satisfied when respondent judge did not immediately rule on the motion giving petitioners x x x the opportunity to study and oppose the arguments stated in the motion.<sup>27</sup>

Hence, this petition.

### **The Issue**

The instant petition raised only one issue, to wit:

The Honorable Court of Appeals erred in ruling that Judge Amor Reyes of Branch 21, Regional Trial Court of Manila did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its Orders dated 29 June 2010 and 27 August 2010, quashing Search Warrant Nos. 10-[1]5912 and 10-[1]5913 and directing the immediate release of the items seized pursuant to the said warrants, despite the pendency of appellate proceedings.<sup>28</sup>

### **The Ruling of the Court**

We rule that strict compliance with the three-day notice rule may be relaxed in this case. However, we sustain petitioners' contention that there was probable cause for issuance of a warrant, and the RTC and CA should have upheld the validity of both warrants.

#### *Compliance with the three-day notice rule*

In *Anama v. Court of Appeals*,<sup>29</sup> we ruled that the three-day notice rule is not absolute. The purpose of the rule is to safeguard the adverse party's right to due process. Thus, if the adverse party was given a reasonable opportunity to study the motion and oppose it, then strict compliance with the three-day notice rule may be dispensed with.

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<sup>27</sup> Id. at 53-54.

<sup>28</sup> Id. at 13.

<sup>29</sup> G.R. No. 187021, 25 January 2012, 664 SCRA 293.

As correctly pointed out by the CA:

In the instant case, when the court *a quo* ordered petitioners to submit their comment on the motion to quash, it was, in effect, giving petitioners their day in court. Thus, while the [three]-day notice rule was not strictly observed, its purpose was still satisfied when respondent judge did not immediately rule on the motion giving petitioners x x x the opportunity to study and oppose the arguments stated in the motion.<sup>30</sup>

### *Existence of probable cause*

Under Section 1 of Rule 45 of the Rules of Court, petitions for review by certiorari “shall raise only questions of law.” A question of fact exists when there is a doubt as to the truth of certain facts, and it can only be resolved through a reexamination of the body of evidence.<sup>31</sup>

In *Microsoft Corporation v. Maxicorp, Inc.*,<sup>32</sup> we ruled that the existence of probable cause is a question of fact.<sup>33</sup> In the same case, we also stated that:

Probable cause is dependent largely on the opinion and findings of the judge who conducted the examination and who had the opportunity to question the applicant and his witnesses. For this reason, the findings of the judge deserve great weight. The reviewing court should overturn such findings only upon proof that the judge disregarded the facts before him or ignored the clear dictates of reason.<sup>34</sup>

This Court is not a trier of facts. As a general rule, we defer to the lower courts’ appreciation and evaluation of evidence.<sup>35</sup> This general rule, however, is not absolute. We will review the factual findings of the CA in any of the following instances:

- (1) when the factual findings of the Court of Appeals and the trial court are contradictory;
- (2) when the conclusion is a finding grounded entirely on speculation, surmises, or conjectures;
- (3) when the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd, or impossible;
- (4) when there is a grave abuse of discretion in the appreciation of facts;
- (5) when the Appellate Court, in making its findings, went beyond the issues of the case and such findings are contrary to the admissions of both appellant and appellee;
- (6) when the judgment of the Court of Appeals is premised on a

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<sup>30</sup> *Rollo*, pp. 53-54.

<sup>31</sup> *Lacson v. MJ Lacson Development Company, Inc.*, G.R. No. 168840, 8 December 2010, 637 SCRA 505.

<sup>32</sup> 481 Phil. 550 (2004).

<sup>33</sup> *Id.* at 562.

<sup>34</sup> *Id.* at 568.

