

## SECOND DIVISION

[ G.R. No. 180595, March 05, 2010 ]

**ARTHUR DEL ROSARIO AND ALEXANDER DEL ROSARIO,  
PETITIONERS, VS. HELLENOR D. DONATO, JR. AND RAFAEL V.  
GONZAGA, RESPONDENTS.**

### D E C I S I O N

**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 P50 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.<sup>[1]</sup> 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.<sup>[2]</sup>

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 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.<sup>[3]</sup> Statements of mere conclusions of law expose the complaint to a motion to dismiss on ground of failure to state a cause of action.<sup>[4]</sup>

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.<sup>[5]</sup>