



Republic of the Philippines
Court of Appeals
Manila

SIXTEENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CA-G.R. CR NO. 34076

Members:

AUTODESK, INC.,
Private Complainant-Appellant,

VILLON, J., *Chairperson*
MACALINO, &
CORALES, JJ.

- versus -

MA. LOURMINDA O' CONNOR,
MA. CRISTINA TY, ANGELES P.
PALAD, and ADMARIE D.
MARCELO,
Accused-Appellees.

Promulgated:

June 25, 2014

DECISION

CORALES, J.:

This is an appeal¹ by the private complainant-appellant Autodesk, Inc. (Autodesk) through its private prosecutors from the September 23, 2010² and February 8, 2011³ Orders of the Regional Trial Court (RTC), Branch 66, Makati City quashing Search Warrant No. 04-043,⁴ suppressing all evidence obtained by virtue thereof, and

¹ See Notice of Appeal in relation to the February 23, 2011 Order of the RTC giving due course to said appeal, records, pages 337-339 and 340, respectively.

² Penned by Presiding Judge Joselito C. Villarosa, *rollo*, pages 17-23.

³ *Ibid.*, pages 12-13.

⁴ See Search Warrant issued by Judge D. Victorio, records, pages 187-188.

dismissing the case for lack of sufficient basis to prosecute the accused-appellees.

The Antecedents

On the strength of the May 25, 2008 Resolution⁵ of the Task-Force on Anti-Intellectual Property Piracy of the Department of Justice, accused-appellees were charged with violation of Section 177 in relation to Section 217.1 of Republic Act No. 8293, also known as the Intellectual Property Code of the Philippines, under an Information⁶ which reads:

That on or about June 14, 2004 to September 29, 2004, at No. 2634 Zanzibar St. corner P. Binay Street corner Rockefeller Street, Bo. San Isidro, Makati City, and within the jurisdiction of this Honorable Court, the above named accused, directors and officers of Ergonomics System Philippines, Inc. ("ERGONOMICS"), did then and there, willfully, unlawfully, and feloniously, with intent to defraud and without the consent of AUTODESK, INC. ("AUTODESK"), by employing deception and other means contrary to good faith, use, copy and/or reproduce, the whole or a substantial portion of the versions of the AUTOCAD software, in violation of AUTODESK's copyright or economic rights in the goodwill of the subject products, to the damage and prejudice of the latter.

Pending the resolution of accused-appellees' motion for reconsideration,⁷ the RTC issued warrants of arrest against them.⁸ Accused-appellees Ma. Lourminda O' Connor, Angeles P. Palad and Admarie D. Marcelo posted their respective cash bonds⁹ for their provisional liberties even before they could be served with a warrant of arrest. However, the warrant of arrest against accused-appellant Cristina E. Ty was returned unserved.¹⁰

⁵ Penned by State Prosecutor Grace J. Victoria-Ruiz with the Recommending Approval of Assistant Chief State Prosecutor Pedrito L. Rances, and Approved by Chief State Prosecutor Jovencio R. Zuño, *ibid.*, pages 5-12.

⁶ *Ibid.*, pages 1-2.

⁷ See Motion for Reconsideration before the DOJ, *ibid.*, pages 99-104.

⁸ *Ibid.*, pages 159-162.

⁹ See RTC Orders dated June 24, 2010 and June 28, 2010 approving the respective cash bonds of O'Connor, Palad and Marcelo, *ibid.*, pages 163, 170, and 175.

¹⁰ See Warrant of Arrest, *ibid.*, page 185 and dorsal portion.

Subsequently, accused-appellees filed an Omnibus Motion: 1) to Quash Search Warrant No. 04-043 and To Suppress Evidence Obtained Thereby; 2) to Return Illegally Seized Articles; 3) to Quash Information; and 4) to Defer Proceedings on Arraignment.¹¹ They claimed that Search Warrant No. 04-043 was issued without probable cause because neither the applicant nor the witnesses presented for its issuance had personal knowledge of the facts constituting the offense charged; and that the warrant was illegally enforced when the implementing agents seized computers with genuine and licensed AutoCAD 2000i software contrary to the express instructions in said warrant. They also prayed that the Information against them be quashed for being vague and that the items seized by virtue of Search Warrant No. 04-043 be excluded as evidence against them.

