Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

FERDINAND V. TOMAS,
Petitioner,

- *versus* -

CRIMINAL INVESTIGATION AND DETECTION GROUP (*CIDG*) - ANTI-ORGANIZED CRIME DIVISION (*AOCD*) (CIDG-AOCD) and MYRNA UY TOMAS,
Respondents.

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G.R. No. 208090

Present:

VELASCO, JR.,* *J.*, *Chairperson*,
PERALTA,**
PEREZ,
REYES, and
JARDELEZA, *JJ.*

Promulgated:

November 9, 2016

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D E C I S I O N

PERALTA, *J.*:

This is to resolve the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, dated August 28, 2013, of petitioner Ferdinand V. Tomas that seeks to reverse and set aside the Court of Appeals (*CA*) Decision[1] and Resolution,[2] dated March 25, 2013 and July 5, 2013, respectively, the latter court affirming the Joint Resolution dated July 24,

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* On official leave.

** Acting Chairperson per Special Order No. 2395 dated October 19, 2016.

1 Penned by Associate Justice Danton Q. Bueser, with Associate Justices Amelita G. Tolentino and Ramon R. Garcia, concurring; *rollo*, pp. 38-52.

2 *Id.* at 54-55.

2009 of the Secretary of Justice, through the Chief State Prosecutor, finding probable cause against petitioner for trademark infringement and unfair competition as defined and penalized under Sections 155 and 168, respectively, in relation to Section 170 of Republic Act (*R.A.*) No. 8293 otherwise known as the *Intellectual Property Code of the Philippines*.

The facts follow.

Private respondent Myrna Uy Tomas filed four (4) complaints for violation of Sections 155 and 168 in relation to Section 170 of R.A. No. 8293. The first two (2) complaints, docketed respectively as I.S. Nos. 2007-926 and 2007-927, were against petitioner Ferdinand V. Tomas, Federico Ladines, Jr. and Ryan T. Valdez. The third and fourth ones, docketed as I.S. Nos. 2007-940 and 2007-941, were against Ferdinand V. Tomas.

The Philippine National Police (*PNP*) Criminal Investigation and Detection Group (*CIDG)-Anti-Organized Crime Division* (*AOCD*), on October 24, 2007, presented four (4) applications for issuance of search warrants before the Regional Trial Court (*RTC*) of Manila. The applications were signed by P/Chief Inspector Helsin B. Walin and approved by Police Director Edgardo M. Doromal, Chief of the CIDG.

Executive Judge Reynaldo G. Ros, Presiding Judge of the RTC of Manila, Branch 33, issued four (4) search warrants (Search Warrant Nos. A07-12100 to A07-12103) which the members of the PNP CIDG-AOCD used in conducting a search on the premises of FMT Merchandising, located at Alexander St., Urdaneta City, Pangasinan and at 394 Cayambanan, Urdaneta City, Pangasinan. The search at the FMT Merchandising premises resulted to the seizure and confiscation of one (1) piece of Pedrollo JSWm/8H 0.75 water pump, while the search conducted at Brgy. Cayambanan yielded the following items: (1) three hundred forty-two (342) empty boxes of Pedrollo; (2) nineteen (19) pieces of Pedrollo terminal box cover; (3) thirty-one (31) pieces of Pedrollo electric water pump; (4) three (3) pieces of unserviceable Pedrollo water pump; and (5) twenty-one (21) pieces of Pedrollo gauge.

Petitioner filed with the RTC a Motion to Quash the Search Warrants and/or to Suppress Evidence Obtained thereby assailing the applications for search warrant for being in violation of SC Administrative Matter No. 03-8-02-SC. He claimed that the application for search warrant, which may be filed by the following agencies, namely, NBI, PNP and ACTAF, should be personally endorsed by the heads of said agencies. According to petitioner, the quashal of the warrants was warranted because the four (4) applications for issuance of the search warrants were merely endorsed and/or approved

by P/Director Edgardo M. Doromal, Head of the CIDG, when at the time, the Chief of the PNP was Director General Avelino Razon.

