

FIRST DIVISION

[G.R. No. 161106, January 13, 2014]

**WORLDWIDE WEB CORPORATION AND CHERRYLL L. YU,
PETITIONERS, VS. PEOPLE OF THE PHILIPPINES AND
PHILIPPINE LONG DISTANCE TELEPHONE COMPANY,
RESPONDENTS.**

[G.R. NO. 161266]

**PLANET INTERNET CORP., PETITIONER, VS. PHILIPPINE LONG
DISTANCE TELEPHONE COMPANY, RESPONDENT.**

D E C I S I O N

SERENO, C.J.:

Petitioners filed the present Petitions under Rule 45 of the Rules of Court to set aside the Decision^[1] dated 20 August 2003 and the Resolution^[2] dated 27 November 2003 of the Court of Appeals (CA) reversing the quashal of the search warrants previously issued by the Regional Trial Court (RTC).

Police Chief Inspector Napoleon Villegas of the Regional Intelligence Special Operations Office (RISOO) of the Philippine National Police filed applications for warrants^[3] before the RTC of Quezon City, Branch 78, to search the office premises of petitioner Worldwide Web Corporation (WWC)^[4] located at the 11th floor, IBM Plaza Building, No. 188 Eastwood City, Libis, Quezon City, as well as the office premises of petitioner Planet Internet Corporation (Planet Internet)^[5] located at UN 2103, 21/F Orient Square Building, Emerald Avenue, *Barangay* San Antonio, Pasig City. The applications alleged that petitioners were conducting illegal toll bypass operations, which amounted to theft and violation of Presidential Decree No. 401 (Penalizing the Unauthorized Installation of Water, Electrical or Telephone Connections, the Use of Tampered Water or Electrical Meters and Other Acts), to the damage and prejudice of the Philippine Long Distance Telephone Company (PLDT).^[6]

On 25 September 2001, the trial court conducted a hearing on the applications for search warrants. The applicant and Jose Enrico Rivera (Rivera) and Raymund Gali (Gali) of the Alternative Calling Pattern Detection Division of PLDT testified as witnesses.

According to Rivera, a legitimate international long distance call should pass through the local exchange or public switch telephone network (PSTN) on to the toll center of one of the international gateway facilities (IGFs)^[7] in the Philippines.^[8] The call is then transmitted to the other country through voice circuits, either via fiber optic submarine cable or microwave radio using satellite facilities, and passes the toll

center of one of the IGFs in the destination country. The toll center would then meter the call, which will pass through the PSTN of the called number to complete the circuit. In contrast, petitioners were able to provide international long distance call services to any part of the world by using PLDT's telephone lines, but bypassing its IGF. This scheme constitutes toll bypass, a "method of routing and completing international long distance calls using lines, cables, antenna and/or wave or frequency which connects directly to the local or domestic exchange facilities of the originating country or the country where the call is originated."^[9]

On the other hand, Gali claimed that a phone number serviced by PLDT and registered to WWC was used to provide a service called GlobalTalk, "an internet-based international call service, which can be availed of via prepaid or billed/post-paid accounts."^[10] During a test call using GlobalTalk, Gali dialed the local PLDT telephone number 6891135, the given access line. After a voice prompt required him to enter the user code and personal identification number (PIN) provided under a GlobalTalk pre-paid account, he was then requested to enter the destination number, which included the country code, phone number and a pound (#) sign. The call was completed to a phone number in Taiwan. However, when he checked the records, it showed that the call was only directed to the local number 6891135. This indicated that the international test call using GlobalTalk bypassed PLDT's IGF.

Based on the records of PLDT, telephone number 6891135 is registered to WWC with address at UN 2103, 21/F Orient Square Building, Emerald Avenue, *Barangay* San Antonio, Pasig City.^[11] However, upon an ocular inspection conducted by Rivera at this address, it was found that the occupant of the unit is Planet Internet, which also uses the telephone lines registered to WWC.^[12] These telephone lines are interconnected to a server and used as dial-up access lines/numbers of WWC.

