Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PILIPINAS SHELL PETROLEUM CORPORATION and PETRON CORPORATION, Petitioners,	**G.R. No. 189669**
	Present:
	VELASCO, JR., *J., Chairperson,* PERALTA,
- versus -	DEL CASTILLO,* VILLARAMA, JR., and REYES, *JJ.*
ROMARS INTERNATIONAL GASES CORPORATION, Respondent.	**Promulgated:**
	February 16, 2015

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DECISION

PERALTA, *J.*:

This deals with the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court praying that the Decision[1] of the Court of Appeals (*CA*), dated March 13, 2009, and the Resolution[2] dated September 14, 2009, denying petitioner's motion for reconsideration thereof, be reversed and set aside.

The antecedent facts are:

Petitioners received information that respondent was selling, offering for sale, or distributing liquefied petroleum gas (*LPG*) by illegally refilling

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* Designated Acting Member in lieu of Associate Francis H. Jardeleza, per Special Order No. 1934 dated February 11, 2015.

1 Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Rebecca De Guia Salvador and Sixto C. Marella, Jr., concurring; *rollo,* pp. 54-65.

2 *Id.* at 67-70.

the steel cylinders manufactured by and bearing the duly registered trademark and device of respondent Petron. Petron then obtained the services of a paralegal investigation team who sent their people to investigate. The investigators went to respondent's premises located in San Juan, Baao, Camarines Sur, bringing along four empty cylinders of Shellane, Gasul, Total and Superkalan and asked that the same be refilled. Respondent's employees then refilled said empty cylinders at respondent's refilling station. The refilled cylinders were brought to the Marketing Coordinator of Petron Gasul who verified that respondent was not authorized to distribute and/or sell, or otherwise deal with Petron LPG products, and/or use or imitate any Petron trademarks. Petitioners then requested the National Bureau of Investigation (*NBI*) to investigate said activities of respondent for the purpose of apprehending and prosecuting establishments conducting illegal refilling, distribution and/or sale of LPG products using the same containers of Petron and Shell, which acts constitute a violation of Section 168,[3] in relation to Section 170[4] of Republic Act (*R.A.*) No. 8293, otherwise known as the *Intellectual Property Code of the Philippines*, and/or Section 2[5] of R.A. No. 623, otherwise known as *An Act*

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[3] Sec. 168. *Unfair Competition, Rights, Regulation and Remedies.* -- 168.1. A person who has identified in the mind of the public the goods he manufactures or deals in, his business or services from those of others, whether or not a registered mark is employed, has a property right in the goodwill of the said goods, business or services so identified, which will be protected in the same manner as other property rights.

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.

168.4. The remedies provided by Section 156, 157 and 161 shall apply *mutatis mutandis. (Sec. 29, R.A. No. 166a)*

[4] Sec. 170. *Penalties*.—Independent of the civil and administrative sanctions imposed by law, a criminal penalty of imprisonment from two (2) years to five (5) years and a fine ranging from Fifty thousand pesos (₱50,000) to Two hundred thousand pesos (₱200,000), shall be imposed on any person who is found guilty of committing any of the acts mentioned in Section 155, Section 168 and Subsection 169.1. *(Arts. 188 and 189, Revised Penal Code)*

[5] SECTION 2. It shall be unlawful for any person, without the written consent of the manufacturer, bottler or seller who has successfully registered the marks of ownership in accordance with the provisions of the next preceding section, to fill such bottles, boxes, kegs, barrels, or other similar containers so marked or stamped, for the purpose of sale, or to sell, dispose of, buy, or traffic in, or wantonly destroy the same, whether filled or not, or to use the same for drinking vessels or glasses or for any other purpose than that registered by the manufacturer, bottler or seller. Any violation of this section shall be punished by a fine or not more than one hundred pesos or imprisonment of not more than thirty days or both.

To Regulate the Use of Duly Stamped or Marked Bottles, Boxes, Casks, Kegs, Barrels and Other Similar Containers.