The RTC, on January 11, 2008, partially granted petitioner's Motion to Quash, thus:

> WHEREFORE, the Motion to Quash is partly granted. Search Warrant Nos. [A07-12100] and A07-12103 are ordered QUASHED.[3]

On April 16, 2008, the RTC, on Motion for partial reconsideration of respondents, reconsidered its earlier Order and ruled as follows:

> WHEREFORE, the Motions filed by the respondent are DENIED for lack of merit. The Motion for Reconsideration filed by the private complainant is GRANTED. The Order of this Court dated January 11, 2008 quashing Search Warrant Nos. A07-12102 and A07-12103 is reconsidered and set aside.[4]

Petitioner filed a Petition for *Certiorari* with the CA which was docketed as CA-G.R. SP No. 104029 questioning the Orders dated April 16, 2008 and January 11, 2008 of the RTC. On August 16, 2011, the CA Sixth Division rendered a Decision[5] which granted the petition, reversed and set aside the assailed Orders dated April 16, 2008 and January 11, 2008 of the RTC, and quashed Search Warrant Nos. A07-12100 to A07-12103. The CA, thus, ruled:

> At the time of the filing of the applications of subject warrants on 26 October 2007, Section 12, Chapter V of A.M. No. 03-8-02-SC, entitled "Guidelines on the Selection and Appointment of Executive Judges and Defining their Powers, Prerogatives and Duties," dictates that -
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> > 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

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3 *Rollo*, p. 129.

4 *Id.* at 132.

5 Penned by Associate Justice Florito S. Macalino, with Associate Justices Juan Q. Enriquez, Jr. and Ramon M. Bato, Jr., concurring; *id.* at 178-186.

> 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.
>
> The applications shall be personally endorsed by the heads of such agencies and shall particularly describe therein the places to be searched and/or the property or things to be seized as prescribed in the Rules of Court. The Executive Judges and Vice-Executive Judges concerned shall issue the warrants, if justified, which may be served in places outside the territorial jurisdiction of the said courts.
>
> The Executive Judges and the authorized Judges shall keep a special docket book listing names of Judges to whom the applications are assigned, the details of the applications and the results of the searches and seizures made pursuant to the warrants issued.
>
> This Section shall be an exception to Section 2 of Rule 126 of the Rules of Court.

From the foregoing, it is very clear that every application for search warrant shall be personally endorsed by the heads of such agencies. If an application for the issuance of a search warrant is being made by the PNP, then it must be personally endorsed by the Chief of the PNP. In the case at bench, the applications for search warrants made by Police Chief Inspector Helson B. Walin were not personally endorsed by the then PNP Chief, Police Director General Avelino Razon. Evidently, the applications for search warrants were defective, thus, respondent Judge should have denied the applications for being violative of Section 12, Chapter V of A.M. No. 03-8-02-SC.

In fact, in A.M. No. 08-4-4-SC dated 7 July 2009, wherein the High Court addressed the letter of the then Police Director General Jesus A. Verzosa asking for clarification regarding the construction on the duration or effectivity of the High Court's Resolution dated 15 April 2008, which granted the request of then Police Director General Avelino I. Razon to delegate the authority to endorse the applications for search warrant to be filed in the RTCs of Manila and Quezon City to the Director of the Directorate for Investigation and Detective Management ("DIDM," for brevity) of the PNP in connection with Section 12, Chapter V of A.M. No. 03-8-02-SC, it held that:

> From a cursory reading of the aforementioned provision of A.M. No. 03-8-02-SC, it is crystal that applications for search warrant to be filed before the RTCs of Manila and Quezon City must be essentially approved in person by the heads of the following agencies: the PNP, NBI, and ACTAF of the AFP. Accordingly, in the incident recounted in the 25 November 2008 letter of P/Dir. Gen. Verzosa, Judge Ros correctly denied the application for search warrant of the PNP for being defective. The authority granted by the Court to P/Dir. Gen. Razon to delegate to the Director of DIDM, PNP, the endorsement of

> applications for search warrant to be filed before the RTCs of Manila and Quezon City, was personal to P/Dir. Gen. Razon. It cannot be invoked by P/Dir. Gen. Razon's successor.
>
> Glaringly, applications for search warrants made by the PNP should have been denied for being defective as it were without the personal endorsement of the head of the PNP, which is a requirement at the time that the subject applications were made. The High Court's Resolution dated 15 April 2008 granting the request of then Police Director General Avelino I. Razon to delegate the authority to endorse the applications for search warrant to be filed in the RTCs of Manila and Quezon City to the Director of the Directorate for Investigation and Detective Management ("DIDM," for brevity) of the PNP is not applicable to the present case as Police Director General Avelino I. Razon's permission to delegate his authority to endorse was only granted on 15 April 2008 and the application was made on 26 October 2007.
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> Thus, the Court finds that respondent Judge committed grave abuse of discretion in granting the subject applications for search warrants despite being defective and violative of Section 12, Chapter V of A.M. No. 03-8-02, the rule applicable at that time.
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> Furthermore, this Court likewise finds respondent Judge in grave error in denying to suppress the evidence obtained from the illegal search and in denying to quash Search Warrant Nos. A07-12102 and A07-12103.
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> WHEREFORE, premises considered, the present Petition is GRANTED. The assailed Orders dated 16 April 2008 and 11 January 2008 of public respondent Judge of the Regional Trial Court of Manila, Branch 33 are hereby REVERSED and SET ASIDE. Search Warrant Nos. A07-12100 to A07-12103 are hereby QUASHED.
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> SO ORDERED.[6]

The CA, likewise, on December 12, 2011, denied therein respondent People's motion for reconsideration. Private complainant and herein private respondent Myrna Tomas filed a petition for review on *certiorari* with this Court and on March 5, 2012, this Court, in a Resolution, denied the petition for failure to sufficiently show any reversible error in the judgment of the CA. The said decision became final and executory and recorded in the Book of Entries of Judgments on August 16, 2012.

Meanwhile, the Secretary of Justice, on July 24, 2009, issued a Joint Resolution finding probable cause against petitioner in which the dispositive portion of the resolution reads:

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6 *Id.* at 181-186. (Emphases omitted)

> WHEREFORE, the undersigned respectfully recommends the (1) dismissal of the complaints against respondents Ryan T. Valdez and Federico N. Ladines, Jr., and (2) filing of the appropriate Informations against respondent Ferdinand V. Tomas for trademark infringement and unfair competition as defined and penalized under [Sections] 155 and 168, respectively, in relation to Section 170 of Republic Act 8293.[7]

After petitioner's motion for reconsideration was denied by the Secretary of Justice, petitioner filed a Petition for Review under Rule 43 of the Rules of Court before the CA and docketed as CA-G.R. SP No. 114479.

The CA Fourth Division, on March 25, 2013, denied the petition, thus:

> WHEREFORE, in view of the foregoing, the Joint Resolution issued on July 24, 2009 by the Secretary of Justice, through the Chief State Prosecutor, is hereby AFFIRMED.
>
> SO ORDERED.[8]

On July 5, 2013, the CA also denied petitioner's motion for reconsideration. Hence, the present petition.

Petitioner raises the following issues:

> I. WHETHER THE COURT OF APPEALS' (4TH DIVISION) DECISION DATED 25 MARCH 2013 VIOLATED THE FUNDAMENTAL RULE ON IMMUTABILITY OF A FINAL JUDGMENT WHEN IT DECLARED THAT SEARCH WARRANT NOS. A07-12100 TO A07-12103 WERE VALIDLY ISSUED.
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> II. WHETHER THE COURT OF APPEALS THRU THE FOURTH DIVISION CAN VALIDLY DISMISS THE CASE CA-G.R. SP NO. 104029 AFTER SAID COURT HAD RENDERED JUDGMENT THEREIN (THRU THE SIXTH DIVISION) AND WHICH JUDGMENT BECAME FINAL AND HAD ALREADY BEEN EXECUTED.
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> III. WHETHER THE FINAL JUDGMENT IN CA-G.R. SP NO. 104029 AND AFFIRMED BY THE SUPREME COURT IN G.R. NO. 199699, INCLUDING THE ISSUE OF FORUM SHOPPING, IS CONCLUSIVE AND THE SAME CANNOT BE REOPENED OR SUPERSEDED WITHOUT VIOLATING THE FUNDAMENTAL RULE ON IMMUTABILITY OF A FINAL JUDGMENT.[9]

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7 *Id.* at 143.
8 *Id.* at 52.
9 *Id.* at 19-20.

