

G.R. No. 161823, March 22, 2007

**SONY COMPUTER ENTERTAINMENT, INC., Petitioner, vs. SUPERGREEN,
INCORPORATED, Respondent.**

DECISION

QUISUMBING, J.:

This petition for review seeks to reverse the Decision^[1] dated June 30, 2003 of the Court of Appeals in CA-G.R. SP No. 67612 and the Resolution^[2] dated January 16, 2004, denying reconsideration. The Court of Appeals had denied the petition for certiorari assailing the trial court's quashal of the search warrant.

The case stemmed from the complaint filed with the National Bureau of Investigation (NBI) by petitioner Sony Computer Entertainment, Inc., against respondent Supergreen, Incorporated. The NBI found that respondent engaged in the reproduction and distribution of counterfeit "PlayStation" game software, consoles and accessories in violation of Sony Computer's intellectual property rights. Thus, NBI applied with the Regional Trial Court (RTC) of Manila, Branch 1 for warrants to search respondent's premises in Parañaque City and Cavite. On April 24, 2001, the RTC of Manila issued Search Warrants Nos. 01-1986 to 01-1988 covering respondent's premises at Trece-Tanza Road, Purok 7, Barangay de Ocampo, Trece Martires City, Cavite, and Search Warrants Nos. 01-1989 to 01-1991 covering respondent's premises at Room 302, 3rd Floor Chateau de Baie Condominium, 149 Roxas Boulevard corner Airport Road, Parañaque City. The NBI simultaneously served the search warrants on the subject premises and seized a replicating machine and several units of counterfeit "PlayStation" consoles, joy pads, housing, labels and game software.

On June 11, 2001, respondent filed a motion to quash Search Warrants Nos. 01-1986 to 01-1988 and/or release of seized properties on the ground that the search warrant failed to particularly describe the properties to be seized. The trial court denied the motion for lack of merit.

On August 4, 2001, respondent filed another motion to quash, this time, questioning the propriety of the venue. Petitioner opposed the motion on the ground that it violated the omnibus motion rule wherein all objections not included shall be deemed waived. In an Order^[3] dated October 5, 2001, the trial court affirmed the validity of Search Warrants Nos. 01-1989 to 01-1991 covering respondent's premises in Parañaque City, but quashed Search Warrants Nos. 01-1986 to 01-1988 covering respondent's premises in Cavite. The trial court held that lack of jurisdiction is an exception to the omnibus motion rule and may be raised at any stage of the proceedings. The dispositive portion of the order read, Accordingly, Search Warrants Nos. 01-1986, 01-1987 and 01-1988 are hereby ordered quashed and set aside.

The National Bureau of Investigation and/or any other person in actual custody of the goods seized pursuant thereto are hereby directed to return the same to the respondents.

SO ORDERED.^[4]

Petitioner elevated the matter to the Court of Appeals, which dismissed the petition for certiorari. The appellate court ruled that under Section 2,^[5] Rule 126 of the Rules of Court, the RTC of Manila had no jurisdiction to issue a search warrant enforceable in Cavite, and that lack of jurisdiction was not deemed waived. Petitioner moved for reconsideration but the same was denied. The Court of Appeals disposed, as follows:

WHEREFORE, the instant Petition is hereby **denied** and accordingly **DISMISSED**.

SO ORDERED.^[6]

Petitioner now comes before us raising the following issues:

I

WHETHER OR NOT VENUE IN SEARCH WARRANT APPLICATIONS INVOLVES
TERRITORIAL JURISDICTION.

II

WHETHER OR NOT THE CORRECTNESS OF VENUE IN AN APPLICATION FOR
SEARCH WARRANT IS DEEMED WAIVED IF NOT RAISED BY THE RESPONDENT IN
ITS MOTION TO QUASH.

III

WHETHER OR NOT THE OFFENSES INVOLVED IN THE SUBJECT SEARCH
WARRANTS ARE "CONTINUING CRIMES" WHICH MAY BE VALIDLY TRIED IN
ANOTHER JURISDICTION WHERE THE OFFENSE WAS PARTLY COMMITTED.^[7]

In sum, we are asked to resolve whether the quashal of Search Warrants Nos. 01-1986 to
01-1988 was valid.

Citing *Malaloan v. Court of Appeals*,^[8] where this Court clarified that a search warrant application is only a special criminal process and not a criminal action, petitioner contends that the rule on venue for search warrant application is not jurisdictional. Hence, failure to raise the objection waived it. Moreover, petitioner maintains that applying for search warrants in different courts increases the possibility of leakage and contradictory outcomes that could defeat the purpose for which the warrants were issued.

Petitioner further asserts that even granting that the rules on search warrant applications are jurisdictional, the application filed either in the courts of the National Capital Region or Fourth Judicial Region is still proper because the crime was continuing and committed in both Parañaque City and Cavite.

Respondent counters that Section 2 is explicit on where applications should be filed and provided the territorial limitations on search warrants. Respondent claims that *Malaloan* is no longer applicable jurisprudence with the promulgation of the 2000 Rules of Criminal Procedure. Even granting that petitioner has compelling reasons, respondent maintains that petitioner cannot file the application with the RTC of Manila because Cavite belongs to another judicial region. Respondent also argues that the doctrine on continuing crime is applicable only to the institution of a criminal action, not to search warrant applications which is governed by Rule 126, and in this case Section 2.

To start, we cautioned that our pronouncement in *Malaloan* should be read into the Judiciary Reorganization Act of 1980^[9] conferring on the regional trial courts and their judges a territorial jurisdiction, regional in scope. Both the main decision and the dissent in *Malaloan* recognized this.

Now, in the present case, respondent's premises in Cavite, within the Fourth Judicial Region, is definitely beyond the territorial jurisdiction of the RTC of Manila, in the National Capital Region. Thus, the RTC of Manila does not have the authority to issue a search warrant for offenses committed in Cavite. Hence, petitioner's reliance in *Malaloan* is

misplaced. *Malaloan* involved a court in the same judicial region where the crime was committed. The instant case involves a court in another region. Any other interpretation re-defining territorial jurisdiction would amount to judicial legislation.^[10]

Nonetheless, we agree with petitioner that this case involves a transitory or continuing offense of unfair competition under Section 168 of Republic Act No. 8293,^[11] which provides, SEC. 168. *Unfair Competition, Rights, Regulation and Remedies*. -...

168.2. Any person who shall employ deception or any other means contrary to good faith by which he shall pass off the goods manufactured by him or in which he deals, or his business, or services for those of the one having established such goodwill, or who shall commit any acts calculated to produce said result, shall be guilty of unfair competition, and shall be subject to an action therefor.

168.3. In particular, and without in any way limiting the scope of protection against unfair competition, the following shall be deemed guilty of unfair competition:

(a) Any person, who is selling his goods and gives them the general appearance of goods of another manufacturer or dealer, either as to the goods themselves or in the wrapping of the packages in which they are contained, or the devices or words thereon, or in any other feature of their appearance, which would be likely to influence purchasers to believe that the goods offered are those of a manufacturer or dealer, other than the actual manufacturer or dealer, or who otherwise clothes the goods with such appearance as shall deceive the public and defraud another of his legitimate trade, or any subsequent vendor of such goods or any agent of any vendor engaged in selling such goods with a like purpose;

(b) Any person who by any artifice, or device, or who employs any other means calculated to induce the false belief that such person is offering the services of another who has identified such services in the mind of the public; or

(c) Any person who shall make any false statement in the course of trade or who shall commit any other act contrary to good faith of a nature calculated to discredit the goods, business or services of another.

Pertinent too is Article 189 (1) of the Revised Penal Code that enumerates the elements of unfair competition, to wit:

(a) That the offender gives his goods the general appearance of the goods of another manufacturer or dealer;

(b) That the general appearance is shown in the (1) goods themselves, or in the (2) wrapping of their packages, or in the (3) device or words therein, or in (4) any other feature of their appearance;

(c) That the offender offers to sell or sells those goods or gives other persons a chance or opportunity to do the same with a like purpose; and

(d) That there is actual intent to deceive the public or defraud a competitor.^[12]

Respondent's imitation of the general appearance of petitioner's goods was done allegedly in Cavite. It sold the goods allegedly in Mandaluyong City, Metro Manila. The alleged acts would constitute a transitory or continuing offense. Thus, clearly, under Section 2 (b) of Rule 126, Section 168 of Rep. Act No. 8293 and Article 189 (1) of the Revised Penal Code, petitioner may apply for a search warrant in any court where any element of the alleged offense was committed, including any of the courts within the National Capital Region (Metro Manila).^[13]

WHEREFORE, the petition is **GRANTED**. The Decision dated June 30, 2003 and the Resolution dated January 16, 2004 of the Court of Appeals in CA-G.R. SP No. 67612 are **SET ASIDE**. The Order dated October 5, 2001 of the Regional Trial Court of Manila, Branch 1, is **PARTLY MODIFIED**. Search Warrants Nos. 01-1986 to 01-1988 are hereby declared valid.

SO ORDERED.

Carpio, Carpio Morales, Tinga, and Velasco, Jr., JJ., concur.

[¹] *Rollo*, pp. 34-41. Penned by Associate Justice Delilah Vidallon-Magtolis, with Associate Justices Remedios A. Salazar-Fernando and Edgardo F. Sundiam concurring.

[²] *Id.* at 43.

[³] *Id.* at 109-110.

[⁴] *Id.* at 110.

[⁵] SEC. 2. *Court where application for search warrant shall be filed.* - An application for search warrant shall be filed with the following:

(a) Any court within whose territorial jurisdiction a crime was committed.

(b) For compelling reasons stated in the application, any court within the judicial region where the crime was committed if the place of commission of the crime is known, or any court within the judicial region where the warrant shall be enforced.

However, if the criminal action has already been filed, the application shall only be made in the court where the criminal action is pending.

[⁶] *Rollo*, p. 40.

[⁷] *Id.* at 16.

[⁸] G.R. No. 104879, May 6, 1994, 232 SCRA 249.

[⁹] Batas Pambansa Blg. 129.

[¹⁰] Enunciated in the dissent of Chief Justice Hilario G. Davide, Jr. in the case of *Malaloan v. Court of Appeals*, *supra* note 8, at 272.

[¹¹] Known as the Intellectual Property Code of the Philippines.

[¹²] *NBI-Microsoft Corporation v. Hwang*, G.R. No. 147043, June 21, 2005, 460 SCRA 428, 444-445.

[¹³] See also A.M. No. 03-8-02-SC, which provides as follows:

Sec. 12. *Issuance of search warrants in special criminal cases by the Regional Trial Courts of Manila and Quezon City.*- The Executive Judges and, whenever they are on official leave of absence or are not physically present in the station, the Vice-Executive Judges of the RTCs of Manila and Quezon City shall have authority to act on applications filed by the National Bureau of Investigation (NBI), the Philippine National Police (PNP) and the Anti-Crime Task Force (ACTAF), for search warrants involving heinous crimes, illegal gambling,

illegal possession of firearms and ammunitions as well as violations of the Comprehensive Dangerous Drugs Act of 2002, the Intellectual Property Code, the Anti-Money Laundering Act of 2001, the Tariff and Customs Code, as amended, and other relevant laws that may hereafter be enacted by Congress, and included herein by the Supreme Court.

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