The NBI proceeded with their investigation and reportedly found commercial quantities of Petron Gasul and Shellane cylinders stockpiled at respondent's warehouse. They also witnessed trucks coming from respondent's refilling facility loaded with Gasul, Shellane and Marsflame cylinders, which then deposit said cylinders in different places, one of them a store called "Edrich Enterprises" located at 272 National Highway, San Nicolas, Iriga City. The investigators then bought Shellane and Gasul cylinders from Edrich Enterprises, for which they were issued an official receipt.

Thus, the NBI, in behalf of Petron and Shell, **filed with the Regional Trial Court of Naga City (RTC-Naga), two separate Applications for Search Warrant** for Violation of Section 155.1,[6] in relation to Section 170[7] of R.A. No. 8293 against respondent and/or its occupants. On October 23, 2002, the RTC-Naga City issued an Order granting said Applications and Search Warrant Nos. 2002-27 and 2002-28 were issued. On the same day, the NBI served the warrants at the respondent's premises in an orderly and peaceful manner, and articles or items described in the warrants were seized.

On November 4, 2002, respondent filed a Motion to Quash Search Warrant Nos. 2002-27 and 2002-28, where the only grounds cited were: (a) there was no probable cause; (b) there had been a lapse of four weeks from the date of the test-buy to the date of the search and seizure operations; (c) most of the cylinders seized were not owned by respondent but by a third person; and (d) Edrich Enterprises is an authorized outlet of Gasul and Marsflame. In an Order dated February 21, 2003, the RTC-Naga denied the Motion to Quash.

However, on March 27, 2003, respondent's new counsel filed an Appearance with Motion for Reconsideration. It was only in said motion where respondent raised for the first time, the issue of the impropriety of filing the Application for Search Warrant at the RTC-Naga City when **the alleged crime was committed in a place within the territorial jurisdiction of the RTC-Iriga City**. Respondent pointed out that the **application filed with the RTC-Naga failed to state any compelling**

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[6] Sec. 155. *Remedies; Infringement.* -- Any person who shall, without the consent of the owner of the registered mark;

155.1. Use in commerce any reproduction, counterfeit, copy, or colourable imitation of a registered mark or the same container or a dominant feature thereof in connection with the sale, offering for sale, distribution, advertising of any goods or services including other preparatory steps necessary to carry out the sale of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive.

[7] *Supra*.

reason to justify the filing of the same in a court which does not have territorial jurisdiction over the place of the commission of the crime, as required by Section 2 (b), Rule 126 of the Revised Rules of Criminal Procedure. Petitioner opposed the Motion for Reconsideration, arguing that it was already too late for respondent to raise the issue regarding the venue of the filing of the application for search warrant, as this would be in violation of the Omnibus Motion Rule.

In an Order dated July 28, 2003, the RTC-Naga issued an Order granting respondent's Motion for Reconsideration, thereby quashing Search Warrant Nos. 2002-27 and 2002-28.

Petitioner then appealed to the CA, but the appellate court, in its Decision dated March 13, 2009, affirmed the RTC Order quashing the search warrants. Petitioner's motion for reconsideration of the CA Decision was denied per Resolution dated September 14, 2009.

Elevating the matter to this Court *via* a petition for review on *certiorari*, petitioner presents herein the following issues:

> A.
> THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT VENUE IN AN APPLICATION FOR SEARCH WARRANT IS JURISDICTIONAL. THIS IS BECAUSE A SEARCH WARRANT CASE IS NOT A CRIMINAL CASE.
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> B.
> THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT RESPONDENT'S MOTION TO QUASH IS NOT SUBJECT TO THE OMNIBUS MOTION RULE AND THAT THE ISSUE OF LACK OF JURISDICTION MAY NOT BE WAIVED AND MAY EVEN BE RAISED FOR THE FIRST TIME ON APPEAL.[8]

Petitioner's arguments deserve closer examination.

Section 2, Rule 126 of the Revised Rules of Criminal Procedure provides thus:

> SEC. 2. *Court where applications for search warrant shall be filed.* - An application for search warrant shall be filed with the following:
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> (a) Any court within whose territorial jurisdiction a crime was committed.

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8 *Rollo*, p. 21.

> (b) **For compelling reasons stated in the application, any court within the judicial region where the crime was committed if the place of the 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. (Emphasis supplied)

The above provision is clear enough. Under paragraph (b) thereof, the application for search warrant in this case should have stated compelling reasons why the same was being filed with the RTC-Naga instead of the RTC-Iriga City, considering that it is the latter court that has territorial jurisdiction over the place where the alleged crime was committed and also the place where the search warrant was enforced. The wordings of the provision is of a mandatory nature, requiring a statement of compelling reasons if the application is filed in a court which does not have territorial jurisdiction over the place of commission of the crime. Since Section 2, Article III of the 1987 Constitution guarantees the right of persons to be free from unreasonable searches and seizures, and search warrants constitute a limitation on this right, then Section 2, Rule 126 of the Revised Rules of Criminal Procedure should be construed strictly against state authorities who would be enforcing the search warrants. On this point, then, petitioner's application for a search warrant was indeed insufficient for failing to comply with the requirement to state therein the compelling reasons why they had to file the application in a court that did not have territorial jurisdiction over the place where the alleged crime was committed.

Notwithstanding said failure to state the compelling reasons in the application, the more pressing question that would determine the outcome of the case is, did the RTC-Naga act properly in taking into consideration the issue of said defect in resolving respondent's motion for reconsideration where the issue was raised for the very first time? The record bears out that, indeed, respondent failed to include said issue at the first instance in its motion to quash. Does the omnibus motion rule cover a motion to quash search warrants?

The omnibus motion rule embodied in Section 8, Rule 15, in relation to Section 1, Rule 9, demands that all available objections be included in a party's motion, otherwise, **said objections shall be deemed waived**; and, the only grounds the court could take cognizance of, **even if not pleaded** in said motion are: (a) **lack of jurisdiction over the subject matter**; (b) existence of another action pending between the same parties for the same cause; and (c) bar by prior judgment or by statute of limitations.[9] It should

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[9] *Spouses Anunciacion v. Bocanegra*, 611 Phil. 705, 716-717 (2009).

be stressed here that the Court has ruled in a number of cases that the omnibus motion rule is applicable to motions to quash search warrants.[10] Furthermore, the Court distinctly stated in *Abuan v. People*,[11] that "**the motion to quash the search warrant which the accused may file shall be governed by the omnibus motion rule, provided, however, that objections not available, existent or known during the proceedings for the quashal of the warrant may be raised in the hearing of the motion to suppress x x x.**"[12]

In accordance with the omnibus motion rule, therefore, the trial court could only take cognizance of an issue that was not raised in the motion to quash **if**, (1) said issue was not available or existent when they filed the motion to quash the search warrant; or (2) the issue was one involving jurisdiction over the subject matter. Obviously, the issue of the defect in the application was available and existent at the time of filing of the motion to quash. What remains to be answered then is, if the newly raised issue of the defect in the application is an issue of jurisdiction.

In resolving whether the issue raised for the first time in respondent's motion for reconsideration was an issue of jurisdiction, the CA rationcinated, thus:

> It is jurisprudentially settled that the concept of venue of actions in criminal cases, unlike in civil cases, is jurisdictional. The place where the crime was committed determines not only the venue of the action but is an essential element of jurisdiction. It is a fundamental rule that for jurisdiction to be acquired by courts in criminal cases, the offense should have been committed or any one of its essential ingredients should have taken place within the territorial jurisdiction of the court. Territorial jurisdiction in criminal cases is the territory where the court has jurisdiction to take cognizance or to try the offense allegedly committed therein by the accused. Thus, it cannot take jurisdiction over a person charged with an offense allegedly committed outside of that limited territory.[13]

Unfortunately, the foregoing reasoning of the CA, is inceptionally flawed, because as pronounced by the Court in *Malaloan v. Court of Appeals*,[14] and reiterated in the more recent *Worldwide Web Corporation v. People of the Philippines*,[15] to wit:

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10 *Abuan v. People*, 536 Phil. 672, 692 (2006); *Garaygay v. People*, 390 Phil. 586, 594 (2000); *People v. Court of Appeals*, G.R. No. 126379, June 26, 1998, 291 SCRA 400.

11 *Supra.*

12 *Abuan v. People*, *supra* note 10. (Emphasis ours)

13 CA Decision, *rollo*, p. 61. (Emphasis omitted)

14 G.R. No. 104879, May 6, 1994. 232 SCRA 249.

15 G.R. No. 161106 and G.R. No. 161266, January 13, 2014, 713 SCRA 18.

> x x x as we held in *Malaloan v. Court of Appeals,* **an application for a search warrant is a "special criminal process," rather than a criminal action**:
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> > **The basic flaw in this reasoning is in erroneously equating the application for and the obtention of a search warrant with the institution and prosecution of a criminal action in a trial court. It would thus categorize what is only a special criminal *process*, the power to issue which is inherent in *all* courts**, as equivalent to a criminal *action*, jurisdiction over which is reposed in *specific* courts of indicated competence. It ignores the fact that the requisites, procedure and purpose for the issuance of a search warrant are completely different from those for the institution of a criminal action.
> >
> > For, indeed, a warrant, such as a warrant of arrest or a search warrant, merely constitutes process. A search warrant is defined in our jurisdiction as an order in writing issued in the name of the People of the Philippines signed by a judge and directed to a peace officer, commanding him to search for personal property and bring it before the court. A search warrant is in the nature of a criminal process akin to a writ of discovery. It is a special and peculiar remedy, drastic in its nature, and made necessary because of a public necessity.
> >
> > **In American jurisdictions, from which we have taken our jural concept and provisions on search warrants, such warrant is definitively considered merely as a process, generally issued by a court in the exercise of its ancillary jurisdiction, and not a criminal action to be entertained by a court pursuant to its original jurisdiction.** x x x. (Emphasis supplied)
>
> **Clearly then, an application for a search warrant is not a criminal action.** x x x[16] (Emphasis supplied)

The foregoing explanation shows why the CA arrived at the wrong conclusion. It gravely erred in equating the proceedings for applications for search warrants with criminal actions themselves. As elucidated by the Court, proceedings for said applications are not criminal in nature and, thus, the rule that venue is jurisdictional does not apply thereto. Evidently, the issue of whether the application should have been filed in RTC-Iriga City or RTC-Naga, is **not** one involving jurisdiction because, as stated in the afore-quoted case, **the power to issue a special criminal process is inherent in all courts**.

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16 *Id*. at 36.

Inferring from the foregoing, the Court deems it improper for the RTC-Naga to have even taken into consideration an issue which respondent failed to raise in its motion to quash, as it did not involve a question of jurisdiction over the subject matter. It is quite clear that the RTC-Naga had jurisdiction to issue criminal processes such as a search warrant.

Moreover, the Court must again emphasize its previous admonition in *Spouses Anunciacion v. Bocanegra*,[17] that:

> We likewise cannot approve the trial court's act of entertaining supplemental motions x x x which raise grounds that are already deemed waived. To do so would encourage lawyers and litigants to file piecemeal objections to a complaint in order to delay or frustrate the prosecution of the plaintiff's cause of action.[18]

WHEREFORE, the petition is **GRANTED**. The Decision of the Court of Appeals, dated March 13, 2009, and the Resolution dated September 14, 2009 in CA-G.R. CV No. 80643 are **REVERSED**. The Order dated February 21, 2003 issued by the Regional Trial Court of Naga, Camarines Sur, Branch 24, denying respondent's motion to quash, is **REINSTATED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

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17 *Supra* note 9.
18 *Id.* at 717.

BIENVENIDO L. REYES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice