

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HONORABLE JUDGE AMANTE P. PURISIMA, COURT OF FIRST INSTANCE OF MANILA, BRANCH VII, AND PORFIRIO CANDELOSAS, NESTOR BAES, ELIAS L. ...

G.R. Nos. L-42050-66. November 20, 1978

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

These twenty-six (26) Petitions for Review filed by the People of the Philippines represented, respectively, by the Office of the City Fiscal of Manila, the Office of the Provincial Fiscal of Samar, and joined by the Solicitor General, are consolidated in this one Decision as they involve one basic question of law.

These Petitions or appeals involve three Courts of First Instance, namely: the Court of First Instance of Manila, Branch VII, presided by Hon. Amante P. Purisima (17 Petitions), the Court of First Instance of Manila, Branch XVIII, presided by Hon. Maximo A. Maceren (8 Petitions) and, the Court of First Instance of Samar, with Hon. Wenceslao M. Polo, presiding, (1 Petition).

Before those courts, Informations were filed charging the respective accused with "illegal possession of deadly weapon" in violation of Presidential Decree No. 9. On a motion to quash filed by the accused, the three Judges mentioned above issued in the respective cases filed before them — the details of which will be recounted below — an Order quashing or dismissing the Informations, on a common ground, viz, that the Information did not allege facts which constitute the offense penalized by Presidential Decree No. 9 because it failed to state one essential element of the crime.

Thus, are the Informations filed by the People sufficient in form and substance to constitute the offense of "illegal possession of deadly weapon" penalized under Presidential Decree (PD for short) No. 9. This is the central issue which we shall resolve and dispose of, all other corollary matters not being indispensable for the moment.

A - The Information filed by the People -

1. In L-42050-66, one typical Information filed with the Court presided by Judge Purisima follows:

"THE PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus- Crim. Case No. 19639

PORFIRIO CANDELOSAS Y DURAN, VIOLATION OF PAR. 3,

Accused. PRES. DECREE No. 9 OF

PROCLAMATION 1081

X ----- X

"INFORMATION

"The undersigned accuses PORFIRIO CANDELOSAS Y DURAN of a violation of paragraph 3, Presidential Decree No. 9 of Proclamation 1081, committed as follows:

"That on or about the 14th day of December, 1974, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully, feloniously and knowingly have in his possession and under his custody and control one (1) carving knife with a blade of 6-1/2 inches and a wooden handle of 5-1/4 inches, or an overall length of 11-3/4 inches, which the said accused carried outside of his residence, the said weapon not being used as a tool or implement necessary to earn his livelihood nor being used in connection therewith.

"Contrary to law." (p. 32, rollo of L-42050-66)

The other Informations are similarly worded except for the name of the accused, the date and place of the commission of the crime, and the kind of weapon involved.

2. In L-46229-32 and L-46313-16, the Information filed with the Court presided by Judge Maceren follows:

"THE PEOPLE OF THE PHILIPPINES, CRIM. CASE NO. 29677

Plaintiff, VIOL. OF PAR. 3,

PD 9 IN REL. TO LOI

- versus - No. 266 of the Chief

Executive dated April 1, 1975

REYNALDO LAQUI Y AQUINO,

Accused.

X ----- X

"INFORMATION

"The undersigned accuses REYNALDO LAQUI Y AQUINO of a VIOLATION OF PARAGRAPH 3, PRESIDENTIAL DECREE NO. 9 in relation to Letter of Instruction No. 266 of the Chief Executive dated April 1, 1975, committed as follows:

"That on or about the 28th day of January, 1977, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and knowingly carry outside of his residence a bladed and pointed weapon, to wit: an ice pick with an overall length of about 8 1/2 inches, the same not being used as a necessary tool or implement to earn his livelihood nor being used in connection therewith.

"Contrary to law." (p. 14, rollo of L-46229-32)

The other Informations are likewise similarly worded except for the name of the accused, the date and place of the commission of the crime, and the kind of weapon involved.