The Ruling of the RTC

In its September 23, 2010 Order,¹² the RTC ruled in favor of accused-appellees and quashed Search Warrant No. 04-043. It found that the applicant and witnesses for Search Warrant No. 04-043 had no personal knowledge of the facts constituting the offense; in fact, one of the witnesses relied heavily on a certification issued by Autodesk that Ergo Contracts Philippines, Inc., where accused-appellees were officers, only had authority to use the software AutoCAD 2000i in two (2) computers. Accordingly, it declared that the evidence seized by virtue of the invalid search warrant were inadmissible as evidence.

Nonetheless, the RTC refrained from ruling on the legality of the implementation of said warrant because it was beyond the scope of a motion to quash. It also decreed that the Information should not be quashed without giving the private complainant an opportunity to correct any alleged defect therein. It then disposed the case as follows:

¹¹ *Ibid.*, pages 207-252.

¹² *Supra*, at note 2.

WHEREFORE, premises considered, Accused's Omnibus Motion is hereby GRANTED, anent the following:

- 1) **QUASHING** and **SETTING ASIDE** Search Warrant No. 04-043 issued by Hon. Judge Manuel D. Victorio on 28 September 2004 for being NULL and VOID;
- 2) **SUPPRESSING** and **EXCLUDING** all evidence obtained by virtue of Search Warrant No. 04-043; and
- 3) **DISMISSING** the instant case for lack of sufficient bases to prosecute the Accused.

Finally, the prayer for the Deferment of the Arraignment has been rendered moot in view of the dismissal of the instant case.

Autodesk through its private prosecutors moved for reconsideration¹³ but the RTC denied the same in its February 8, 2011 Order.¹⁴

Aggrieved, Autodesk filed this Notice of Appeal¹⁵ through its private prosecutors and without the conformity of the Office of the Solicitor General (OSG). In its Appellant's Brief, Autodesk assigned the following errors on the part of the RTC:¹⁶

THE TRIAL COURT ERRED WHEN IT QUASHED AND SET ASIDE SEARCH WARRANT NO. 04-043 FOR ALLEGEDLY HAVING BEEN PROCURED IN VIOLATION OF THE CONSTITUTION AND THE RULES OF COURT.

THE TRIAL COURT ERRED IN RULING THAT ALL EVIDENCE OBTAINED BY VIRTUE OF SEARCH WARRANT NO. 04-043 BE SUPPRESSED AND EXCLUDED, AND THAT THE INSTANT CASE

¹³ See Motion for Reconsideration, records, pages 269-297.

¹⁴ *Supra*, at note 3.

¹⁵ *Supra*, at note 1.

¹⁶ *Rollo*, page 33.

SHOULD BE DISMISSED FOR LACK OF SUFFICIENT
BASIS TO PROSECUTE THE ACCUSED-APPELLEES.

This Court's Ruling

Autodesk took a procedural misstep when it filed the present appeal without the representation of the OSG. It is well-settled that in criminal cases where the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability. Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution.¹⁷ As a matter of fact, Section 5, Rule 110 of the Rules of Court mandates that all criminal actions commenced by a complaint or information shall be prosecuted under the direction and control of the public prosecutor. In case the criminal proceeding is pending before the Supreme Court or the Court of Appeals, only the OSG may represent the People of the Philippines or the State or bring or defend actions on behalf of the Republic of the Philippines¹⁸ pursuant to Section 35 (1), Chapter 12, Title III, Book IV of the 1987 Administrative Code, *viz.*:

Sec. 35. Powers and Functions. — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceedings, investigation or matter requiring the services of lawyers. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of lawyers. It shall have the following specific powers and functions:

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(1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings;** represent the Government and its officers in the Supreme Court, Court of Appeals, and all other courts or tribunals in all civil actions and

¹⁷ Villareal v. Aliga, G.R. No 166995. January 13, 2014.