According to petitioner, the Sixth Division of the CA had already declared in its Decision dated August 16, 2011 that the issuance of Search Warrant Nos. A07-12100 to A07-12103 was violative of Section 12, Chapter V of A.M. No. 03-8-02-SC, and that subsequently, respondent Myrna Tomas, without authority from the Office of the Solicitor General, filed a petition for *certiorari* with this Court that was later on denied in this Court's Resolution dated March 5, 2012 and affirmed in the Resolution dated June 27, 2012. Thus, petitioner insists that the questioned decision of the Fourth Division of the CA, in effect, modifies, alters and amends a final and executory decision of the Sixth Division of the CA.

Petitioner further claims that there is no forum shopping in this case, contrary to the ruling of the CA. Petitioner avers that the two cases filed with the CA had no identity of parties, no identity of causes of action and no identity of reliefs prayed for. He also insists that he informed the CA's Fourth Division on all the incidents relative to the case under the CA's Sixth Division.

Private respondent Myrna Tomas, in her Comment dated December 2, 2013 argues that a case may be re-tried in the interest of justice despite that *res judicata* had already set in. She also claims that the questioned decision of the Fourth Division of the CA is sound and based on the facts and the law. Lastly, she insists that petitioner is guilty of forum shopping.

This Court finds the petition partly meritorious.

Under the doctrine of finality of judgment or immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down.[10]

As this Court ruled in *FGU Insurance Corporation v. Regional Trial Court of Makati City, Branch 66, et al.*,[11] there are certain exceptions, thus:

> But like any other rule, it has exceptions, namely: (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable. The exception to the doctrine of

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10 *Mendoza v. Fil-Homes Realty Development Corporation*, 681 Phil. 621, 627 (2012).

11 659 Phil. 117 (2011).

immutability of judgment has been applied in several cases in order to serve substantial justice. The early case of *City of Butuan vs. Ortiz* is one where the Court held as follows:

> Obviously a prevailing party in a civil action is entitled to a writ of execution of the final judgment obtained by him within five years from its entry (Section 443, Code of Civil Procedure). But it has been repeatedly held, and it is now well-settled in this jurisdiction, that when after judgment has been rendered and the latter has become final, facts and circumstances transpire which render its execution impossible or unjust, the interested party may ask the court to modify or alter the judgment to harmonize the same with justice and the facts (Molina vs. De la Riva, 8 Phil. 569; Behn, Meyer & Co. vs. McMicking, 11 Phil. 276; Warner, Barnes & Co. vs. Jaucian, 13 Phil. 4; Espiritu vs. Crossfield and Guash, 14 Phil. 588; Flor Mata vs. Lichauco and Salinas, 36 Phil. 809). In the instant case, the respondent Cleofas alleged that subsequent to the judgment obtained by Sto. Domingo, they entered into an agreement which showed that he was no longer indebted in the amount claimed of ₱995, but in a lesser amount. Sto. Domingo had no right to an execution for the amount claimed by him. (De la Costa vs. Cleofas, 67 Phil. 686-693).

Shortly after *City of Butuan v. Ortiz*, the case of *Candelario v. Cañizares* was promulgated, where it was written that:

> After a judgment has become final, if there is evidence of an event or circumstance which would affect or change the rights of the parties thereto, the court should be allowed to admit evidence of such new facts and circumstances, and thereafter suspend execution thereof and grant relief as the new facts and circumstances warrant. We, therefore, find that the ruling of the court declaring that the order for the payment of ₱40,000.00 is final and may not be reversed, is erroneous as above explained.

These rulings were reiterated in the cases of *Abellana v. Dosdos*, *The City of Cebu vs. Mendoza and PCI Leasing and Finance, Inc. v. Antonio Milan*. In these cases, there were compelling circumstances which clearly warranted the exercise of the Court's equity jurisdiction.[12]

The Decision dated August 16, 2011 of the CA Sixth Division declaring that Search Warrant No. A07-12100 to A07-12103 was violative of Section 12, Chapter V of A.M. No. 03-8-02-SC has already attained finality and this Court finds no compelling reason to rule against its immutability.

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[12] *FGU Insurance Corporation v. Regional Trial Court of Makati City, Branch 66, supra*, at 123-124. (Citations omitted)

The CA Fourth Division, in its Decision dated March 25, 2013 ruled, in effect, that the Decision of the CA Sixth Division should be amended, if not abandoned, thus:

> In view of the foregoing, the Court upholds the validity of the Search Warrants for petitioner's house issued by Judge Ros, and any items seized as a result of the search conducted by virtue thereof, may be presented as evidence against petitioner.
>
> Further, the fact that the application for search warrants were not personally endorsed by the Chief of the Philippine National Police but only by the Chief of the CIDG in violation of Section 12 of Administrative Matter No. 03-8-02-SC issued by the Supreme Court, is of no moment. If indeed there was such violation, such violation may jeopardize only the concerned police officers to incur administrative liability but would certainly not render nugatory the effect of the assailed search warrants.
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> We do not subscribe to petitioner's motion for the dismissal of the present petition on the ground that the search warrants in question have been quashed by the Decision dated August 16, 2011 rendered by the Sixth Division of this Court in CA-G.R. SP No. 104029.[13]

The above conclusion of the CA Fourth Division is also grounded on its finding that petitioner violated the basic rule that prohibits forum shopping. As ruled by the CA:

> Verily, the Petition for *Certiorari* by herein petitioner in CA-G.R. SP No. 104029 violates the basic rule prohibiting forum shopping. While said petition was pending before the Sixth Division of this Court, herein petitioner did not, or failed to, inform the Court that he filed the present Petition for Review before this Court. This is a glaring violation of Section 5, Rule 7 of the 1997 Rules of Civil Procedure, which provides:
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> Sec. 5. *Certification against forum shopping.* - The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days

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13 *Rollo*, pp. 49-50.

> therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.
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> Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion or after hearing. The submission of a false certification or noncompliance with any undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

By wittingly or unwittingly failing to inform this Court when he filed his Petition for *Certiorari* in CA-G.R. SP No. 104029 assailing the twin orders issued by the Regional Trial Court of Manila, Branch 33 regarding the filing of the present Petition for Review appealing from the Joint Resolution issued by the Secretary of Justice in I.S. Nos. 2007-926 and 2007-927, petitioner thereby infringed on Section 5 (c), Rule 7 of the 1997 Rules of Civil Procedure, which states that "if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

It has been settled in our jurisprudence that "forum shopping" exists when a party repetitively avails himself of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely by, some other court.

The elements of forum shopping are: (1) identity of parties, or at least such parties as represent the same interests in both actions; (2) identity of rights asserted and reliefs prayed for, the relief being founded on the same set of facts; and (3) the identity of the two preceding particulars, such that any judgment rendered in the other will, regardless of which party is successful, amount to *res judicata* in the action under consideration.

There was confluence of the foregoing elements in the instant case. First, there exists an identity of parties in that the concerned parties in CA-G.R. SP No. 104029 are practically the same or identical to the present case. Second, there is an identity of rights asserted and reliefs sought inasmuch both in the CA-G.R. SP No. 104029 and the instant case petitioner asserts his constitutional right against unreasonable searches and seizure and seeks the quashal of the search warrants issued by the trial court. Finally, the identity of the elements, such that any judgment rendered in, CA-G.R. SP No. 104029 regardless of which party is successful, would amount to *res judicata* in the instant case inasmuch a ruling to quash the subject search warrants in the former Petition for *Certiorari* would, in effect, be a bar to the present action.

