

## FIRST DIVISION

[ G.R. No. 129651, October 20, 2000 ]

**FRANK UY AND UNIFISH PACKING CORPORATION,  
PETITIONERS, VS. BUREAU OF INTERNAL REVENUE AND HON.  
MERCEDES GOZO-DADOLE, RESPONDENTS.**

### D E C I S I O N

**KAPUNAN, J.:**

Petitioners assail the validity of the warrants issued for the search of the premises of the Unifish Packing Corporation, and pray for the return of the items seized by virtue thereof.

On 30 September 1993, a certain Rodrigo Abos reported to the Bureau of Internal Revenue (BIR) that petitioners Unifish Packing Corporation and Uy Chin Ho *alias* Frank Uy were engaged in activities constituting violations of the National Internal Revenue Code. Abos, who claimed to be a former employee of Unifish, executed an Affidavit<sup>[1]</sup> stating:

1. He has personal knowledge that UNIFISH PACKING CORPORATION (hereinafter referred to as UNIFISH), a canning factory located at Hernan Cortes Street, under the active management of UY CHIN HO alias Frank Uy [,] is selling by the thousands of [sic] cartons of canned sardines without issuing receipt. This is in violation of Sections 253 and 263 of the Internal Revenue Code.
2. This grand scale tax fraud is perpetrated through the following scheme:
  - (1) Uy Chin Ho a director of UNIFISH buys in bulk from the company;
  - (2) Being a director, Uy Chin Ho has a lot of clout in the distribution of the canned sardines processed by UNIFISH;
  - (3) Uy Chin Ho dictates the value of canned sardines that he orders and buys from UNIFISH without any receipt of his purchases;
  - (4) The moment he has the quantity he wants, UNIFISH through Uy Chin Ho delivers to the different supermarkets such as White Gold, Gaisano, etc.;
  - (5) Payments made by these tax evading establishments are made by checks drawn payable to cash and delivered to Uy Chin Ho; These payments are also not receipted (sic);
  - (6) Uy Chin Ho will then pay UNIFISH for the quantity of sardines he had withdrawn from the corporation;
3. Another fraudulent practice perpetrated by UNIFISH through Uy Chin Ho's direction is the sale of imported oil locally to different customers. This is a case

of smuggling in the sense that UNIFISH, being an export company registered with the Board of Investments, is enjoying certain exemptions in their importation of oil as one of the raw materials in its processing of canned tuna for export. These tax exemptions are granted by the government on the condition that the oil is to be used only in the processing of tuna for export and that it is not to be sold unprocessed as is to local customers.

4. Another fraudulent practice involves the sales of unused cans; UNIFISH also enjoys tax exemptions in its purchases of tin cans subject to the condition that these are to be used as containers for its processed tuna for export. These cans are never intended to be sold locally to other food processing companies.
5. Prior to 1990, that is from 1980 to 1990, the factory of the UNIFISH PACKING CORPORATION was then run by the PREMIER INDUSTRIAL & DEVELOPMENT CORPORATION (hereinafter referred to as PREMIER) [,] which corporation was being controlled by the same majority stockholders as those now running and controlling UNIFISH; [a]t that time, PREMIER was also committing the same fraudulent acts as what is being perpetrated by UNIFISH at present.
6. The records containing entries of actual volume of production and sales, of both UNIFISH AND PREMIER, are found in the office of the corporation at its factory site at H. Cortes Street, Mandaue City. The particular place or spot where these records [official receipts, sales invoices, delivery receipts, sales records or sales books, stock cards, accounting records (such as ledgers, journals, cash receipts books, and check disbursements books)] are kept and may be found is best described in the herein attached sketch of the arrangement of the office's furniture and fixture of the corporation which is made an integral part hereof and marked as Annex "A",
7. He is executing this affidavit to attest under oath the veracity of the foregoing allegations and he is reserving his right to claim for reward under the provisions of Republic Act No. 2338.

On 1 October 1993, Nestor N. Labaria, Assistant Chief of the Special Investigation Branch of the BIR, applied for search warrants from Branch 28 of the Regional Trial Court of Cebu. The application sought permission to search the premises of Unifish.

After hearing the depositions of Labaria and Abos, Judge Mercedes Gozo-Dadole issued the disputed search warrants. The first<sup>[2]</sup> is docketed as "SEARCH WARRANT NO. 93-10-79 FOR: VIOLATION OF SECTION 253" ("Search Warrant A-1"), and consists of two pages. A verbatim reproduction of Search Warrant A-1 appears below:

REPUBLIC OF THE PHILIPPINES  
REGIONAL TRIAL COURT OF CEBU  
7th Judicial Region  
Branch 28  
Mandaue City

THE PEOPLE OF THE  
PHILIPPINES,  
Plaintiff,

- versus -

UY CHIN HO alias  
FRANK UY,  
Unifish Packing  
Corporation  
Hernan Cortes St., Cebu  
City

X - - - - -

- - - - - /

(with sketch)

SEARCH WARRANT

TO ANY PEACE OFFICER:

G R E E T I N G S:

It appearing to the satisfaction of the undersigned, after examination under oath (sic), Nestor N. Labaria, Asst. Chief, Special Investigation Branch, BIR and witness Rodrigo Abos that there is a (sic) probable cause to believe that the crime of violation of Section 253 - attempt to evade or defeat the tax has been committed and there is good and sufficient reason to believe that Uy Chin Ho c/o Unifish Packing Corporation, Hernan Cortes St., Mandaue City has in his possession, care and control, the following:

1. Multiple sets of Books of Accounts; Ledgers, Journals, Columnar Books, Cash Register Books, Sales Books or Records; Provisional & Official Receipts;
2. Production Record Books/Inventory Lists [,] Stock Cards;
3. Unregistered Delivery Receipts;
4. Unregistered Purchase & Sales Invoices;
5. Sales Records, Job Order;
6. Corporate Financial Records; and
7. Bank Statements/Cancelled Checks

You are hereby commanded to make an immediate search at any time of day or night of said premises and its immediate vicinity and to forthwith seize and take possession of the articles above-mentioned and other properties relative to such violation and bring said properties to the undersigned to be dealt with as the law directs.

WITNESS MY HAND this 1<sup>st</sup> day of October, 1993.

(sgd.)  
MERCEDES  
GOZO-DADOLE  
Judge

The second warrant<sup>[3]</sup> is similarly docketed as "SEARCH WARRANT 93-10-79 FOR: VIOLATION OF SEC. 253" ("Search Warrant A-2"). Search Warrant A-2, reproduced below, is almost identical in content to Search Warrant A-1, save for the portions indicated in bold print. It consisted of only one page.

REPUBLIC OF THE PHILIPPINES  
REGIONAL TRIAL COURT OF CEBU  
7<sup>th</sup> Judicial Region  
Branch 28  
Mandaue City

THE PEOPLE OF THE  
PHILIPPINES,  
Plaintiff,

SEARCH WARRANT NO.  
93-10-79 FOR:  
VIOLATION OF SEC. 253

- versus -  
UY CHIN HO alias  
FRANK UY, and  
Unifish Packing  
Corporation  
Hernan Cortes St.,  
**Mandaue** City  
x - - - - -  
- - - - - /  
(with sketch)

SEARCH WARRANT

TO ANY PEACE OFFICER:

G R E E T I N G S:

It appearing to the satisfaction of the undersigned, after examination under oath [sic], Nestor N. Labaria, Asst. Chief, Special Investigation Branch, BIR and witness Rodrigo Abos that there is a [sic] probable cause to believe that the crime of violation of Section 253 - attempt to evade or defeat the tax has been committed and there is good and sufficient reason to believe that Uy Chin Ho **alias Frank Uy and** Unifish Packing Corporation, Hernan Cortes St., Mandaue City has in his possession, care and control, the following:

1. Multiple sets of Books of Accounts; Ledgers, Journals, Columnar Books, Cash Register Books, Sales Books or Records; Provisional & Official Receipts;
2. Production Record Books/Inventory Lists [,] Stock Cards;

3. Unregistered Delivery Receipts;
4. Unregistered Purchase & Sales Invoices;
5. Sales Records, Job Order;
6. Corporate Financial Records; and
7. Bank Statements/Cancelled Checks

You are hereby commanded to make an immediate search at any time of day or night of said premises and its immediate vicinity and to forthwith seize and take possession of the articles above-mentioned and other properties relative to such violation and bring said properties to the undersigned to be dealt with as the law directs.

WITNESS MY HAND this 1<sup>st</sup> day of October, 1993.

(sgd.)  
MERCEDES  
GOZO-DADOLE  
Judge

Judge Gozo-Dadole issued a third warrant,<sup>[4]</sup> which was docketed as "SEARCH WARRANT 93-10-80 FOR: VIOLATION OF SEC. 238 in relation to SEC. 263" (hereinafter, "Search Warrant B"). Except for the docket number and the designation of the crime in the body of the warrant ("Section 238 in relation to Sec. 263 - non-issuance of sales invoice and use and possession of unregistered delivery receipts and/or sales invoices"), Search Warrant B is a verbatim reproduction of Search Warrant A-2.

On the strength of these warrants, agents of the BIR, accompanied by members of the Philippine National Police, on 2 October 1993, searched the premises of the Unifish Packing Corporation. They seized, among other things, the records and documents of petitioner corporation. A return of said search was duly made by Nestor Labaria with the RTC of Cebu , Branch 28.

On 8 February 1995, the BIR filed against petitioners a case before the Department of Justice. The records, however, do not reveal the nature of this case.

On 31 March 1995, petitioners filed motions to quash the subject search warrants with Branch 28 of the Cebu RTC.

The RTC, however, denied petitioners' motions to quash as well as their subsequent motion for reconsideration, prompting petitioners to file a petition for *certiorari* with the Court of Appeals (CA). The CA dismissed their petition, holding that petitioners failed to comply with Section 2(a), Rule 6 of the Revised Internal Rules of the Court of Appeals (RIRCA), which states:

- a. What Should be Filed. - The petition shall be filed in seven (7) legible copies and a copy thereof shall be served on each of the respondents, and must be accompanied by a certified true copy of the decision or order complained of and true copies of the pleadings and other pertinent