

Republic of the Philippines
SUPREME COURT
Manila

SECOND DIVISION

ARTHUR DEL ROSARIO and
ALEXANDER DEL ROSARIO,
Petitioners,

G.R. No. 180595

- versus -

Present:

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
ABAD, and
PEREZ, *JJ.*

HELLENOR D. DONATO, JR.
and RAFAEL V. GONZAGA,
Respondents.

Promulgated: March 5, 2010

ABAD, *J.*:

This case is about the need for plaintiff to state the facts constituting his cause of action and the correct forum for actions for damages arising from alleged wrongful procurement and enforcement of a search warrant issued in connection with an alleged criminal violation of the intellectual property law.

The Facts and the Case

On January 23, 2002 Philip Morris Products, Inc. (Philip Morris) wrote the National Bureau of Investigation (NBI), requesting assistance in curtailing the proliferation of fake Marlboro cigarettes in Angeles City, Pampanga. After doing surveillance work in that city, respondent Hellenor Donato, Jr., the NBI agent assigned to the case, succeeded in confirming the storage and sale of such fake cigarettes at the house at 51 New York Street, Villasol Subdivision, Angeles City, that belonged to petitioner Alexander del Rosario.

On March 5, 2002 respondent Donato applied for a search warrant with Branch 57 of the Regional Trial Court (RTC) of Angeles City to search the subject premises. But it took a week later or on March 12, 2002 for the RTC to hear the application and issue the search warrant. Although Donato felt that the delayed hearing compromised the operation, the NBI agents led by respondent Rafael V. Gonzaga proceeded to implement the warrant. Their search yielded no fake Marlboro cigarettes.

Subsequently, petitioners Alexander and Arthur del Rosario (the Del Rosarios) filed a complaint for ₱50 million in damages against respondents NBI agents Donato and Gonzaga and two others before the RTC of Angeles City, Branch 62, in Civil Case 10584. On August 6, 2003 respondents NBI agents answered the complaint with a motion to dismiss on the grounds of: a) the failure of the complaint to state a cause of action; b) forum shopping; and c) the NBI agents' immunity from suit, they being sued as such agents. The RTC denied the motion on March 25, 2003. The NBI agents filed a motion for reconsideration but the RTC denied the same on June 27, 2003.

Dissatisfied, respondents NBI agents filed a special civil action of *certiorari* before the Court of Appeals (CA) in CA-G.R. SP 79496. On June 29, 2007 the latter court granted the petition and annulled the RTC's orders, first, in alleging merely that the NBI agents unlawfully procured the search warrant without stating the facts that made the procurement unlawful, the

complaint failed to state a cause of action; and second, the Del Rosarios were guilty of forum shopping in that they should have filed their claim for damages against the NBI agents through a motion for compensation with the court that issued the search warrant.

The Del Rosarios sought reconsideration of the decision but the CA denied it on November 19, 2007, prompting them to file this petition for review.

The Issues Presented

The petition presents two issues:

1. Whether or not the CA correctly ruled that the complaint of the Del Rosarios did not state a cause of action; and
2. Whether or not the CA correctly ruled that the Del Rosarios were guilty of forum shopping.

The Court's Rulings

One. The CA held that the Del Rosarios' complaint before the RTC failed to state a cause of action against respondents NBI agents. Such complaint said that the NBI agents unlawfully procured and enforced the search warrant issued against the Del Rosarios but it failed to state the ultimate facts from which they drew such conclusion.

The test of sufficiency of a complaint is whether or not, assuming the truth of the facts that plaintiff alleges in it, the court can render judgment granting him the judicial assistance he seeks.^{1[1]} And judgment would be right only if the facts he alleges constitute a cause of action that consists of three elements: (1) the plaintiff's legal right in the matter; (2) the defendant's corresponding obligation to honor or respect such right; and (3) the defendant's subsequent violation of the right. Absent any of these, the complaint would have failed to state a cause of action.^{2[2]}

According to the Del Rosarios, the following allegations in their complaint state a cause or causes of action against respondents NBI agents:

2.4 On 12 March 2002, elements of the [NBI] x x x led by Defendant Rafael I. Gonzaga x x x entered by force the premises belonging to Plaintiff Alexander del Rosario situated at No. 51 New York Street, Villasol Subdivision, Angeles City, pursuant to a Search Warrant unlawfully obtained from the [RTC] of Angeles City, Branch 57 x x x.

x x x x

2.6 Contrary to the sworn statements given before the court by defendants Hellenor D. Donato Jr. x x x and contrary to the allegation in Search Warrant No. 02-09A, no 'fake Marlboro cigarettes and their packaging' were found at No. 51 New York Street, Villasol Subdivision, Angeles City x x x.

