

Republic of the Philippines  
Court of Appeals  
MANILA

**SPECIAL EIGHTH DIVISION**

PORTAL INNOVATIONS CORP.,  
Petitioner,

CA-G.R. SP No.96075

Members:

-versus-

SABIO, JR., J. L., *Chairman*  
\*TIJAM, N. G., *and*  
*DIMARANAN VIDAL, JJ.*

HON. DELIA H. PANGANIBAN, in  
her capacity as the Presiding  
Judge of the Regional Trial Court  
(Branch 64) of Makati City and CAL  
INTERNATIONAL LTD.,(Its  
Directors and Officers),  
Respondents.

Promulgated:

October 22, 2007

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DECISION

VIDAL, M.D., *J.*:

Before Us is a Petition<sup>1</sup> for Certiorari under Rule 65 of the Revised Rules of Court seeking to set aside the Order<sup>2</sup> dated 10 May 2006 issued by the Regional Trial Court (RTC), National Capital Judicial Region, Branch 64 of Makati City (Court a quo) presided by Judge DELIA PANGANIBAN in *Search Warrant No. 05-010* applied by Petitioner Portal Innovations Corp.(hereinafter Petitioner), which order granted the Motion<sup>3</sup> to Quash Search Warrant filed by Respondent CAL

<sup>\*</sup>Vice J. Jose C. Reyes, Jr., per Office Order No. 50-07-CMV

<sup>1</sup>Rollo,pp.2-21

<sup>2</sup>Id,pp.30-39

<sup>3</sup>Id,p.45

Energy International Ltd. (hereinafter Respondent CAL). Likewise, the instant Petition assails the subsequent court a quo's Order<sup>4</sup> dated 25 August 2006 denying the Petitioner's Motion for Reconsideration..

The dispositive portion of the first assailed Order *supra* states:

**“WHEREFORE, in view of the foregoing, Search Warrant No. 05-010 issued on 12 April 2005 is QUASHED.**

**SO ORDERED.”<sup>5</sup>**

The *fallo* of the Order dated 25 August 2006, *supra*, states:

**“WHEREFORE, in view of the foregoing the “Motion for Reconsideration(of the Order dated 10 May 2006)” is hereby DENIED. The Court's Order of 10 May 2006 is REITERATED. The “Motion (for the Return of the Seized Items)” is GRANTED. Accordingly, the Court's personnel are directed to return and/ or turn over to CAL ENERGY all the items turned-over to and are in the custody of the Court, which were seized in pursuant to Search Warrant 05-010. Additionally, the NBI and/ or SA Rommel J. Vallejo are ordered to return the unaccounted Tungsten 710 PDA or to replace the same with a similar device that is satisfactory to CAL ENENRGY.**

**SO ORDERED.”<sup>6</sup>**

#### **THE ANTECEDENTS:**

As synthesized by the Court a quo:

**This resolves the two Motions to Quash Search Warrant filed by respondent CAL Energy International LTD (CAL Energy), and individual respondents Jose Paulo Legaspi, Merlin Sy, Paolo Lopez and Geoffrey Gaudia on May 3, 2005 and May 9, 2005, respectively.**

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<sup>4</sup>Id,pp.24-29

<sup>5</sup>Id,p.39

<sup>6</sup>Id,pp.28-29

The Search Warrant referred to is Search Warrant No. 05-010 issued by this Court on April 12, 2005 pursuant to Sec.5, Rule 126 of the Rules of Court.

After hearing and after a determination that probable cause exist to hold respondents for violation of Section 33 (a) of Republic Act No. 8792, otherwise known as the Electronic Commerce Act of the Philippines, the Court issued Search Warrant 05-010 under question.

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Pursuant to the aforesaid Search Warrant, the operatives of the National Bureau of Investigation Anti-Human Trafficking Division (NBI-AHTRAD) and the NBI Anti-Fraud and Computer Crimes Division (NBI AFCCD) on April 14, 2005 implemented the Search Warrant and conducted the search at the office of CAL Energy at Q1 and Q3, 24<sup>th</sup> Floor, 6750 Ayala Avenue , Makati City. The NBI agent Rommel J. Vallejo submitted to this Court a two-page inventory of the items seized (Records pp.14-15).

The items are as follows:

1. 45 pcs. Assorted CDs
2. IT WSN-3 Compaq CPU/ Pentium 4 SN: 7218jyhz0144
3. IT WSN-2 Compaq CPU/P4 SN: 00019-054-441-814
4. IT WSN-1 1tp Proliant ML 370 Intel Xeon CPU SN:22763944
5. Sony Notebook Computer Model PCG-8402-1755258300044
6. Compaq Keyboard SN:8135596AN M8KR
7. Master View KUM Switch SN: 01-440029 AEO 120
8. Compaq Monitor S700 SN: 129-8500
9. Cisco System/ Lynksys Port Switch Model SD 208 SN: RE 600313001252 EB 1056 PP
10. Compaq Mouse C/T: F466BOMN3MQOQYY
11. IBM Thinkpad type 2647-4EA SN:99-RYBPY
12. 1pc. Safety deposit BOT containing 43 back-up tapes
13. Tungsten; 710 PDA C/N K 0R4 BQ 390 YK IMEI 351092500380342
14. HP scan jet 3400c SN: MY 11B210NC
15. 1 unit Treo Mobile Phone IMEI 01021500273\* 444

In the Order dated August 15, 2005 this Court indicated that the items seized were delivered to this Court upon motion of respondent of CAL Energy, Then Branch Clerk of Court, Atty. Josephine B. Faustino, rendered a report regarding the receipt by this Court of the items seized except Tungsten:710 PDA C/N K0RBQ390YK IMEI 351 09 250038024.

According to petitioner CAL ENERGY, Search Warrant No.05-010 should be quashed because it is a general warrant; that it is broadly worded in the sense that it authorizes the seizure of various computers, devices and peripherals in CAL ENERGY's premises without specifying their relation to the crime charged ; that the search conducted was illegal and any evidence that have been seized were obtained unlawfully and in violation of the constitutional rights of CAL ENERGY's officers and directors.

For individual respondents, they aver that Search Warrant No.05-010 should be quashed because of

1. Litis pendencia;
2. Private complainant violated the rule on forum shopping;
3. Absence of the applicant and his witnesses' personal knowledge of the grounds and evidence relied in the application for search warrant;
4. Lack of competent proof of particular acts constituting the violation of section 33 (a) of R.A 8792
5. Lack of probable cause
6. That search warrant is a general warrant.

On the other hand, the National Bureau of Investigation (NBI) in its Comment filed on 03 May 2005 contends; that the court is correct in finding that probable cause exists; that it is for the best interest of justice that the seized computers and other devices be opened and examined to determine whether the same were used in the alleged offense; that the search was legally obtained and properly executed.

Considering the arguments of both sides and in the light of the evidence presented before it for the purpose of the pending motions, the Court deems it

necessary to review its finding of probable cause for the issuance of Search Warrant No. 05-010.<sup>7</sup>

## THE ISSUES

Dissatisfied with the challenged Orders, *supra*, Petitioner comes now before Us raising the following issues:

### A.

THE TRIAL COURT, WITH ALL DUE RESPECT, COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ASSAILED ORDER DATED 25 AUGUST 2006 AS WELL AS ITS ORDER DATED 10 MAY 2006.<sup>8</sup>[:]

### B.

THE ASSAILED ORDER DATED 25 AUGUST 2006 AND THE ORDER DATED 10 MAY 2006 ISSUED BY THE TRIAL COURT ARE CONTRARY TO LAW<sup>9</sup>[:]

## OUR RULING

We shall discuss the issues jointly since they are intertwined.

Petitioner mainly posits that the Court a quo erred in relying to the alleged existence of alternate webserver site which prompted it to issue the challenged Orders.<sup>10</sup>

We are not convinced.

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<sup>7</sup>Id,pp.30-33

<sup>8</sup>Id,p.7

<sup>9</sup>Ibid.

<sup>10</sup>Id,pp.8-12

In order for a warrant to be valid the following requisites must be present:

1. it must be issued upon probable cause;
2. probable cause must be personally determined by the judge;
3. such judge must examine under oath or affirmation the complainant and the witnesses he may produce;and
4. the complainant must particularly described the place to be searched and the persons or things to be seized.<sup>11</sup>

A reading of the assailed Orders, supra, reveal that the primary reason for the quashing of Search Warrant No. 05-010 was anchored on the failure of the Petitioner to establish the existence of probable cause.

On this point, We take note of the ratiocinations of the Court on the essence of probable cause, thus:

**Before proceeding, it must be borne in mind that our jurisprudence is replete with cases that defines probable cause.**

**In the case of Burgos, Sr. et al vs. The Chief of Staff, AFP, et al. (133 SCRA 800), the Supreme Court said:**

**“Probable cause for a search is defined such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed and that the objects sought in connection with the offense are in the place sought to be searched”. (highlight supplied)**

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<sup>11</sup>People vs. Tiu Won Chua, 405 SCRA 280

Also in the case of Sony Music Entertainment (Phils.), Inc. et al. vs. Hon. Judge Español (453 SCRA 360) the Supreme court said:

**“A core requisite before a warrant shall validly issue is the existence of a probable cause, meaning the existence of such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed and that the objects sought in connection with the offense are in the place sought to be searched”.**

**As elucidated in the Court’s Order of 10 May 2006, the existence of an alternate webserver created uncertainty that engendered doubt in the mind of the Court on the existence of the equipments to be seized at the place to be searched. The Court also said that the place searched and the equipments seized turned out to be not fully established by the applicant and his witnesses; that there is doubt as to the relation of the equipment seized to the offense allegedly committed by the individual respondents. Thus, for all intents and purposes, the equipments allegedly used in committing the purported offense may well be located in the alternate webserver at Strata 100 Bldg., Emerald Ave., Pasig City and not in the place searched at Q1 and Q3 24<sup>th</sup> Flr. 6750 Ayala Ave., Makati City.<sup>12</sup> (underscoring supplied for emphasis)**

As borne by the recorded evidence, that certain vital information i.e., the existence of an alternate webserver which was withheld during the hearing of the application for search warrant spurred the court a quo in rendering the assailed Orders. Verily supposed material information if timely revealed by the Petitioner could have led to the outright denial of the application. The pertinent findings of the Court a quo are as follows:

**Based on the above-quoted transcript, it is apparent that the court was made to believe by Agent Vallejo and Mr. Samaniego that the equipments sought to be seized and were subsequently seized, were**

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<sup>12</sup>Id,pp.26-27

**allegedly used in committing the offense are definitely located at the office of CAL ENERGY. Subsequently, during the hearings on the motions to quash, the court found that this is not accurate. It would appear that there were information known to the applicant and his witnesses which were not disclosed to the court. Had the Court been informed, the Court would have reservation as regards the issuance of Search Warrant and would have asked for more details.**<sup>13</sup>xxx

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**xxx.The court though takes exception of the fact that the applicant's witness(Mr. Samaniego) knew about the possibility that the objects sought may not be in the place to be searched. That Mr. Samaniego chose not to disclose the same to the court for the lame reason that it will take time to apply for another search warrant.**

Clearly, had the court been informed beforehand about the implication of the existence of the alternate webserver, the court would have clarified from the applicant and his witnesses the matter regarding the location of the place to be searched, and would not have issued the questioned Search Warrant.

This is because said uncertainty would have engendered doubt in the mind of the Court on the existence of the equipments to be seized at the place to be searched at Q1 and Q3 24<sup>th</sup> Floor, 6750 Ayala Avenue, Makati City, and culpability of the individual respondent for violation of Sec.33 (a) RA 8792xxx.<sup>14</sup>  
(underscoring Ours for emphasis)

Definitely, it is incumbent upon the Petitioner as the applicant of the search warrant to specifically establish that the objects sought to be seized which were allegedly used in the commission of the crime were located at Q1 and Q3 24<sup>th</sup> Flr. 6750 Ayala Ave., Makati City, the place the Petitioner requested to be searched. To establish the existence of probable cause sufficient to justify the issuance of a search warrant, the

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<sup>13</sup>Id,p.35

<sup>14</sup>Id,p.38

applicant must show facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed and that the object sought in connection with the offense are in the **place sought to be searched**.<sup>15</sup>

Probable cause must be shown by the best evidence that could be obtained under the circumstances.<sup>16</sup> A perusal of the evidentiary records disclosed that the Petitioner failed to present concrete evidence to support its stance that the address cited by the Petitioner in the application for search warrant was the place of commission of the offense for violation of R.A 8792 , thus, the challenged Orders need not be disturbed.

It is noteworthy to stress herein that findings and conclusion of the trial court are entitled to great respect and finality unless there appears in the record some facts or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated which, if properly considered, would alter the results of the case.<sup>17</sup> Nothing of that sort has been shown in the case at bar.

Withal, for certiorari to lie, it must be shown that the tribunal, board or officer exercising judicial functions acted with grave abuse of discretion amounting to lack or excess of jurisdiction.<sup>18</sup> By “grave abuse of discretion” is meant such capricious and whimsical exercise of judgment which is equivalent to an excess, or a lack of jurisdiction and the abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined

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<sup>15</sup>People vs. Estrada, 296 SCRA 383

<sup>16</sup>Nala vs. Barroso, Jr., 408 SCRA 529

<sup>17</sup>Manangan vs. C.A, 425 SCRA 169

<sup>18</sup>Microsoft Corporation vs. Best Deal Computer Center Corporation, 389 SCRA 615

by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.<sup>19</sup> Certainly, said instances are not present in the case at bar.

**WHEREFORE**, premises considered, the Petition is hereby **DENIED** for evident lack of merit. The assailed Orders accordingly **STAND**.

**SO ORDERED.**

**MYRNA DIMARANAN VIDAL**  
Associate Justice

**WE CONCUR:**

**JOSE L. SABIO, JR.**  
Associate Justice

**NOEL G. TIJAM**  
Associate Justice

### **C E R T I F I C A T I O N**

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

**JOSE L. SABIO, JR.**  
Associate Justice  
Chairman Special 8<sup>th</sup> Division

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<sup>19</sup>Duero vs. Court of Appeals, 373 SCRA 11