3. In L-46997, the Information before the Court of First Instance of Samar is quoted hereunder:

"PEOPLE OF THE PHILIPPINES,
Complainant, CRIM. CASE NO. 933

- versus - F o r :

PANCHITO REFUNCION, ILLEGAL POSSESSION OF
Accused. DEADLY WEAPON
(VIOLATION OF PD NO. 9)

X ----- X

"INFORMATION

"The undersigned First Assistant Provincial Fiscal of Samar, accuses PANCHITO REFUNCION of the crime of ILLEGAL POSSESSION OF DEADLY WEAPON or VIOLATION OF PD NO. 9 issued by the President of the Philippines on Oct. 2, 1972, pursuant to Proclamation No. 1081 dated Sept. 21 and 23, 1972, committed as follows:

"That on or about the 6th day of October, 1976, in the evening at Barangay Barruz, Municipality of Matuguinao, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, knowingly, wilfully, unlawfully and feloniously carried with him outside of his residence a deadly weapon called socyatan, an instrument which from its very nature is not such as could be used as a necessary tool or instrument to earn a livelihood, which act committed by the accused is a Violation of Presidential Decree No. 9.

"CONTRARY TO LAW." (p. 8, rollo of L-46997)

B - The Orders of dismissal -

In dismissing or quashing the Informations the trial courts concurred with the submittal of the defense that one essential element of the offense charged is missing from the Information, viz: that the carrying outside of the accused's residence of a bladed, pointed or blunt weapon is in furtherance or on the occasion of, connected with or related to subversion, insurrection, or rebellion, organized lawlessness or public disorder.

1. Judge Purisima reasoned out, inter alia, in this manner:

"x x x the Court is of the opinion that in order that possession of bladed weapon or the like outside residence may be prosecuted and tried under P.D. No. 9, the information must specifically allege that the possession of bladed weapon charged was for the purpose of abetting, or in furtherance of the conditions of rampant criminality, organized lawlessness, public disorder, etc. as are contemplated and recited in Proclamation No. 1081, as justification therefor. Devoid of this specific allegation, not necessarily in the same words, the information is not complete, as it does not allege sufficient facts to constitute the offense contemplated in P.D. No. 9. The information in these cases under consideration suffer from this defect.

“xxx xxx xxx

"And while there is no proof of it before the Court, it is not difficult to believe the murmurings of detained persons brought to Court upon a charge of possession of bladed weapons under P.D. No. 9, that more than ever before, policemen -- of course not all can be so heartless -- now have in their hands P.D. No. 9 as a most convenient tool for extortion, what with the terrifying risk of being sentenced to imprisonment of five to ten years for a rusted kitchen knife or a pair of scissors, which only God knows where it came from. Whereas before martial law an extortion-minded peace officer had to have a stock of the cheapest paltik, and even that could only convey the coercive message of one year in jail, now anything that has the semblance of a sharp edge or pointed object, available even in trash cans, may already serve the same purpose, and yet five to ten times more incriminating than the infamous paltik.

"For sure, P.D. No. 9 was conceived with the best of intentions and wisely applied, its necessity can never be assailed. But it seems it is backfiring, because it is too hot in the hands of policemen who are inclined to backsliding.

"The checkvalves against abuse of P.D. No. 9 are to be found in the heart of the Fiscal and the conscience of the Court, and hence this resolution, let alone technical legal basis, is prompted by the desire of this Court to apply said checkvalves." (pp. 55-57, rollo of L-42050-66)

2. Judge Maceren in turn gave his grounds for dismissing the charges as follows:

"xxx xxx xxx

"As earlier noted the 'desired result' sought to be attained by Proclamation No. 1081 is the maintenance of law and order throughout the Philippines and the prevention and suppression of all forms of lawless violence as well as any act of insurrection or rebellion. It is therefore reasonable to conclude from the foregoing premises that the carrying of bladed, pointed or blunt weapons outside of one's residence which is made unlawful and punishable by said par. 3 of P.D. No. 9 is one that abets subversion, insurrection or rebellion, lawless violence, criminality, chaos and public disorder or is intended to bring about these conditions. This conclusion is further strengthened by the fact that all previously existing laws that also made the carrying of similar weapons punishable have not been repealed, whether expressly or impliedly. It is noteworthy that Presidential Decree No. 9 does not contain any repealing clause or provisions.

"xxx xxx xxx

"The mere carrying outside of one's residence of these deadly weapons if not concealed in one's person and if not carried in any of the aforesaid specified places, would appear to be not unlawful and punishable by law.

"With the promulgation of Presidential Decree No. 9, however, the prosecution, through Assistant Fiscal

Hilario H. Laqui, contends in his opposition to the motion to quash, that this act is now made unlawful and punishable, particularly by paragraph 3 thereof, regardless of the intention of the person carrying such weapon because the law makes it 'mala prohibita'. If the contention of the prosecution is correct, then if a person happens to be caught while on his way home by law enforcement officers carrying a kitchen knife that said person had just bought from a store in order that the same may be used by one's cook for preparing the meals in one's home, such person will be liable for punishment with such a severe penalty as imprisonment from five to ten years under the decree. Such person cannot claim that said knife is going to be used by him to earn a livelihood because he intended it merely for use by his cook in preparing his meals.

"This possibility cannot be discounted if Presidential Decree No. 9 were to be interpreted and applied in the manner that the prosecution wants it to be done. The good intentions of the President in promulgating this decree may thus be perverted by some unscrupulous law enforcement officers. It may be used as a tool of oppression and tyranny or of extortion.

"xxx xxx xxx

"It is therefore the considered and humble view of this Court that the act which the President intended to make unlawful and punishable by Presidential Decree No. 9, particularly by paragraph 3 thereof, is one that abets or is intended to abet subversion, rebellion, insurrection, lawless violence, criminality, chaos and public disorder." (pp. 28-30, rollo of L-46229-32)

3. Judge Polo of the Court of First Instance of Samar expounded his order dismissing the Information filed before him, thus:

"x x x We believe that to constitute an offense under the aforecited Presidential Decree, the same should be or there should be an allegation that a felony was committed in connection or in furtherance of subversion, rebellion, insurrection, lawless violence and public disorder. Precisely Proclamation No. 1081 declaring a state of martial law throughout the country was issued because of wanton destruction to lives and properties widespread lawlessness and anarchy. And in order to restore the tranquility and stability of the country and to secure the people from violence and loss of lives in the quickest possible manner and time, carrying firearms, explosives and deadly weapons without a permit unless the same would fall under the exception is prohibited. This conclusion becomes more compelling when we consider the penalty imposable, which is from five years to ten years. A strict enforcement of the provision of the said law would mean the imposition of the Draconian penalty upon the accused.

"xxx xxx xxx

"It is public knowledge that in rural areas, even before and during martial law, as a matter of status symbol, carrying deadly weapons is very common, not necessarily for committing a crime nor as their farm implement but for self-preservation or self-defense if necessity would arise specially in going to and from their farm." (pp. 18-19, rollo of L-46997)

In most if not all of the cases, the orders of dismissal were given before arraignment of the accused. In the

criminal case before the Court of First Instance of Samar the accused was arraigned but at the same time moved to quash the Information. In all the cases where the accused were under arrest, the three Judges ordered their immediate release unless held on other charges.

C - The law under which the Informations in question were filed by the People.

As seen from the Informations quoted above, the accused are charged with illegal possession of deadly weapon in violation of Presidential Decree No. 9, Paragraph 3.

We quote in full Presidential Decree No. 9, to wit:

"PRESIDENTIAL DECREE NO. 9

"DECLARING VIOLATIONS OF GENERAL ORDERS NO. 6 AND NO. 7 DATED SEPTEMBER 22, 1972, AND SEPTEMBER 23, 1972, RESPECTIVELY, TO BE UNLAWFUL AND PROVIDING PENALTIES THEREFOR.

