

FIRST DIVISION

[G.R. No. 164974, August 05, 2015]

CHARLIE TE, PETITIONER, VS. HON. AUGUSTO V. BREVA, IN HIS CAPACITY AS THE PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, 11TH JUDICIAL REGION, BRANCH 10, DAVAO CITY; U R. BAHINTING, IN HIS CAPACITY AS SPECIAL INVESTIGATOR OF THE NATIONAL BUREAU OF INVESTIGATION, SARANGGANI DISTRICT OFFICE; AND PRYCE GASES, INC., RESPONDENTS.

DECISION

BERSAMIN, J.:

The issue for resolution is whether the People of the Philippines should be impleaded as respondents in the petition for *certiorari* filed in the Court of Appeals (CA) to annul and set aside the order of the Regional Trial Court (RTC) denying the petitioner's motion to quash the search warrant issued against him.

Antecedents

It appears that respondent Presiding Judge issued a search warrant against the petitioner upon the application of respondent Special Investigator U R. Bahinting of the Saranggani District Office of the National Bureau of Investigation (NBI SARDO) on the basis of his finding of probable cause for a violation of Section 2(b) of Batas Pambansa Blg. 33, as amended by Presidential Decree No. 1865, for hoarding large quantities of liquefied petroleum gas (LPG) in steel cylinders belonging to respondent Pryce Gases, Inc. (Pryce Gases). The application for the search warrant was filed at the instance of Pryce Gases through its letter dated September 28, 2003 to the NBI SARDO complaining about the collection and hoarding by the petitioner of embossed or name-plated Pryce Gases' LPG cylinders in violation of Sections 155, 156, 168 and 169 of Republic Act No. 8293 (*Intellectual Property Code of the Philippines*).

On October 14, 2003, the petitioner presented his *Omnibus Motion to Quash Warrant and/or Suppress Evidence and to Order Return of Seized Items*, raising therein the lack of probable cause, failure to specify the single offense committed, illegality of the nighttime search, improper application of the plain view doctrine, and inclusion of other offenses.

In his order of November 20, 2003,^[1] respondent Presiding Judge denied the petitioner's *Omnibus Motion to Quash Warrant and/or Suppress Evidence and to Order Return of Seized Items* by observing that he had issued the search warrant for one specific offense; that there was probable cause to issue the search warrant; that the search began late in the day and continued into the night, but the actual seizure was carried out in the daytime of the next day; and that the seizure of the blue cylinders with the markings and logo of Pryce Gases was justified under the

plain view doctrine because they were found among the large stockpile of cylinders in the petitioner's warehouse.

The petitioner's motion for reconsideration was denied on January 5, 2004.^[2]

Decision of the CA

The petitioner assailed the order of November 20, 2003 on *certiorari*,^[3] mainly positing that respondent Presiding Judge had committed grave abuse of discretion amounting to excess of jurisdiction:

x x x in issuing the November 20, 2003 Order by ruling that the search warrant was issued based on the existence of probable cause in connection with a specified offense and validly implemented even if the same was served starting at nighttime and including the seizure of blue colored steel cylinders and steel cylinders of different brand names despite the fact that the steel cylinders were either empty or effectively empty having been received and possessed by petitioner in the ordinary course of his business being a legitimate dealer of Shellane brand LPG, a petroleum product of the Pilipinas Shell Petroleum Corp. and thereafter in issuing the Order dated January 5, 2004 denying the motion for reconsideration.^[4]

However, the CA promulgated the first assailed order on March 25, 2004,^[5] dismissing the petition for *certiorari* for failure to implead the People of the Philippines as respondents, and for lack of any showing that a copy of the petition had been served on the OSG, to wit:

We resolve to **DISMISS** the petition pursuant to Section 3, Rule 46 of the Revised Rules of Court for the following reasons:

1. the People of the Philippines is not impleaded as a respondent;
2. no proof that a copy of the petition was served on the Office of the Solicitor General.

SO ORDERED.

The petitioner moved for reconsideration,^[6] arguing that impleading the People of the Philippines as respondents was premature because no criminal case had yet been filed against him with only the application for the issuance of the search warrant having been made; and that serving the copy of the petition on the OSG pursuant to Section 3, Rule 46 of the *Rules of Court* was not indispensable. Nevertheless, he attached to his motion for reconsideration the affidavit of service executed by one Salvador R. Dumaop, Jr. presumably to conform with the rule on proof of service to the respondents, whereby the affiant attested that the copy of the petition and the motion for reconsideration were served on the OSG by registered mail.

On July 21, 2004, the CA denied the petitioner's motion for reconsideration^[7] on the ground that although the petitioner had served on the OSG copies of the petition and the motion for reconsideration he did not file the appropriate motion or

manifestation to amend the petition and to actually amend the petition in order to implead the People of the Philippines as respondents. The CA ratiocinated that:

We call the petitioner's attention to the fact that Section 1, Rule 126 of the Revised Rules of Court provides that *"a search warrant is an order in writing issued in the name of the People of the Philippines signed by a judge and directed to a peace officer commanding him to search for personal property described therein and bring it before the Court."* A search warrant is issued in the name of the People of the Philippines because there is a finding of probable cause in connection with one specific offense that the object sought in connection with the offense are in the place sought to be searched. In legal contemplation, the crime or offense had been committed against the State - the People of the Philippines - and this is the State interest in the proceedings. If the petitioner wishes to contest the finding of probable cause or any other aspect of the issuance of the search warrant, then he must implead the entity who in legal contemplation made the finding and in whose name the finding was made; otherwise, there can be no final determination of the case because the party indispensable to its resolution had been omitted.^[8]

Hence, according to the CA, it was left with no choice but to deny the motion for reconsideration.

Not satisfied, the petitioner has come to the Court on appeal to reverse and set aside the aforesaid resolutions by insisting that the failure to implead the People of the Philippines was not a fatal defect.

Issue

In this appeal, the petitioner relevantly avers in his petition for review on *certiorari*,^[9] as follows:

x x x x

20. It is humbly submitted that the Court of Appeals committed a reversible error in grave abuse of its discretion amounting to excess of jurisdiction in dismissing the petition by ruling that the failure to implead the People of the Philippines as an indispensable party is a fatal defect. The petition has shown a grave violation of a constitutional right that must necessarily override a rule on technicality, assuming it is applicable and correct.

21. Specifically, it is submitted that it is not a necessary requisite and an indispensable condition that the People of the Philippine (sic) be impleaded in a petition filed assailing the denial of a motion to quash a search warrant. And that such failure to so include it as an indispensable party is not a fatal defect more so with the fact that there was a showing of a gross violation of a constitutional right.^[10]

x x x x