2.7 The inclusion of Plaintiff Arthur del Rosario in Search Warrant No. 02-09 had no factual basis considering that the premises searched is the property solely of Plaintiff Alexander del Rosario.

2.8 Worse the enforcement of Searched [*sic*] Warrant No. 02-09 was just part of the series of raids and searches that was conducted in Angeles City and Pampanga, which was done with much publicity in the community and had

1[1] *Guaranteed Homes, Inc. v. Heirs of Maria P. Valdez*, G.R. No. 171531, January 30, 2009, 577 SCRA 441, 448-449.

2[2] *Heirs of Loreto C. Maramag v. Maramag*, G.R. No. 181132, June 5, 2009.

tended to include the Plaintiffs in the same category as other persons and entities who were in fact found to be dealing with fake *Marlboro* cigarettes.

x x x x

3.2 The baseless sworn allegations that Plaintiffs had under their control and possession counterfeit *Marlboro* cigarettes and packaging to obtain a search warrant, and the malicious service of the such warrant at the residential premises of Plaintiff Alexander del Rosario in full and plain view of members of the community, as part of the series of raids and operations conducted within Angeles City and Pampanga during that period, has tainted irreversibly the good names which Plaintiffs have painstakingly built and maintained over the years.

x x x x

3.4 Plaintiffs were subjected to so much humiliation and embarrassment by the raid conducted on the subject residential premises, and subjected them to much unwarranted speculation of engaging in the sale of fake merchandise.

Essentially, however, all that the Del Rosarios allege is that respondents NBI agents used an unlawfully obtained search warrant against them, evidenced by the fact that, contrary to the sworn statements used to get such warrant, the NBI agents found no fake Marlboro cigarettes in petitioner Alexander del Rosario's premises.

But a judicially ordered search that fails to yield the described illicit article does not of itself render the court's order "unlawful." The Del Rosarios did not allege that respondents NBI agents violated their right by fabricating testimonies to convince the RTC of Angeles City to issue the search warrant. Their allegation that the NBI agents used an unlawfully obtained search warrant is a mere conclusion of law. While a motion to dismiss assumes as true the facts alleged in the complaint, such admission does not extend to conclusions of law.^{3[3]} Statements of mere conclusions of law expose the complaint to a motion to dismiss on ground of failure to state a cause of action.^{4[4]}

Further, the allegation that the search warrant in this case was served in a malicious manner is also not sufficient. Allegations of bad faith, malice, and other related words without ultimate facts to support the same are mere conclusions of law.^{5[5]}

The Del Rosarios' broad assertion in their complaint that the search was conducted "in full and plain view of members of the community" does not likewise support their claim that such search was maliciously enforced. There is nothing inherently wrong with search warrants being enforced in full view of neighbors. In fact, when the respondent or his representative is not present during the search, the rules require that it be done in the presence of two residents of the same locality. These safeguards exist to protect persons from possible abuses that may occur if searches were done surreptitiously or clandestinely.

Two. Invoking Section 21 of this Court's Administrative Matter (A.M.) 02-1-06-SC (not A.O. 01-1-06-SC as cited), the CA held that, rather than file a separate action for damages, the Del Rosarios should have filed their claim for compensation in the same proceeding and with the same court that issued the writ of search and seizure. The Del Rosarios were thus guilty of forum shopping.

A.M. 02-1-06-SC, the Rule on Search and Seizure in Civil Actions for Infringement of Intellectual Property Rights, provides:

3[3] *Drilon v. Court of Appeals*, 409 Phil. 14, 28 (2001).

4[4] *Philippine National Bank v. Encina*, G.R. No. 174055, February 12, 2008, 544 SCRA 608, 620.

5[5] *Drilon v. Court of Appeals*, supra note 3, at 30.

SEC. 21. *Claim for damages.* – Where the writ [of search and seizure] is discharged on any of the grounds provided in this Rule, or where it is found after trial that there has been no infringement or threat of infringement of an intellectual property right, the court, upon motion of the alleged infringing defendant or expected adverse party and after due hearing, shall order the applicant to compensate the defendant or expected adverse party upon the cash bond, surety bond or other equivalent security for any injury or damage the latter suffered by the issuance and enforcement of the writ. Should the damages exceed the amount of the bond, the applicant shall be liable for the payment of the excess.

When a complaint is already filed in court, the motion shall be filed with the same court during the trial or before appeal is perfected or before judgment becomes executory, with due notice to the applicant, setting forth the facts showing the defendant's right to damages and the amount thereof. The award of damages shall be included in the judgment in the main case.

Where no complaint is filed against the expected adverse party, the motion shall be filed with the court which issued the writ. In such a case, the court shall set the motion for summary hearing and immediately determine the expected adverse party's right to damages.

A judgment in favor of the applicant in its principal claim should not necessarily bar the alleged infringing defendant from recovering damages where he suffered losses by reason of the wrongful issuance or enforcement of the writ.

The damages provided for in this section shall be independent from the damages claimed by the defendant in his counterclaim.

But the subject search warrant was not issued under A.M. 02-1-06-SC, which governed the issuance of a writ of search and seizure in a civil action for infringement filed by an intellectual property right owner against the supposed infringer of his trademark or name. Philip Morris, the manufacturer of Marlboro cigarettes, did not go by this route. Philip Morris did not file a civil action for infringement of its trademark against the Del Rosarios before the RTC of Angeles City.

Instead, Philip Morris sought assistance from the NBI for the apprehension and criminal prosecution of those reportedly appropriating its trademark and selling fake Marlboro cigarettes. In turn, the NBI instituted a police action that included applying for a search and seizure warrant under Sections 3, 4, 5 and 6 of Rule 126 of the Rules of Criminal Procedure (not under the provisions of A.M. 02-1-06-SC) against the Del Rosarios upon the belief that they were storing and selling fake Marlboro cigarettes in violation of the penal provisions of the intellectual property law.

The proceeding under Rule 126, a limited criminal one, does not provide for the filing of counterclaims for damages against those who may have improperly sought the issuance of the search warrant. Consequently, the Del Rosarios had the right to seek damages, if the circumstances warranted, by separate civil action for the wrong inflicted on them by an improperly obtained or enforced search warrant. Unfortunately, their complaint, as worded, failed to state a proper cause of action.

Petitioner Arthur del Rosario claims that respondents NBI agents wrongfully included him as respondent in their application for a search warrant since he neither owned the house at 51 New York Street nor resided in it. But the rules do not require respondents in search warrant proceedings to be residents of the premises to be searched. If this were the case, criminals in possession of illegal articles could simply use other people's residence for storing such articles to avoid being raided and searched.

The Del Rosarios raise a number of procedural issues: a) the supposed failure of respondents NBI agents to file their motion for reconsideration of the RTC order denying their motion to dismiss within 15 days of receipt of the order; b) their resort to a special civil action of *certiorari* to challenge the RTC's denial of their motion to dismiss; c) the propriety of their inclusion of a motion to dismiss in their answer; d) the CA's grant to them in 2003 of a 15-day extension to file a petition for *certiorari* after the lapse of 60 days when the Court did not yet come out with a ruling that barred such extension; and e) their being represented by private counsel rather than by the Office of the Solicitor General.

With the Court's rulings in the principal issues raised in this case, it finds no sufficient reason to further dwell on the lesser issues that the Del Rosarios raise above. Besides, the Court finds no error in the CA's disposition of the same.

WHEREFORE, the Court DENIES the petition and AFFIRMS the Decision of the Court of Appeals in CA-G.R. SP 79496 dated June 29, 2007 and its Resolution dated November 19, 2007 for the reasons stated in this Decision, with the MODIFICATION that Civil Case 10584 is DISMISSED without prejudice.

SO ORDERED.

ROBERTO A. ABAD
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ATTESTATION

I attest 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
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

REYNATO S. PUNO
Chief Justice