"WHEREAS, pursuant to Proclamation No. 1081 dated September 21, 1972, the Philippines has been placed under a state of martial law;

"WHEREAS, by virtue of said Proclamation No. 1081, General Order No. 6 dated September 22, 1972 and General Order No. 7 dated September 23, 1972, have been promulgated by me;

"WHEREAS, subversion, rebellion, insurrection, lawless violence, criminality, chaos and public disorder mentioned in the aforesaid Proclamation No. 1081 are committed and abetted by the use of firearms, explosives and other deadly weapons;

"NOW, THEREFORE, I, FERDINAND E. MARCOS, Commander-in-Chief of all the Armed Forces of the Philippines, in order to attain the desired result of the aforesaid Proclamation No. 1081 and General Orders Nos. 6 and 7, do hereby order and decree that:

"1. Any violation of the aforesaid General Orders Nos. 6 and 7 is unlawful and the violator shall, upon conviction suffer:

(a) The mandatory penalty of death by a firing squad or electrocution as a Military Court/Tribunal/Commission may direct, if the firearm involved in the violation is unlicensed and is attended by assault upon, or resistance to persons in authority or their agents in the performance of their official functions resulting in death to said persons in authority or their agent; or if such unlicensed firearm is used in the commission of crimes against persons, property or chastity causing the death of the victim, or used in violation of any other General Orders and/or Letters of Instructions promulgated under said Proclamation No. 1081;

(b) The penalty of imprisonment ranging from twenty years to life imprisonment as a Military Court/Tribunal/Commission may direct, when the violation is not attended by any of the circumstances enumerated under the preceding paragraph;

(c) The penalty provided for in the preceding paragraphs shall be imposed upon the owner, president, manager, members of the board of directors or other responsible officers of any public or private firms, companies, corporations or entities who shall willfully or knowingly allow any of the firearms owned by such firm, company, corporation or entity concerned to be used in violation of said General Orders Nos. 6 and 7.

"2. It is unlawful to possess deadly weapons, including hand grenades, rifle grenades and other explosives, including, but not limited to, 'pill box bombs,' 'molotov cocktail bombs,' 'fire bombs,' or other incendiary device consisting of any chemical, chemical compound, or detonating agents containing combustible units or other ingredients in such proportion, quantity, packing, or bottling that ignites by fire, by friction, by concussion, by percussion, or by detonation of all or part of the compound or mixture which may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing injury or death of a person; and any person convicted thereof shall be punished by imprisonment ranging from ten to fifteen years as a Military Court/Tribunal/Commission may direct.

"3. It is unlawful to carry outside of residence any bladed, pointed or blunt weapon such as 'fan knife,' 'spear,' 'dagger,' 'bolo,' 'balisong,' 'barong,' 'kris,' or club, except where such articles are being used as necessary tools or implements to earn a livelihood and while being used in connection therewith; and any person found guilty thereof shall suffer the penalty of imprisonment ranging from five to ten years as a Military Court/Tribunal/Commission may direct.

"4. When the violation penalized in the preceding paragraphs 2 and 3 is committed during the commission of or for the purpose of committing, any other crime, the penalty shall be imposed upon the offender in its maximum extent, in addition to the penalty provided for the particular offenses committed or intended to be committed.

"Done in the City of Manila, this 2nd day of October in the year of Our Lord, nineteen hundred and seventy-two.

"(SGD.) FERDINAND E. MARCOS
President
Republic of the Philippines"

D - The arguments of the People -

In the Comment filed in these cases by the Solicitor General who as stated earlier joins the City Fiscal of Manila and the Provincial Fiscal of Samar in seeking the setting aside of the questioned orders of dismissal, the main argument advanced on the issue now under consideration is that a perusal of paragraph 3 of P.D. 9 shows that the prohibited acts need not be related to subversive activities; that the act proscribed is essentially a malum

prohibitum penalized for reasons of public policy.[1]

The City Fiscal of Manila in his brief adds further that in statutory offenses the intention of the accused who commits the act is immaterial; that it is enough if the prohibited act is voluntarily perpetuated; that P.D. 9 provides and condemns not only the carrying of said weapon in connection with the commission of the crime of subversion or the like, but also that of criminality in general, that is, to eradicate lawless violence which characterized pre-martial law days. It is also argued that the real nature of the criminal charge is determined not from the caption or preamble of the information nor from the specification of the provision of law alleged to have been violated but by the actual recital of facts in the complaint or information.[2]

E - Our Ruling on the matter -

1. It is a constitutional right of any person who stands charged in a criminal prosecution to be informed of the nature and cause of the accusation against him.³

Pursuant to the above, Section 5, Rule 110 of the Rules of Court, expressly requires that for a complaint or information to be sufficient it must, inter alia, state the designation of the offense by the statute, and the acts or omissions complained of as constituting the offense. This is essential to avoid surprise on the accused and to afford him the opportunity to prepare his defense accordingly.[4]

To comply with these fundamental requirements of the Constitution and the Rules on Criminal Procedure, it is imperative for the specific statute violated to be designated or mentioned in the charge. In fact, another compelling reason exists why a specification of the statute violated is essential in these cases. As stated in the order of respondent Judge Maceren the carrying of so-called "deadly weapons" is the subject of another penal statute and a Manila city ordinance. Thus, Section 26 of Act No. 1780 provides:

"Section 26. It should be unlawful for any person to carry concealed about his person any bowie knife, dirk, dagger, kris, or other deadly weapon: x x x. Any person violating the provisions of this section shall, upon conviction in a court of competent jurisdiction, be punished by a fine not exceeding five hundred pesos, or by imprisonment for a period not exceeding six months, or both such fine and imprisonment, in the discretion of the court."

Ordinance No. 3820 of the City of Manila as amended by Ordinance No. 3928 which took effect on December 4, 1957, in turn penalizes with a fine of not more than P200.00 or imprisonment for not more than one month, or both, at the discretion of the court, anyone who shall carry concealed in his person in any manner that would disguise its deadly character any kind of firearm, bowie knife, or other deadly weapon . . . in any public place. Consequently, it is necessary that the particular law violated be specified as there exists a substantial difference between the statute and city ordinance on the one hand and P.D. 9 (3) on the other regarding the circumstances of the commission of the crime and the penalty imposed for the offense.

We do not agree with petitioner that the above-mentioned statute and the city ordinance are deemed repealed by P.D. 9 (3).[5] P.D. 9 (3) does not contain any repealing clause or provision, and repeal by implication is not favored.[6] This principle holds true with greater force with regards to penal statutes which as a rule are to be construed strictly against the state and liberally in favor of the accused.[7] In fact, Article 7 of the New Civil Code provides that laws are repealed only by subsequent ones and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary.

Thus we are faced with the situation where a particular act may be made to fall, at the discretion of a police officer or a prosecuting fiscal, under the statute, or the city ordinance, or the presidential decree. That being the

case, the right becomes more compelling for an accused to be confronted with the facts constituting the essential elements of the offense charged against him, if he is not to become an easy pawn of oppression and harassment, or of negligent or misguided official action — a fear understandably shared by respondent Judges who by the nature of their judicial functions are daily exposed to such dangers.

2. In all the Informations filed by petitioner the accused are charged in the caption as well as in the body of the Information with a violation of paragraph 3, P.D. 9. What then are the elements of the offense treated in the presidential decree in question?

We hold that the offense carries two elements: first, the carrying outside one's residence of any bladed, blunt, or pointed weapon, etc. not used as a necessary tool or implement for a livelihood; and second, that the act of carrying the weapon was either in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder.

