

SECOND DIVISION

[G.R. No. 205800, September 10, 2014]

**MICROSOFT CORPORATION AND ADOBE SYSTEMS
INCORPORATED, PETITIONERS, VS. SAMIR FARAJALLAH,
VIRGILIO D.C. HERCE, RACHEL P. FOLLOSCO, JESUSITO G.
MORALLOS, AND MA. GERALDINE S. GARCIA (DIRECTORS AND
OFFICERS OF NEW FIELDS (ASIA PACIFIC), INC.),
RESPONDENTS.**

D E C I S I O N

CARPIO, ACTING C.J.:

The Case

Before this Court is a petition for review on certiorari under Rule 45 of the Rules of Court which seeks to reverse and set aside the Decision^[1] of the Court of Appeals (CA) dated 28 June 2012 in CA-G.R. SP No. 116771 and the Resolution^[2] of the CA dated 30 January 2013. The Decision and Resolution sustained the orders of the Regional Trial Court of Manila, Branch 21 (RTC) quashing Search Warrant Nos. 10-15912 and 10-15913.

The Facts

Microsoft Corporation and Adobe Systems Incorporated (petitioners) are corporations organized and existing under the laws of the United States. Microsoft Corporation is the owner of all rights including copyright relating to all versions and editions of Microsoft software^[3] and the corresponding user's manuals, and the registered owner of the "Microsoft" "MS DOS" trademarks in the Philippines. Adobe Systems Incorporated is the owner of all rights including copyright relating to all versions and editions of Adobe Software.^[4]

Samir Farajallah, Virgilio D.C. Herce, Rachel P. Follosco, Jesusito G. Morallos and Ma. Geraldine S. Garcia (respondents) are the directors and officers of New Fields (Asia Pacific), Inc., a domestic corporation with principal office at Unit 1603, East Tower, Philippine Stock Exchange Center, Exchange Road, Ortigas Center, Pasig City.

Petitioners claim that in September 2009, they were informed that New Fields was unlawfully reproducing and using unlicensed versions of their software. Orion Support, Inc. (OSI) was engaged by petitioners to assist in the verification of this information. Two OSI Market Researchers, Norma L. Serrano (Serrano) and Michael A. Moradoz (Moradoz) were assigned to confirm the informant's tip. Serrano and Moradoz were trained to detect unauthorized copies of Adobe and Microsoft software.^[5]

On 17 March 2010, counsel for petitioners filed a letter-complaint with the Chief of the Philippine National Police Criminal Investigation and Detection Group. The case was assigned to Police Senior Inspector Ernesto V. Padilla (Padilla).^[6]

On 26 March 2010, Padilla, Serrano, and Moradoz went to the office of respondents. Using a legitimate business pretext, they were able to use two computers owned by New Fields and obtained the following information regarding the installed Microsoft and Adobe software:

First computer

Installed Software	Product I.D./Serial Number
Microsoft Windows XP Pro V2002 SP2	55274-640-1582543-23775
Microsoft Office Word 2007 Enterprise Edition 2007	89388-707-0358973-65509
Adobe Acrobat 8 Pro (1)	1118-1061-0904-4874-2027

Second computer

Installed Software	Product I.D./Serial Number
Microsoft Windows XP Pro V2002 SP2	55274-640-1582543-23442
Microsoft Office Word 2007 Enterprise Edition 2007	89388-707-0358973-65709
Adobe Acrobat 8 Pro (1)	1118-1061-0904-4874-2027

Padilla was trained to distinguish original from counterfeit software,^[7] and he saw the screens of the computers used by the OSI staff, including the product I.D. Nos. of the installed software.

In their Joint Affidavit, Serrano and Moradoz stated that:

There are at least two (2) computers using common product identification and/or serial numbers of MICROSOFT and ADOBE software. This is one indication that the software being used is unlicensed or was illegally reproduced or copied. Based on the training we attended, all ADOBE and MICROSOFT software should only be installed in one computer, unless they avail of an Open License Agreement from the software developer, which is not the case in NEW FIELDS. In this case, the first three sets of numbers of the Product I.D. Nos. of the MICROSOFT Windows XP Pro operating System software program installed in the two (2) computer units we used, i.e., "55274-640-1582543-xxxxx", were the same. We also observed that the first three sets of numbers of the Product I.D. Nos. of the MICROSOFT Office 2007 (Word) software in the two (2) computers we used, i.e., "89388-707-0358973-xxxxx", were also the same. Ostensibly, this means that NEW FIELDS only used one (1) installer of the MICROSOFT Windows XP operating system software and one (1) installer of the MICROSOFT Office software program on two (2) computers. **Based on our training, if the first three sets of numbers of the Product I.D. Nos. of the MICROSOFT software installed are the same, it signifies that it**

came from one installer. It does not matter [if] the last 5 digits of the Product I.D. Nos. are different because this is computer-generated and therefore varies with every installation. Apart from the MICROSOFT software, the serial numbers of the ADOBE software installed in the computer units we used were also the same, signifying that NEW FIELDS only used one (1) installer of the ADOBE software program on two (2) computers.^[8] (Emphasis supplied)

They also observed that New Fields had 90 computers in their office with Microsoft software, none of which had the Certificate of Authenticity issued by Microsoft.