> Indeed, failure to comply fully with the requirements of certification of non-forum shopping is cause for dismissal of the case in CA-G.R. SP No. 104029.[14]

To recapitulate, petitioner filed a Petition for *Certiorari* with the CA docketed as CA-G.R. SP No. 104029 questioning the Orders dated April 16, 2008 and January 11, 2008 of the RTC, and on August 16, 2011, the CA Sixth Division granted the said petition and the assailed Orders dated April 16, 2008 and January 11, 2008 of the RTC were reversed and set aside and Search Warrants Nos. A07-12100 to A07-12103 were quashed. Petitioner likewise filed a Petition for Review under Rule 43 of the Rules of Court before the CA and docketed as CA-G.R. SP No. 114479 questioning the Joint Resolution dated July 24, 2009 of the Secretary of Justice, finding probable cause against petitioner. Needless to say, both cases delve on the issue of the validity of the search warrants. However, upon consideration of the arguments presented by both parties, this Court finds that petitioner did not willfully violate the rule against forum shopping.

When petitioner filed its second petition with the CA assailing the Joint Resolution of the Secretary of Justice finding probable cause against him, he was able to notify the CA through the certification on non-forum shopping of the pendency of the first petition docketed as CA-G.R. SP No. 104029. The pertinent portion of the said certification reads:

> 2. I have not commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency except the preliminary investigation conducted by DOJ in I.S. No. 2007940-941 and I.S. No. 2007926-927; and to the best of my knowledge no such other action or claim is pending therein; and should I learn that the same or a similar action has been filed or is pending, I hereby undertake to report such fact within five (5) days therefrom to the Court.[15]

Through the above certification, petitioner was able to inform the CA of the existence of the first petition filed in the same court. In fact, private complainant and herein respondent Myrna Tomas, in her Opposition (to the Motion for Leave and to the Attached Reply) dated January 10, 2014 admitted that petitioner did inform the CA of the first petition he filed, thus:

> Respondent Myrna humbly corrects herself in having stated that petitioner failed to inform the CA Fourth Division in CA-G.R. SP No. 114479 of the existence of his prior petition with the Sixth Division in CA-G.R. SP No. 104029 which was the result of an honest oversight due

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14 *Id.* at 50-52. (Citations omitted)

15 *Id.* at 323.

> to a heavy burden of work and due to the confusion brought about by the existence of the two CA Petitions and Decisions.[16]

With such information provided by petitioner, the CA could have dismissed the second petition outrightly if it found that petitioner violated the rule against forum shopping. Instead, the CA only ruled that there was forum shopping after the first petition had already been decided and eventually attained finality. To reverse the earlier decision would then cause injustice on the part of the petitioner.

The doctrine of finality of judgment is grounded on fundamental considerations of public policy and sound practice that at the risk of occasional errors, the judgment of adjudicating bodies must become final and executory on some definite date fixed by law.[17] The reason for the rule is that if, on the application of one party, the court could change its judgment to the prejudice of the other, it could thereafter, on application of the latter, again change the judgment and continue this practice indefinitely.[18] The equity of a particular case must yield to the overmastering need of certainty and inalterability of judicial pronouncements.[19]

Furthermore, petitioner, upon receipt of the Decision of the CA Sixth Division, filed a "Notice of Judgment (Re CA Sixth Division's Decision dated 16 August 2011) quashing Search Warrant Nos. A07-12100 to A07-12103 as against Petitioner"[20] in CA-G.R. SP No. 114479 or the latter case, and had constantly informed the CA of the developments of the first case when it was elevated to this Court.[21] Hence, the CA cannot later on claim that it was not informed of the existence of the first decided case.

As a caveat, although the Decision dated August 16, 2011 has attained finality, it does not mean that the principle it laid down should still be followed. The said decision basically rules that every application for search warrant shall be personally endorsed by the heads of such agencies as enumerated in Section 12, Chapter V of A.M. No. 03-8-02-SC. This Court, however, finds that nothing in A.M. No. 03-8-02-SC prohibits the heads of the National Bureau of Investigation (NBI), the Philippine National Police (PNP) and the Anti-Crime Task Force (ACTAF) from delegating their ministerial duty of endorsing the application for search warrant to their assistant heads. This has already been clarified by this Court in *Spouses*

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16 *Id.* at 289.

17 *Spouses Florentino and Consolacion Tabalno v. Paulino T. Dingal, Sr., et al.*, G.R. No. 191526, October 5, 2015.

18 *Kline v. Murray*, 257 P. 465, 79 Mont. 530.

19 *Flores v. Court of Appeals*, 328 Phil. 992, 995 (1996).

20 *Rollo*, pp. 156-158.

21 Manifestation dated January 4, 2012, *id.* at 160-164; Manifestation dated April 10, 2012, *id.* at 165-168; Motion in the Premises dated August 16, 2012, *id.* at 171-175.

Marimla v. People,[22] when it ruled that under Section 31, Chapter 6, Book IV of the Administrative Code of 1987, an assistant head or other subordinate in every bureau may perform such duties as may be specified by their superior or head, as long as it is not inconsistent with law, thus:

> Petitioners contend that the application for search warrant was defective. They aver that the application for search warrant filed by SI Lagasca was not personally endorsed by the NBI Head, Director Wycoco, but instead endorsed only by Deputy Director Nasol and that while SI Lagasca declared that Deputy Director Nasol was commissioned to sign the authorization letter in behalf of Director Wycoco, the same was not duly substantiated. Petitioners conclude that the absence of the signature of Director Wycoco was a fatal defect that rendered the application on the questioned search warrant void per se, and the issued search warrant null and void "because the spring cannot rise above its source.
>
> We disagree. Nothing in A.M. No. 99-10-09-SC[23] prohibits the heads of the PNP, NBI, PAOC-TF and REACT-TF from delegating their ministerial duty of endorsing the application for search warrant to their assistant heads. Under Section 31, Chapter 6, Book IV of the Administrative Code of 1987, an assistant head or other subordinate in every bureau may perform such duties as may be specified by their superior or head, as long as it is not inconsistent with law. The said provision reads:
>
> Chapter 6 – POWERS AND DUTIES OF HEADS OF BUREAUS AND OFFICES
>
> Sec. 31. Duties of Assistant Heads and Subordinates. – (1) Assistant heads and other subordinates in every bureau or office shall perform such duties as may be required by law or regulations, or as may be specified by their superiors not otherwise inconsistent with law.
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> (2) The head of bureau or office may, in the interest of economy, designate the assistant head to act as chief of any division or unit within the organization, in addition to his duties, without additional compensation, and
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> (3) In the absence of special restriction prescribed by law, nothing shall prevent a subordinate officer or employee from being assigned additional duties by proper authority, when not inconsistent with the performance of the duties imposed by law.
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> Director Wycoco's act of delegating his task of endorsing the application for search warrant to Deputy Director Nasol is allowed by the above quoted provision of law unless it is shown to be inconsistent

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22 619 Phil. 56 (2009).

23 *RESOLUTION CLARIFYING THE GUIDELINES ON THE APPLICATION FOR AND ENFORCEABILITY OF SEARCH WARRANTS.*

> with any law. Thus, Deputy Director Nasol's endorsement had the same force and effect as an endorsement issued by Director Wycoco himself. The finding of the RTC in the questioned Orders that Deputy Director Nasol possessed the authority to sign for and in behalf of Director Wycoco is unassailable.[24]

A.M. No. 03-8-02-SC and A.M. No. 99-10-09-SC substantially contain the same provisions, except that the former involves applications for search warrants for violations of the Intellectual Property Code and the latter involves applications for search warrants for the commission of heinous crimes, illegal gambling, dangerous drugs and illegal possession of firearms. Nevertheless, without this Court issuing A.M. No. 99-10-09-SC clarifying the guidelines in the application and enforceability of search warrants, the search warrants subject of this case should still not have been quashed because before the issuance thereof, the court had already found probable cause to issue those search warrants and whatever defects that the applications had are minor and technical, hence, the court could have merely ordered its correction. The finding of the court of probable cause in the issuance of search warrants should be given more consideration and importance over a mere defect in the application of the same search warrants. Incidentally, the CA Fourth Division correctly ruled that the absence of the personal endorsement of the Chief of the PNP is of no moment and may cause only the possible administrative liability of the concerned police officers but in no way affect the validity of the search warrants in question, thus:

> Further, the fact that the application for search warrants were not personally endorsed by the Chief of the Philippine National Police but only by the Chief of the CIDG in violation of Section 12 of Administrative Matter No. 03-8-02-SC issued by the Supreme Court, is of no moment. If indeed there was such violation, such violation may jeopardize only the concerned police officers to incur administrative liability but would certainly not render nugatory the effect of the assailed search warrants.[25]

Furthermore, it must be remembered that the requisites for the issuance of a search warrant are: (1) probable cause is present; (2) such probable cause must be determined personally by the judge; (3) the judge must examine, in writing and under oath or affirmation, the complainant and the witnesses he or she may produce; (4) the applicant and the witnesses testify on the facts personally known to them; and (5) the warrant specifically describes the place to be searched and the things to be seized.[26] These requisites are taken from the provisions of Section 2, Article III of the Constitution, thus:

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24 *Spouses Marimla v. People, supra*, at 69.
25 *Rollo*, p. 49.
26 *People v. Francisco*, 436 Phil. 383, 390 (2002).

> SEC. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Consequently, a motion to quash a search warrant may be based on grounds extrinsic of the search warrant, such as (1) the place searched or the property seized are not those specified or described in the search warrant; and (2) there is no probable cause for the issuance of the search warrant.[27]

Thus, a search warrant is valid as long as it has all the elements set forth by the Constitution and may only be quashed if it lacks one or some of the said elements, or on those two grounds mentioned earlier. In this case, it was an error to quash the search warrant simply because the application thereof was without the personal endorsement of the Chief of the PNP.

Unfortunately, as discussed earlier, the Decision of the CA Sixth Division quashing Search Warrant Nos. A07-12100 to A07-12103 has already attained finality.

The Department of Justice, however, is not barred from filing an information against petitioner for trademark infringement and unfair competition if it still finds probable cause despite the absence of the materials confiscated by virtue of the defective search warrants through other pieces of evidence it has in its arsenal. This court has adopted a deferential attitude towards review of the executive's finding of probable cause.[28] This is based "not only upon the respect for the investigatory and [prosecutorial] powers granted by the Constitution to the executive department but upon practicality as well."[29]

WHEREFEORE, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, dated August 28, 2013, of petitioner Ferdinand V. Tomas is **PARTLY GRANTED**. The Court of Appeals Decision and Resolution, dated March 25, 2013 and July 5, 2013, respectively, are

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27 *Abuan v. People of the Philippines*, 536 Phil. 672, 692 (2006), citing *Franks v. State of Delaware*, 438 US 154, 98 S.Ct. 2674 (1978); *US v. Leon*, 468 US 897, 104 S.Ct. 3405 (1984); *US v. Mittelman*, 999 F.2d 440 (1993); *US v. Lee*, 540 F.2d 1205 (1976).

28 *ABS-CBN Corporation v. Gozon*, March 11, 2015, 753 SCRA 1, 30, citing *Punzalan v. Plata,* 717 Phil. 21, 32 (2013), [Per J. Mendoza, Third Division], citing *Paredes v. Calilung,* 546 Phil. 198, 224 (2007) [Per J. Chico-Nazario, Third Division].

29 *Id.* at 30-31, citing *Punzalan v. Plata, id.* at 33, citing *Buan v. Matugas*, 556 Phil. 110, 119 (2007). [Per J. Garcia, First Division].

REVERSED and **SET ASIDE** only insofar as they uphold the validity of Search Warrant Nos. A07-12100 to A07-12103.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

On official leave
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

FRANCIS H. JARDELEZA
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.

DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting 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

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
NOV 18 2016