It is the second element which removes the act of carrying a deadly weapon, if concealed, outside of the scope of the statute or the city ordinance mentioned above. In other words, a simple act of carrying any of the weapons described in the presidential decree is not a criminal offense in itself. What makes the act criminal or punishable under the decree is the motivation behind it. Without that motivation, the act falls within the purview of the city ordinance or some statute when the circumstances so warrant.

Respondent Judges correctly ruled that this can be the only reasonable, logical, and valid construction given to P.D. 9 (3).

3. The position taken by petitioner that P.D. 9 (3) covers one and all situations where a person carries outside his residence any of the weapons mentioned or described in the decree irrespective of motivation, intent, or purpose, converts these cases into one of "statutory construction". That there is ambiguity in the presidential decree is manifest from the conflicting views which arise from its implimentation. When ambiguity exists, it becomes a judicial task to construe and interpret the true meaning and scope of the measure, guided by the basic principle that penal statutes are to be construed and applied liberally in favor of the accused and strictly against the state.

4. In the construction or interpretation of a legislative measure - a presidential decree in these cases - the primary rule is to search for and determine the intent and spirit of the law. Legislative intent is the controlling factor, for in the words of this Court in *Hidalgo v. Hidalgo*, per Mr. Justice Claudio Teehankee, whatever is within the spirit of a statute is within the statute, and this has to be so if strict adherence to the letter would result in absurdity, injustice and contradictions.[8]

There are certain aids available to Us to ascertain the intent or reason for P.D. 9 (3).

First, the presence of events which led to or precipitated the enactment of P.D. 9. These events are clearly spelled out in the "Whereas" clauses of the presidential decree, thus: (1) the state of martial law in the country pursuant to Proclamation 1081 dated September 21, 1972; (2) the desired result of Proclamation 1081 as well as General Orders Nos. 6 and 7 which are particularly mentioned in P.D. 9; and (3) the alleged fact that subversion, rebellion, insurrection, lawless violence, criminality, chaos, and public disorder mentioned in Proclamation 1081 are committed and abetted by the use of firearms and explosives and other deadly weapons.

The Solicitor General however contends that a preamble of a statute usually introduced by the word "whereas", is not an essential part of an act and cannot enlarge or confer powers, or cure inherent defects in the statute (p. 120, rollo of L-42050-66); that the explanatory note or enacting clause of the decree, if it indeed limits the violation of the decree, cannot prevail over the text itself inasmuch as such explanatory note merely states or explains the reason which prompted the issuance of the decree. (pp. 114-115, rollo of 46997)

We disagree with these contentions. Because of the problem of determining what acts fall within the purview of P.D. 9, it becomes necessary to inquire into the intent and spirit of the decree and this can be found among others in the preamble or "whereas" clauses which enumerate the facts or events which justify the promulgation of the decree and the stiff sanctions stated therein.

"A 'preamble' is the key of the statute, to open the minds of the makers as to the mischiefs which are to be remedied, and objects which are to be accomplished, by the provisions of the statute." (West Norman Timber v. State, 224 P. 2d 635, 639, cited in Words and Phrases, "Preamble"; italics supplied)

"While the preamble of a statute is not strictly a part thereof, it may, when the statute is in itself ambiguous and difficult of interpretation, be resorted to, but not to create a doubt or uncertainty which otherwise does not exist." (James v. Du Bois, 16 N.J.L. (1 Har.) 285, 294, cited in Words and Phrases, "Preamble")

In *Aboitiz Shipping Corporation, et al., v. The City of Cebu, et al.*, this Court had occasion to state that "(L)egislative intent must be ascertained from a consideration of the statute as a whole, and not of an isolated part or a particular provision alone. This is a cardinal rule of statutory construction. For taken in the abstract, a word or phrase might easily convey a meaning quite different from the one actually intended and evident when the word or phrase is considered with those with which it is associated. Thus, an apparently general provision may have a limited application if read together with other provisions." [9]

Second, the result or effects of the presidential decree must be within its reason or intent.

In the paragraph immediately following the last "Whereas" clause, the presidential decree states:

"NOW, THEREFORE, I, FERDINAND E. MARCOS, Commander-in-Chief of all the Armed Forces of the Philippines, in order to attain the desired result of the aforesaid Proclamation No. 1081 and General Orders Nos. 6 and 7, do hereby order and decree that:

"xxx xxx xxx"

From the above it is clear that the acts penalized in P.D. 9 are those related to the desired result of Proclamation 1081 and General Orders Nos. 6 and 7. General Orders Nos. 6 and 7 refer to firearms and therefore have no relevance to P.D. 9 (3) which refers to blunt or bladed weapons. With respect to Proclamation 1081 some of the underlying reasons for its issuance are quoted hereunder:

"WHEREAS, these lawless elements having taken up arms against our duly constituted government and against our people, and having committed and are still committing acts of armed insurrection and rebellion consisting of armed raids, forays, sorties, ambushes, wanton acts of murders, spoilage, plunder, looting, arsons, destruction of public and private buildings, and attacks against innocent and defenseless civilian lives and property, all of which activities have seriously endangered and continue to endanger public order and safety and the security of the nation, x x x."

" xxx xxx xxx

"WHEREAS, it is evident that there is throughout the land a state of anarchy and lawlessness, chaos and disorder, turmoil and destruction of a magnitude equivalent to an actual war between the forces of our duly constituted government and the New People's Army and their satellite organizations because of the unmitigated forays, raids, ambushes, assaults, violence, murders, assassinations, acts of terror, deceptions, coercions, threats, intimidations, treachery, machinations, arsons, plunders and depredations committed and being committed by the aforesaid lawless elements who have pledged to the whole nation that they will not stop their dastardly effort and scheme until and unless they have fully attained their primary and ultimate purpose of forcibly seizing political and state power in this country by overthrowing our present duly constituted government, x x x." (See Book I, Vital Documents on the Declaration of Martial Law in the Philippines by the Supreme Court of the Philippines, pp. 13-39)

It follows that it is only that act of carrying a blunt or bladed weapon with a motivation connected with or related to the afore-quoted desired result of Proclamation 1081 that is within the intent of P.D. 9 (3), and nothing else.

"Statutes are to be construed in the light of purposes to be achieved and the evils sought to be remedied." (U.S. v. American Tracking Association, 310 U.S. 534, cited in *LVN Pictures v. Philippine Musicians Guild*, 110 Phil. 725, 731; italics supplied)

"When construing a statute, the reason for its enactment should be kept in mind, and the statute should be construed with reference to its intended scope and purpose." (Statutory Construction by E.T. Crawford, pp. 604-605, cited in *Commissioner of Internal Revenue v. Filipinas Compañía de Seguros*, 107 Phil. 1055, 1060; italics supplied)

5. In the construction of P.D. 9 (3) it becomes relevant to inquire into the consequences of the measure if a strict adherence to the letter of the paragraph is followed.

It is a salutary principle in statutory construction that there exists a valid presumption that undesirable consequences were never intended by a legislative measure, and that a construction of which the statute is fairly susceptible is favored, which will avoid all objectionable, mischievous, indefensible, wrongful, evil, and injurious consequences.[9-a]

It is to be presumed that when P.D. 9 was promulgated by the President of the Republic there was no intent to work a hardship or an oppressive result, a possible abuse of authority or act of oppression, arming one person with a weapon to impose hardship on another, and so on.[10]

At this instance We quote from the order of Judge Purisima the following:

