

## FIRST DIVISION

[ G.R. No. 140946, September 13, 2004 ]

**MICROSOFT CORPORATION AND LOTUS DEVELOPMENT CORPORATION, PETITIONERS, VS. MAXICORP, INC., RESPONDENT.**

### DECISION

**CARPIO, J.:**

#### The Case

This petition for review on certiorari<sup>[1]</sup> seeks to reverse the Court of Appeals' Decision<sup>[2]</sup> dated 23 December 1998 and its Resolution dated 29 November 1999 in CA-G.R. SP No. 44777. The Court of Appeals reversed the Order<sup>[3]</sup> of the Regional Trial Court, Branch 23, Manila ("RTC"), denying respondent Maxicorp, Inc.'s ("Maxicorp") motion to quash the search warrant that the RTC issued against Maxicorp. Petitioners are the private complainants against Maxicorp for copyright infringement under Section 29 of Presidential Decree No. 49 ("Section 29 of PD 49")<sup>[4]</sup> and for unfair competition under Article 189 of the Revised Penal Code ("RPC").<sup>[5]</sup>

#### Antecedent Facts

On 25 July 1996, National Bureau of Investigation ("NBI") Agent Dominador Samiano, Jr. ("NBI Agent Samiano") filed several applications for search warrants in the RTC against Maxicorp for alleged violation of Section 29 of PD 49 and Article 189 of the RPC. After conducting a preliminary examination of the applicant and his witnesses, Judge William M. Bayhon issued Search Warrants Nos. 96-451, 96-452, 96-453 and 96-454, all dated 25 July 1996, against Maxicorp.

Armed with the search warrants, NBI agents conducted on 25 July 1996 a search of Maxicorp's premises and seized property fitting the description stated in the search warrants.

On 2 September 1996, Maxicorp filed a motion to quash the search warrants alleging that there was no probable cause for their issuance and that the warrants are in the form of "general warrants." The RTC denied Maxicorp's motion on 22 January 1997. The RTC also denied Maxicorp's motion for reconsideration.

The RTC found probable cause to issue the search warrants after examining NBI Agent Samiano, John Benedict Sacriz ("Sacriz"), and computer technician Felixberto Pante ("Pante"). The three testified on what they discovered during their respective visits to Maxicorp. NBI Agent Samiano also presented certifications from petitioners that they have not authorized Maxicorp to perform the witnessed activities using petitioners' products.

On 24 July 1997, Maxicorp filed a petition for certiorari with the Court of Appeals seeking to set aside the RTC's order. On 23 December 1998, the Court of Appeals reversed the RTC's order denying Maxicorp's motion to quash the search warrants. Petitioners moved for reconsideration. The Court of Appeals denied petitioners' motion on 29 November 1999.

The Court of Appeals held that NBI Agent Samiano failed to present during the preliminary examination conclusive evidence that Maxicorp produced or sold the counterfeit products. The Court of Appeals pointed out that the sales receipt NBI Agent Samiano presented as evidence that he bought the products from Maxicorp was in the name of a certain "Joel Diaz."

Hence, this petition.

### **The Issues**

Petitioners seek a reversal and raise the following issues for resolution:

1. WHETHER THE PETITION RAISES QUESTIONS OF LAW;
2. WHETHER PETITIONERS HAVE LEGAL PERSONALITY TO FILE THE PETITION;
3. WHETHER THERE WAS PROBABLE CAUSE TO ISSUE THE SEARCH WARRANTS;
4. WHETHER THE SEARCH WARRANTS ARE "GENERAL WARRANTS."

### **The Ruling of the Court**

The petition has merit.

#### ***On Whether the Petition Raises Questions of Law***

Maxicorp assails this petition as defective since it failed to raise questions of law. Maxicorp insists that the arguments petitioners presented are questions of fact, which this Court should not consider in a Rule 45 petition for review. Petitioners counter that all the issues they presented in this petition involve questions of law. Petitioners point out that the facts are not in dispute.