Gali further alleged that because PLDT lines and equipment had been illegally connected by petitioners to a piece of equipment that routed the international calls and bypassed PLDT's IGF, they violated Presidential Decree (P.D.) No. 401 as amended,^[13] on unauthorized installation of telephone connections. Petitioners also committed theft, because through their misuse of PLDT phone lines/numbers and equipment and with clear intent to gain, they illegally stole business and revenues that rightly belong to PLDT. Moreover, they acted contrary to the letter and intent of Republic Act (R.A.) No. 7925, because in bypassing the IGF of PLDT, they evaded the payment of access and bypass charges in its favor while "piggy-backing" on its multi-million dollar facilities and infrastructure, thus stealing its business revenues from international long distance calls. Further, petitioners acted in gross violation of Memorandum Circular No. 6-2-92 of the National Telecommunications Commission (NTC) prohibiting the use of customs premises equipment (CPE) without first securing type approval license from the latter.

Based on a five-day sampling of the phone line of petitioners, PLDT computed a monthly revenue loss of P764,718.09. PLDT likewise alleged that petitioners deprived it of foreign exchange revenues, and evaded the payment of taxes, license fees, and charges, to the prejudice of the government.

During the hearing, the trial court required the identification of the office premises/units to be searched, as well as their floor plans showing the location of particular computers and servers that would be taken.^[14]

On 26 September 2001, the RTC granted the application for search warrants.^[15] Accordingly, the following warrants were issued against the office premises of petitioners, authorizing police officers to seize various items:

1. Search Warrant No. Q-01-3856,^[16] issued for violation of paragraph one (1) of Article 308 (theft) in relation to Article 309 of the Revised Penal Code against WWC, Adriel S. Mirto, Kevin L. Tan, Cherryll L. Yu, Carmelo J. Canto, III, Ferdinand B. Masi, Message One International Corporation, Adriel S. Mirto, Nova Christine L. Dela Cruz, Robertson S. Chiang, and Nolan B. Sison with business address at 11/F IBM Plaza Building, No. 188 Eastwood City, Cyberpark Libis, Quezon City:

- a) Computers or any equipment or device capable of accepting information, applying the process of the information and supplying the results of this process;
- b) Software, Diskettes, Tapes or equipment or device used for recording or storing information; and
- c) Manuals, application forms, access codes, billing statements, receipts, contracts, communications and documents relating to securing and using telephone lines and/or equipment.

2. Search Warrant No. Q-01-3857,^[17] issued for violation of P.D. 401 against Planet Internet Corporation/Mercury One, Robertson S. Chiang, Nikki S. Chiang, Maria Sy Be Chiang, Ben C. Javellana, Carmelita Tuason with business address at UN 2103, 21/F Orient Square Building, Emerald Avenue, *Barangay* San Antonio, Pasig City:

- a) Modems or Routers or any equipment or device that enables data terminal equipment such as computers to communicate with other data terminal equipment via a telephone line;
- b) Computers or any equipment or device capable of accepting information applying the prescribed process of the information and supplying the results of this process;
- c) Lines, Cables and Antennas or equipment or device capable of transmitting air waves or frequency, such as an IPL and telephone lines and equipment;
- d) Multiplexers or any equipment or device that enables two or more signals from different sources to pass through a common cable or transmission line;
- e) PABX or Switching Equipment, Tapes or equipment or device capable of connecting telephone lines;
- f) Software, Diskettes, Tapes or equipment or device used for recording or storing information; and

g) Manuals, application forms, access codes, billing statement, receipts, contracts, checks, orders, communications and documents, lease and/or subscription agreements or contracts, communications and documents relating to securing and using telephone lines and/or equipment.