After being informed of the results of the investigation, petitioners then issued certifications that they have not authorized New Fields to “copy, print, reproduce and/or publish unauthorized copies of Microsoft and Adobe software products.”^[9]

An application for search warrants was filed by Padilla on 20 May 2010, before Judge Amor Reyes in her capacity as Executive Judge of the RTC. Search Warrant Nos. 10-15912 and 10-15913 were issued on the same date.^[10]

The warrants were served on respondents on 24 May 2010. New Fields employees witnessed the search conducted by the authorities. Several items were seized, including 17 CD installers and 83 computers containing unauthorized copies of Microsoft and/or Adobe software.

On 6 June 2010, New Fields filed a motion seeking to quash one of the two warrants served (Search Warrant No. 10-15912).^[11] The motion was received by petitioners on 10 June 2010 and was set for hearing on 11 June 2010. During the hearing on the motion, petitioners were allowed by the RTC to file their Comment/Opposition on or before 21 June 2010.^[12]

In their Comment/Opposition dated 21 June 2010,^[13] petitioners alleged that:

The Motion [to Quash] failed to comply with the mandatory 3-day notice rule under the Rules of Court. Hence it is nothing but a worthless piece of paper.

x x x x

In this case, the Motion of Respondents was scheduled for hearing on 11 June 2010. However, Respondents only furnished [petitioners] a copy of the Motion on 10 June 2010, or just 1 day before the scheduled hearing, which was in clear violation of the 3-day notice rule.^[14]

On 29 June 2010, the RTC issued an Order quashing both warrants and directing that “**all** the items seized from the respondents be returned x x x.”^[15] According to the RTC, petitioners should have identified which specific computer had the pirated software.^[16] The RTC added that no criminal charge has been filed yet, despite the

fact that the seized items have been in petitioners' possession for several weeks since the warrants were issued. Lastly, the RTC dismissed the petitioners' contention that the three-day notice rule was not complied with because petitioners were already notified of the motion personally.^[17]

On 8 July 2010, petitioners received a copy of the Order, and Deputy Sheriff Edgardo Reyes of the RTC also effected the return of the seized items, in compliance with the RTC's Order.^[18]

Petitioners filed an Urgent Manifestation and Motion for the Issuance of a Status Quo Order on 8 July 2010 wherein they alleged that: (1) they intend to file a Motion for Reconsideration of the Order; and (2) the Order was not immediately executory.^[19] Respondents received a copy of the motion the day it was filed.

On 9 July 2010, respondents moved to expunge petitioners' motion for reconsideration, saying that petitioners failed to comply with the three-day notice rule.^[20] The hearing on the motion was set on 13 July 2010. A copy of the motion was received by petitioners on 20 July 2010.^[21]

On 15 July 2010, petitioners filed a motion for reconsideration of the Order.^[22] Respondents filed their Comment/Opposition^[23] to the motion, which was received by petitioners on 12 August 2010.^[24]

The RTC denied petitioners' motion for reconsideration in its Order dated 27 August 2010.^[25]

Petitioners filed a petition for certiorari^[26] under Rule 65 on 8 November 2010 before the Court of Appeals. Petitioners alleged that the RTC committed grave abuse of discretion in granting the Motion to Quash despite: (1) respondents' failure to comply with the three-day notice requirement; and (2) the existence of probable cause, and personal knowledge of the warrant applicant.

The Ruling of the CA

The CA denied the petition for certiorari. The appellate court held that:

In the instant case, when the court *a quo* ordered petitioners to submit their comment on the motion to quash, it was, in effect, giving petitioners their day in court. Thus, while the [three]-day notice rule was not strictly observed, its purpose was still satisfied when respondent judge did not immediately rule on the motion giving petitioners x x x the opportunity to study and oppose the arguments stated in the motion.^[27]

Hence, this petition.

The Issue

The instant petition raised only one issue, to wit:

The Honorable Court of Appeals erred in ruling that Judge Amor Reyes of Branch 21, Regional Trial Court of Manila did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its Orders dated 29 June 2010 and 27 August 2010, quashing Search Warrant Nos. 10-[1]5912 and 10-[1]5913 and directing the immediate release of the items seized pursuant to the said warrants, despite the pendency of appellate proceedings.[28]

The Ruling of the Court

We rule that strict compliance with the three-day notice rule may be relaxed in this case. However, we sustain petitioners' contention that there was probable cause for issuance of a warrant, and the RTC and CA should have upheld the validity of both warrants.

Compliance with the three-day notice rule

In *Anama v. Court of Appeals*, [29] we ruled that the three-day notice rule is not absolute. The purpose of the rule is to safeguard the adverse party's right to due process. Thus, if the adverse party was given a reasonable opportunity to study the motion and oppose it, then strict compliance with the three-day notice rule may be dispensed with.

As correctly pointed out by the CA:

In the instant case, when the court *a quo* ordered petitioners to submit their comment on the motion to quash, it was, in effect, giving petitioners their day in court. Thus, while the [three]-day notice rule was not strictly observed, its purpose was still satisfied when respondent judge did not immediately rule on the motion giving petitioners x x x the opportunity to study and oppose the arguments stated in the motion.[30]

Existence of probable cause

Under Section 1 of Rule 45 of the Rules of Court, petitions for review by certiorari "shall raise only questions of law." A question of fact exists when there is a doubt as to the truth of certain facts, and it can only be resolved through a reexamination of the body of evidence.[31]

In *Microsoft Corporation v. Maxicorp, Inc.*, [32] we ruled that the existence of probable cause is a question of fact.[33] In the same case, we also stated that:

Probable cause is dependent largely on the opinion and findings of the judge who conducted the examination and who had the opportunity to question the applicant and his witnesses. For this reason, the findings of the judge deserve great weight. The reviewing court should overturn