A petition for review under Rule 45 of the Rules of Court should cover questions of law.<sup>[6]</sup> Questions of fact are not reviewable. As a rule, the findings of fact of the Court of Appeals are final and conclusive and this Court will not review them on appeal,<sup>[7]</sup> subject to exceptions as when the findings of the appellate court conflict with the findings of the trial court.<sup>[8]</sup>

The distinction between questions of law and questions of fact is settled. A question of law exists when the doubt or difference centers on what the law is on a certain state of facts. A question of fact exists if the doubt centers on the truth or falsity of the alleged facts. Though this delineation seems simple, determining the true nature and extent of the distinction is sometimes problematic. For example, it is

incorrect to presume that **all** cases where the facts are not in dispute automatically involve purely questions of law.

There is a question of law if the issue raised is capable of being resolved without need of reviewing the probative value of the evidence.<sup>[9]</sup> The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact.<sup>[10]</sup> If the query requires a re-evaluation of the credibility of witnesses, or the existence or relevance of surrounding circumstances and their relation to each other, the issue in that query is factual.<sup>[11]</sup> Our ruling in ***Paterno v. Paterno***<sup>[12]</sup> is illustrative on this point:

Such questions as whether certain items of evidence should be accorded probative value or weight, or rejected as feeble or spurious, or whether or not the proofs on one side or the other are clear and convincing and adequate to establish a proposition in issue, are without doubt questions of fact. Whether or not the body of proofs presented by a party, weighed and analyzed in relation to contrary evidence submitted by adverse party, may be said to be strong, clear and convincing; whether or not certain documents presented by one side should be accorded full faith and credit in the face of protests as to their spurious character by the other side; whether or not inconsistencies in the body of proofs of a party are of such gravity as to justify refusing to give said proofs weight – all these are issues of fact.

It is true that Maxicorp did not contest the facts alleged by petitioners. But this situation does not automatically transform **all** issues raised in the petition into questions of law. The issues must meet the tests outlined in ***Paterno***.

Of the three main issues raised in this petition – the legal personality of the petitioners, the nature of the warrants issued and the presence of probable cause – only the first two qualify as questions of law. The pivotal issue of whether there was probable cause to issue the search warrants is a question of fact. At first glance, this issue appears to involve a question of law since it does not concern itself with the truth or falsity of certain facts. Still, the resolution of this issue would require this Court to inquire into the probative value of the evidence presented before the RTC. For a question to be one of law, it must not involve an examination of the probative value of the evidence presented by the litigants or any of them.<sup>[13]</sup>

Yet, this is precisely what the petitioners ask us to do by raising arguments requiring an examination of the TSNs and the documentary evidence presented during the search warrant proceedings. In short, petitioners would have us substitute our own judgment to that of the RTC and the Court of Appeals by conducting our own evaluation of the evidence. This is exactly the situation which Section 1, Rule 45 of the Rules of Court prohibits by requiring the petition to raise only questions of law. This Court is not a trier of facts. It is not the function of this court to analyze or weigh evidence.<sup>[14]</sup> When we give due course to such situations, it is solely by way of exception. Such exceptions apply only in the presence of extremely meritorious circumstances.<sup>[15]</sup>

Indeed, this case falls under one of the exceptions because the findings of the Court

of Appeals conflict with the findings of the RTC.<sup>[16]</sup> Since petitioners properly raised the conflicting findings of the lower courts, it is proper for this Court to resolve such contradiction.

### ***On Whether Petitioners have the Legal Personality to File this Petition***

Maxicorp argues that petitioners have no legal personality to file this petition since the proper party to do so in a criminal case is the Office of the Solicitor General as representative of the People of the Philippines. Maxicorp states the general rule but the exception governs this case.<sup>[17]</sup> We ruled in ***Columbia Pictures Entertainment, Inc. v. Court of Appeals***<sup>[18]</sup> that the petitioner-complainant in a petition for review under Rule 45 could argue its case before this Court in lieu of the Solicitor General if there is grave error committed by the lower court or lack of due process. This avoids a situation where a complainant who actively participated in the prosecution of a case would suddenly find itself powerless to pursue a remedy due to circumstances beyond its control. The circumstances in ***Columbia Pictures Entertainment*** are sufficiently similar to the present case to warrant the application of this doctrine.