3. Search Warrant No. Q-01-3858,^[18] issued for violation of paragraph one (1) of Article 308 (theft) in relation to Article 309 of the Revised Penal Code against Planet Internet Corporation/Mercury One, Robertson S. Chiang, Nikki S. Chiang, Maria Sy Be Chiang, Ben C. Javellana, Carmelita Tuason with business address at UN 2103, 21/F Orient Square Building, Emerald Avenue, *Barangay* San Antonio, Pasig City:

a) Modems or Routers or any equipment or device that enables data terminal equipment such as computers to communicate with other data terminal equipment via a telephone line;

b) Computers or any equipment or device capable of accepting information applying the prescribed process of the information and supplying the results of this process;

c) Lines, Cables and Antennas or equipment or device capable of transmitting air waves or frequency, such as an IPL and telephone lines and equipment;

d) Multiplexers or any equipment or device that enables two or more signals from different sources to pass through a common cable or transmission line;

e) PABX or Switching Equipment, Tapes or equipment or device capable of connecting telephone lines;

f) Software, Diskettes, Tapes or equipment or device used for recording or storing information; and

g) Manuals, application forms, access codes, billing statement, receipts, contracts, checks, orders, communications and documents, lease and/or subscription agreements or contracts, communications and documents relating to securing and using telephone lines and/or equipment.

The warrants were implemented on the same day by RISOO operatives of the National Capital Region Police Office.

Over a hundred items were seized,^[19] including 15 central processing units (CPUs), 10 monitors, numerous wires, cables, diskettes and files, and a laptop computer.^[20] Planet Internet notes that even personal diskettes of its employees were confiscated; and areas not devoted to the transmission of international calls, such as the President's Office and the Information Desk, were searched. Voltage regulators, as well as reserve and broken computers, were also seized.

Petitioners WWC and Cherryll Yu,^[21] and Planet Internet^[22] filed their respective motions to quash the search warrants, citing basically the same grounds: (1) the search warrants were issued without probable cause, since the acts complained of did not constitute theft; (2) toll bypass, the act complained of, was not a crime; (3) the search warrants were general warrants; and (4) the objects seized pursuant thereto were “fruits of the poisonous tree.”

PLDT filed a Consolidated Opposition^[23] to the motions to quash.

In the hearing of the motions to quash on 19 October 2001, the test calls alluded to by Gali in his Affidavit were shown to have passed the IGF of Eastern Telecommunications (Philippines) Inc. (Eastern) and of Capital Wireless (Capwire).^[24] Planet Internet explained that Eastern and Capwire both provided international direct dialing services, which Planet Internet marketed by virtue of a “Reseller Agreement.” Planet Internet used PLDT lines for the first phase of the call; but for the second phase, it used the IGF of either Eastern or Capwire. Planet Internet religiously paid PLDT for its domestic phone bills and Eastern and Capwire for its IGF usage. None of these contentions were refuted by PLDT.

The RTC granted the motions to quash on the ground that the warrants issued were in the nature of general warrants.^[25] Thus, the properties seized under the said warrants were ordered released to petitioners.

PLDT moved for reconsideration,^[26] but its motion was denied^[27] on the ground that it had failed to get the conformity of the City Prosecutor prior to filing the motion, as required under Section 5, Rule 110 of the Rules on Criminal Procedure.

THE CA RULING

PLDT appealed to the CA, where the case was docketed as CA-G.R. No. 26190. The CA reversed and set aside the assailed RTC Resolutions and declared the search warrants valid and effective.^[28]

Petitioners separately moved for reconsideration of the CA ruling.^[29] Among the points raised was that PLDT should have filed a petition for certiorari rather than an appeal when it questioned the RTC Resolution before the CA. The appellate court denied the Motions for Reconsideration.^[30]

Rule 45 Petitions were separately filed by petitioners WWC and Cherryll Yu,^[31] and Planet Internet^[32] to assail the CA Decision and Resolution. The Court consolidated the two Petitions.^[33]

ISSUES

I. Whether the CA erred in giving due course to PLDT’s appeal despite the following procedural infirmities: