

Republic of the Philippines  
SUPREME COURT  
Manila

THIRD DIVISION

G.R. No. 96597-99 October 6, 1994

COLUMBIA PICTURES, INC., ORION PICTURES CORP., PARAMOUNT PICTURES CORP., TWENTIETH CENTURY FOX FILM CORP., UNITED ARTISTS CORP., UNIVERSAL CITY STUDIOS, INC., WALT DISNEY COMPANY and WARNER BROS., INC., petitioners,

vs.

HON. COURT OF APPEALS, TUBE VIDEO ENTERPRISES and EDWARD CHAM, BLOOMING ROSE TAPE CENTER and MA. JAJORIE T. UY, and VIDEO CHANNEL and LYDIA NABONG, respondents.

G.R. No. 97156 October 6, 1994

COLUMBIA PICTURES INDUSTRIES, INC., ORION PICTURES CORPORATION, PARAMOUNT PICTURES CORP., TWENTIETH CENTURY FOX FILM CORP., MGM/UA COMMUNICATIONS COMPANY, UNIVERSAL CITY STUDIOS, INC., THE WALT DISNEY COMPANY, and WARNER BROS., INC., petitioners,

vs.

HON. COURT OF APPEALS, FOX'S VIDEO, INC. and ALFREDO ONGYANGCO., respondents.

*Castillo, Laman, Tan & Pantaleon for petitioners.*

*Herminio T. Banico, Jr. & Associates for private respondent Lydia Nabong.*

*Molo, Padua, Salazar, Roldan & Associates for Blooming Rose Tape Center/Ma. J.T. Uy.*

R E S O L U T I O N

VITUG, J.:

On 07 April 1988, the National Bureau of Investigation ("NBI"), through its Agent Lauro C. Reyes, filed with the Regional Trial Court of Pasig (Branch 159) three applications for search warrant against private respondents Tube Video Enterprises and Edward C. Cham (ASW No. 95), the Blooming Rose Tape Center and Ma. Jajorie T. Uy (ASW No. 96), and the Video Channel and Lydia Nabong (ASW No. 97), charging said respondents with violation of Section 56 of Presidential Decree ("P.D.") No. 49, otherwise known as the Decree on the Protection of Intellectual Property, as amended by P.D. No. 1988.

In the three applications for search warrant, NBI Agent Reyes stated under oath that the respondents had in their possession and control —

1. (p)irated video tapes of the copyrighted motion pictures/films the titles of which are mentioned in the attached list;
2. (p)osters, advertising leaflets, flyers, brochures, invoices, journals, ledgers, job order slips, delivery slips, stickers and books of account bearing and/or mentioned the pirated films with titles . . . , or otherwise used in the videogram business or activities of the defendants; sold, leased, distributed or possessed for the purpose of sale, lease, distribution, circulation or public exhibition, journals,

ledgers, job order slips, delivery slips, stickers and books of accounts used in the unlawful videogram business or activities of the defendants; (and)

3. (t)elelevision sets, video cassette and/or laser disc recorders, dubbing machines, rewinders, film projectors, U-matic machines, image enhancers, dubbing machines, tape head cleaners, converters, accessories, equipment and other machines and paraphernalia, materials or empty/erasable video tapes and master copies used or intended to be used in the unlawful exhibition, showing, reproduction, sale lease or disposition of videograms they are keeping and concealing in the premises above-described.<sup>1</sup>

Acting on the applications, then Regional Trial Court Judge Maria Alicia M. Austria conducted a joint hearing during which she made a personal examination of the applicant and his witnesses. Finding just and probable cause for granting the application at the time, Judge Austria issued the corresponding Search Warrants ("SW") numbered 95, 96, and 97.

Private respondents filed their respective motions to quash the three search warrants, citing as grounds therefor the following:

*In SW No. 95*

1. There is no probable cause nor the existence of a satisfactory fact upon which the search warrant is based;
2. The National Bureau of Investigation has no authority nor the jurisdiction to initiate the filing of suit against the defendants;
3. The confiscation of defendants' seized articles based on the questioned search warrant violated the latter's constitutional right against deprivation of properties without due process.
4. The films in question are not protected by Pres. Decree No. 1988 in that they were never registered in the National Library as a condition precedent to the availment of the protection secured by that decree. The complaint has acquired no right under the same.
5. The mere publication by complainant of its alleged ownership over the films in question does not *ipso facto* vest in the right to proceed under P.D. No. 49 as that law requires official registration. Moreover, the said publication took place only *after* the application for the questioned search warrant.<sup>2</sup>

*In SW No. 96*

1. The complainants, one Rico V. Domingo and one Rene C. Baltazar, in representation of the Motion Picture Association of America, Inc., have not proven nor established their ownership over the films listed in Annex "A" of the search warrant issued by this Honorable Court against the defendants herein.
2. The information provided by the National Bureau of Investigation agents and the representatives of the MPAA, Inc. are replete with generalities insofar as the description of the items to be concerned in violation of the provisions of Sec. 3 of Rule 126 of the Rules of Court. Their allegations as to the offense are presumptuous and speculative in violation of the same section of the Rules of Court.<sup>3</sup>

Private respondents in SW No. 97 adopted the motions filed for the quashal of both SW No. 95 and SW No. 96.

Herein petitioners (the private complainants in the three cases), namely, Columbia Pictures Entertainment, Inc., Orion Pictures Corporation, Twentieth Century Fox Film Corporation, MGM/UA Communications Company, Universal City Studios, Inc., Walt Disney Company and Warner Bros., Inc., submitted their oppositions to the motions to quash. The movants, herein private respondents, filed their replies to the oppositions and sought, simultaneously, the release of the items seized. After a rejoinder was filed, the court *a quo* considered all the incidents submitted for resolution.

In a Joint Order, issued on 09 December 1988, Judge Austria defined the issues raised in the motions to quash thusly:

1. Whether or not the NBI had authority to file the application for search warrant; whether or not it is the Videogram Regulatory Board under P.D. No. 1987 which has exclusive jurisdiction to file suits against violators of said law.
2. Whether or not this Court observed due process of law before issuing the search warrants in question.
3. Whether or not search warrants Nos. 95, 96 and 97 are general warrants and therefore void.
4. Whether or not there was probable cause in the issuance of the search warrants pursuant to Section 3, Rule 126 of the 1985 Rules on Criminal Procedure and Section 2, Article III of the 1987 Constitution of the Republic of the Philippines.
5. Whether or not private complainants who are members of the Motion Picture Association of America, Inc. (MPAA for brevity) through their counsel, Atty. Rico Domingo, have sufficiently proven their ownership over the alleged pirated video tapes of the copyrighted motion pictures/films.
6. Whether or not the items seized by the NBI agents by virtue of SW Nos. 95, 96 and 97 may be ordered released to defendants.<sup>4</sup>

Anent the first three issues, Judge Austria ruled that the NBI had the authority to apply for the search warrants; that in the issuance of the search warrants, due process of law was duly observed; and that the questioned search warrants were not general in character since the provision of law violated, i.e., Sec. 56 of P.D. No. 49, as amended by P.D. No. 1988, was clearly specified. Judge Austria, nonetheless, reversed her former stand initially finding probable cause for the issuance of the search warrants and ordered the quashal of the search warrants giving the following reasons:

1. Private complainants were uncertain of their ownership of the titles subject of the seized video tapes;
2. Complainants did not comply with the requirement that the master tapes should be presented during the application for search warrants; and
3. Private complainants cannot seek the protection of Philippine laws as they failed to comply with the deposit and registration requirements of P.D. No. 49 as amended by P.D. No. 1988.<sup>5</sup>

Judge Austria thus ordered the return of all the items seized by virtue of the warrants.