¹⁸ See Heirs of Federico C. Delgado v. Luisito Q. Gonzales, G.R. No. 184337. August 7, 2009.

special proceedings in which the Government or any officer thereof in his official capacity is a party. (Emphasis supplied)

Accordingly, if a criminal case is dismissed by the RTC or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through OSG. In this case, the orders being assailed by Autodesk pertain to the nullification of Search Warrant No. 04-043 and the dismissal of the criminal case against accused-appellees for the unauthorized reproduction of the software AutoCAD 2000i due to lack sufficient bases to prosecute. It is the State that has the interest over the social injury that might have been produced by the unauthorized reproduction of said software. Therefore, the People of the Philippines, as represented by the OSG, and not Autodesk has the sole right to prosecute the same on appeal.

While there are rare occasions when the private offended party may be allowed to appeal from the order or judgment of the court in a criminal action,¹⁹ such as when (a) there is a denial of due process of law to the prosecution and the State or its agents refuse to act to the prejudice of the State and the offended party; or (b) when the private offended party assails the civil aspect of a decision of the trial court,²⁰ these exceptional circumstances do not obtain in the present case. It clearly appears in Autodesk's Brief that the appeal was intended to reinstate the criminal action against accused-appellees and not merely to protect its pecuniary interest as an offended party.²¹ There is no showing that the OSG refused and failed to act on its duties tantamount to the denial of Autodesk's right to appeal. In fact, Autodesk failed to advance any excuse or justification why it failed to seek the assistance of the OSG in filing this appeal. It cannot also claim denial of due process considering that its private prosecutors actively participated in the proceedings before the RTC by filing oppositions to the motions of accused-appellees and motion for reconsideration from the order of dismissal. In *Dacer v. Lacson*,²² the Supreme Court elucidated that such vigorous participation satisfied

¹⁹ *Ong v. Genio*, G.R. No. 182336. December 23, 2009.

²⁰ *Dacer v. Lacson*, G.R. No. 196209. June 8, 2011.

²¹ See *Jimenez v. Sorongon*, G.R. No. 178607. December 5, 2012.

²² *Supra*, at note 20.

the requirements of due process to afford the parties a fair and reasonable opportunity to explain their respective sides of the controversy.

Notably, the RTC already forewarned Autodesk that a pleading without the imprimatur of the public prosecutor is only a “mere scrap of paper”²³ but it seems that Autodesk ignored the same. Thus, Autodesk only has itself and its private prosecutors to blame for the non-perfection of its appeal.

Borrowing the words of the Supreme Court in the *Dacer Case*,²⁴ whether or not the RTC committed any reversible error in invalidating Search Warrant No. 04-043 and dismissing the case for lack of sufficient bases to prosecute is a question We may not address because it was not posed by the right party. “This Court, for very important policy and institutional reasons, has consistently followed the rule that only the State and its representatives may appeal the dismissal of a criminal action. That the State is the offended party in criminal proceedings is a doctrine we must uphold because it is founded on the fundamental definition of crimes and the authority of the State to exact penalties therefor. To give up the right to prosecute for crimes in favor of private parties is to abandon what makes a State a state. By definition, a modern state has monopoly of all lawful coercive powers, and among these are the right to define, to prosecute, and to punish crimes. Corollarily, the right to appeal a dismissal of a criminal case, wrongful or otherwise, may not be usurped by private persons. It is only when a representative of the State has by wrongful action forfeited this right to appeal, as to cause prejudice to the State, that the Court may move to correct the injustice.”

WHEREFORE, the appeal is **DENIED**. The September 23, 2010 and February 8, 2011 Orders of the Regional Trial Court, Branch 66, Makati City are hereby **AFFIRMED**.

²³ See pages 1-2 of RTC Order dated September 23, 2010, *supra*, at note 2.

²⁴ *Supra*, at note 20.

SO ORDERED.

PEDRO B. CORALES
Associate Justice

WE CONCUR:

SESINANDO E. VILLON
Associate Justice

FLORITO S. MACALINO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

SESINANDO E. VILLON
Associate Justice
Chairperson, Sixteenth Division