<sup>35</sup> *Local Superior of the Servants of Charity, Inc. v. Jody King Construction and Development Corp.*, 509 Phil. 426 (2005).

misapprehension of facts;

(7) when the Court of Appeals failed to notice certain relevant facts which, if properly considered, would justify a different conclusion;

(8) when the findings of fact are themselves conflicting;

(9) when the findings of fact are conclusions without citation of the specific evidence on which they are based; and

(10) when the findings of fact of the Court of Appeals are premised on the absence of evidence but such findings are contradicted by the evidence on record.<sup>36</sup>

In this case, we find reason to overturn the rulings of the RTC and CA, since there was grave abuse of discretion in the appreciation of facts. The CA sustained the quashal of the warrant because the witnesses had “no personal knowledge of the facts upon which the issuance of the warrants may be justified,”<sup>37</sup> and the applicants and the witnesses merely relied on the screen shots acquired from the confidential informant.<sup>38</sup>

We disagree with the conclusions of the CA. The assailed CA Decision itself stated:

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.<sup>39</sup>

Looking at the records, it is clear that Padilla and his companions were able to personally verify the tip of their informant. In his Affidavit submitted to Judge Amor Reyes prior to the issuance of the warrant, Padilla stated that:

At the time that I was inside the office premises of the NEW FIELDS, I saw the Product Keys or Product Identification Numbers of the ADOBE and MICROSOFT computer software programs installed in some of the computer units. Ms. Serrano and Mr. Moradoz were able to pull up these data since they were allowed to use some of the computers of the target companies in line with the pretext that we used to gain entry into NEW FIELDS. I actively read and attentively observed the information reflected from the monitor display unit of the computers that Ms. Serrano and Mr. Moradoz were able to use. x x x.<sup>40</sup>

As mentioned earlier, Padilla has been trained to distinguish illegally reproduced Adobe and Microsoft software. Thus, in his Affidavit, he stated that:

x x x x

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<sup>36</sup> Id. at 432.

<sup>37</sup> *Rollo*, p. 60.

<sup>38</sup> Id. at 58.

<sup>39</sup> Id. at 59.

<sup>40</sup> Id. at 206.



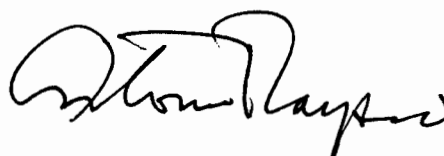
6. I suspect that the ADOBE and MICROSOFT computer software programs that are being used in the premises of NEW FIELDS are unauthorized, illegal or unlicensed copies because of the following reasons:

6.1. At least two (2) computer units are using a common Product Identification Number of MICROSOFT and ADOBE software. This is one indication that the software being used is unlicensed or was illegally reproduced or copied. All ADOBE and MICROSOFT computer software programs should only be used in one computer unit, unless they avail of an Open License Agreement from the computer software developer, which [was not obtained by] NEW FIELDS. x x x.<sup>41</sup>

The evidence on record clearly shows that the applicant and witnesses were able to verify the information obtained from their confidential source. The evidence likewise shows that there was probable cause for the issuance of a search warrant. Thus, the requirement of personal knowledge of the applicant and witnesses was clearly satisfied in this case.

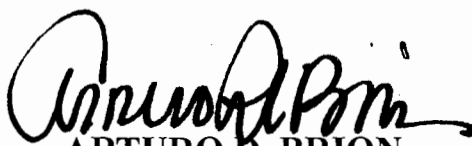
**WHEREFORE**, the petition is **GRANTED**. The Decision dated 28 June 2012 and the Resolution dated 30 January 2013 of the Court of Appeals, upholding the 29 June 2010 and 27 August 2010 Orders of the Regional Trial Court, are hereby **REVERSED** and **SET ASIDE**. Search Warrant Nos. 10-15912 and 10-15913 are declared valid.

**SO ORDERED.**



**ANTONIO T. CARPIO**  
Acting Chief Justice

**WE CONCUR:**



**ARTURO D. BRION**  
Associate Justice

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<sup>41</sup> Id. at 207.

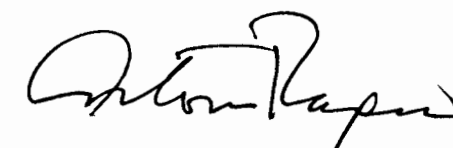
  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**MARVIC MARIO VICTOR F. LEONEN**  
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.

  
**ANTONIO T. CARPIO**  
Acting Chief Justice