Petitioners appealed the order of Judge Austria to the Court of Appeals, docketed CA-G.R. CV No. 22133-22135, assigning the following alleged errors:

1. The Court *a quo* erred in ruling that private complainants were uncertain of their ownership of the titles subject of the pirated video tapes.
2. The Court *a quo* erred in ordering the quashal of the search warrants on the ground that the requirement of producing the "master tapes" during the application for a search warrant, as enunciated in the *20th Century Fox* case, promulgated on *19 August 1988*, was applicable to the facts of the instant case which transpired on *07 April 1988*, and that the same was not complied with.
3. The Court *a quo* erred in ruling that appellants do not have a protectable copyright under Philippine laws for their failure to comply with the deposit and registration requirements of Presidential Decree No. 49, as amended by Presidential Decree No. 1988.<sup>6</sup>

On 31 October 1990, the Court of Appeals, through Justice Salome A. Montoya, rendered its decision sustaining petitioners' first and third assignment of errors but rejecting petitioners' second assignment of error. It, therefore, still affirmed the quashal of the search warrants.

Hence, this petition (G.R. No. 96597-99). Another decision rendered by the Court of Appeals in another case (CA-G.R. No. 20617), involving the same petitioners on substantially identical facts and issues, was also brought before this Court (G.R. No. 97156). In a Resolution, dated 06 March 1991, this Court consolidated the two petitions.

We affirm the decisions of the Court of Appeals.

This Court, in *20th Century Fox Film Corp. vs. Court of Appeals* (164 SCRA 655) has already laid down the rule that a basic requirement for the validity of search warrants, in cases of this nature, is the presentation of the master tapes of the copyrighted films from which pirated films are supposed to have been copied. We quote:

The presentation of the master tapes of the copyrighted films from which the pirated films were allegedly copied, was necessary for the validity of search warrants against those who have in their possession the pirated films. The petitioner's argument to the effect that the presentation of the master tapes at the time of application may not be necessary as these would be merely evidentiary in nature and not determinative of whether or not a probable cause exists to justify the issuance of the search warrants is not meritorious. The court cannot presume that duplicate or copied tapes were necessarily reproduced from master tapes that it owns.

The application for search warrants was directed against video tape outlets which allegedly were engaged in the unauthorized sale and renting out of copyrighted films belonging to the petitioner pursuant to P.D. 49.

The essence of a copyright infringement is the similarity or at least substantial similarity of the purported pirated works to the copyrighted work. Hence, the applicant must present to the court the copyrighted films to compare them with the purchased evidence of the video tapes allegedly pirated to determine whether the latter is an unauthorized reproduction of the former. This linkage of the copyrighted films to the pirated films must be established to satisfy the requirements of probable cause. Mere allegations as to the existence of the copyrighted films cannot serve as basis for the issuance of a search warrant.

We also fully concur with the Court of Appeals when, in resolving petitioners' motion for reconsideration in CA-G.R. CV No. 22133-35, it ratiocinated thusly:

It is not correct to say that "the basic fact" to be proven to establish probable cause in the instant cases is not the "unauthorized transfer" of a motion picture that has been recorded but the "sale, lease, or distribution of pirated video tapes of copyrighted films."

In applying for the search warrants the NBI charged violation of the entire provisions of Section 56 of P.D. No. 49 as amended by P.D. No. 1988. This included not only the sale, lease or distribution of pirated tapes but also the transfer or causing to be transferred of any sound recording or motion picture or other audio visual work.

But even assuming, as appellants argue, that only the sale, lease, or distribution of pirated video tapes is involved, the fact remains that there is need to establish probable cause that the tapes being sold, leased or distributed are pirated tapes, hence the issue reverts back to the question of whether there was unauthorized transfer, directly or indirectly, of a sound recording or motion picture or other audio visual work that has been recorded.<sup>7</sup>

With due respect to petitioners, the Court does not see a compelling reason to re-examine its previous position on the issue.

WHEREFORE, in view of the foregoing, the instant petitions are hereby DENIED for lack of merit.

SO ORDERED.

**Footnotes:**

1 *Rollo* of G.R. No. 97156, p. 110.

2 *Rollo* of G.R. No. 96597-99, pp. 126-127.

3 *Rollo* of G.R. No. 96597-99, p. 126.

4 *Rollo* of G.R. No. 96597-99, pp. 127-128.

5 *Rollo* of G.R. No. 96597-99, p. 128.

6 *Rollo* of G.R. No. 96597-99, pp. 128-129.

7 *Rollo* of G.R. No. 96597-99, pp. 160-161.