### ***On Whether there was Probable Cause to Issue the Search Warrants***

Petitioners argue that the Court of Appeals erred in reversing the RTC based on the fact that the sales receipt was not in the name of NBI Agent Samiano. Petitioners point out that the Court of Appeals disregarded the overwhelming evidence that the RTC considered in determining the existence of probable cause. Maxicorp counters that the Court of Appeals did not err in reversing the RTC. Maxicorp maintains that the entire preliminary examination that the RTC conducted was defective.

The Court of Appeals based its reversal on two factual findings of the RTC. First, the fact that the sales receipt presented by NBI Agent Samiano as proof that he bought counterfeit goods from Maxicorp was in the name of a certain "Joel Diaz." Second, the fact that petitioners' other witness, John Benedict Sacriz, admitted that he did not buy counterfeit goods from Maxicorp.

We rule that the Court of Appeals erred in reversing the RTC's findings.

Probable cause means "such reasons, supported by facts and circumstances as will warrant a cautious man in the belief that his action and the means taken in prosecuting it are legally just and proper."<sup>[19]</sup> Thus, probable cause for a search warrant requires such facts and circumstances that would lead a reasonably prudent man to believe that an offense has been committed and the objects sought in connection with that offense are in the place to be searched.<sup>[20]</sup>

The judge determining probable cause must do so only after personally examining under oath the complainant and his witnesses. The oath required must refer to "the truth of the facts within the **personal knowledge** of the petitioner or his witnesses, because the purpose thereof is to convince the committing magistrate, not the individual making the affidavit and seeking the issuance of the warrant, of the existence of probable cause."<sup>[21]</sup> The applicant must have personal knowledge of the circumstances. "Reliable information" is insufficient.<sup>[22]</sup> Mere affidavits are not

enough, and the judge must depose in writing the complainant and his witnesses.  
[23]

The Court of Appeals' reversal of the findings of the RTC centers on the fact that the two witnesses for petitioners during the preliminary examination failed to prove conclusively that they bought counterfeit software from Maxicorp. The Court of Appeals ruled that this amounted to a failure to prove the existence of a connection between the offense charged and the place searched.

The offense charged against Maxicorp is copyright infringement under Section 29 of PD 49 and unfair competition under Article 189 of the RPC. To support these charges, petitioners presented the testimonies of NBI Agent Samiano, computer technician Pante, and Sacriz, a civilian. The offenses that petitioners charged Maxicorp contemplate several overt acts. The sale of counterfeit products is but one of these acts. Both NBI Agent Samiano and Sacriz related to the RTC how they personally saw Maxicorp commit acts of infringement and unfair competition.

During the preliminary examination, the RTC subjected the testimonies of the witnesses to the requisite examination. NBI Agent Samiano testified that he saw Maxicorp display and offer for sale counterfeit software in its premises. He also saw how the counterfeit software were produced and packaged within Maxicorp's premises. NBI Agent Samiano categorically stated that he was certain the products were counterfeit because Maxicorp sold them to its customers without giving the accompanying ownership manuals, license agreements and certificates of authenticity.

Sacriz testified that during his visits to Maxicorp, he witnessed several instances when Maxicorp installed petitioners' software into computers it had assembled. Sacriz also testified that he saw the sale of petitioners' software within Maxicorp's premises. Petitioners never authorized Maxicorp to install or sell their software.

The testimonies of these two witnesses, coupled with the object and documentary evidence they presented, are sufficient to establish the existence of probable cause. From what they have witnessed, there is reason to believe that Maxicorp engaged in copyright infringement and unfair competition to the prejudice of petitioners. Both NBI Agent Samiano and Sacriz were clear and insistent that the counterfeit software were not only displayed and sold within Maxicorp's premises, they were also produced, packaged and in some cases, installed there.

The determination of probable cause does not call for the application of rules and standards of proof that a judgment of conviction requires after trial on the merits. As implied by the words themselves, "probable cause" is concerned with probability, not absolute or even moral certainty. The prosecution need not present at this stage proof beyond reasonable doubt. The standards of judgment are those of a reasonably prudent man,<sup>[24]</sup> not the exacting calibrations of a judge after a full-blown trial.

No law or rule states that probable cause requires a specific kind of evidence. No formula or fixed rule for its determination exists.<sup>[25]</sup> Probable cause is determined in the light of conditions obtaining in a given situation.<sup>[26]</sup> Thus, it was improper for the Court of Appeals to reverse the RTC's findings simply because the sales receipt