"And while there is no proof of it before the Court, it is not difficult to believe the murmurings of detained persons brought to Court upon a charge of possession of bladed weapons under P.D. No. 9, that more than ever before, policemen -- of course not all can be so heartless -- now have in their hands P.D. No. 9 as a most convenient tool for extortion, what with the terrifying risk of being sentenced to imprisonment of five to ten years for a rusted kitchen knife or a pair of scissors, which only God knows where it came from. Whereas before martial law an extortion-minded peace officer had to have a stock of the cheapest paltik, and even that could only convey the coercive message of one year in jail, now anything that has the semblance of a sharp edge or pointed object, available even in trash cans, may already serve the same purpose, and yet five to ten times more incriminating than the infamous paltik." (pp. 72-73, rollo L-42050-66)

And as respondent Judge Maceren points out, the people's interpretation of P.D. 9 (3) results in absurdity at

times. To his example We may add a situation where a law-abiding citizen, a lawyer by profession, after gardening in his house remembers to return the bolo used by him to his neighbor who lives about 30 meters or so away and while crossing the street meets a policeman. The latter upon seeing the bolo being carried by that citizen places him under arrest and books him for a violation of P.D. 9 (3). Could the presidential decree have been conceived to produce such absurd, unreasonable, and insensible results?

6. Penal statutes are to be construed strictly against the state and liberally in favor of an accused.

American jurisprudence sets down the reason for this rule to be "the tenderness of the law for the rights of individuals; the object is to establish a certain rule by conformity to which mankind would be safe, and the discretion of the court limited." [11] The purpose is not to enable a guilty person to escape punishment through a technicality but to provide a precise definition of forbidden acts. [12]

Our own decisions have set down the same guidelines in this manner, viz:

"Criminal statutes are to be construed strictly. No person should be brought within their terms who is not clearly within them, nor should any act be pronounced criminal which is not made clearly so by the statute." (U.S. v. Abad Santos, 36 Phil. 243, 246)

"The rule that penal statutes are given a strict construction is not the only factor controlling the interpretation of such laws, instead, the rule merely serves as an additional, single factor to be considered as an aid in determining the meaning of penal laws." (People v. Manantan, 5 SCRA 684, 692)

F. The Informations filed by petitioner are fatally defective.

The two elements of the offense covered by P.D. 9 (3) must be alleged in the Information in order that the latter may constitute a sufficiently valid charge. The sufficiency of an Information is determined solely by the facts alleged therein. [13] Where the facts are incomplete and do not convey the elements of the crime, the quashing of the accusation is in order.

Section 2(a), Rule 117 of the Rules of Court provides that the defendant may move to quash the complaint or information when the facts charged do not constitute an offense.

In U.S. v. Gacutan, 1914, it was held that where an accused is charged with knowingly rendering an unjust judgment under Article 204 of the Revised Penal Code, failure to allege in the Information that the judgment was rendered knowing it to be unjust, is fatal. [14]

In People v. Yadao, 1954, this Court through then Justice Cesar Bengzon who later became Chief Justice of the Court affirmed an order of the trial court which quashed an Information wherein the facts recited did not constitute a public offense as defined in Section 1, Republic Act 145. [15]

G - The filing of these Petitions was unnecessary because the People could have availed itself of other available remedies below.

Pertinent provisions of the Rules of Court follow:

"Rule 117, Section 7. Effect of sustaining the motion to quash. - If the motion to quash is sustained the court may order that another information be filed. If such order is made the defendant, if in custody, shall remain so

unless he shall be admitted to bail. If such order is not made or if having been made another information is not filed within a time to be specified in the order, or within such further time as the court may allow for good cause shown, the defendant, if in custody, shall be discharged therefrom, unless he is in custody on some other charge."

"Rule 110, Section 13. Amendment. - The information or complaint may be amended, in substance or form, without leave of court, at any time before the defendant pleads; and thereafter and during the trial as to all matters of form, by leave and at the discretion of the court, when the same can be done without prejudice to the rights of the defendant."

xxx xxx xxx

Two courses of action were open to Petitioner upon the quashing of the Informations in these cases, viz:

First, if the evidence on hand so warranted, the People could have filed an amended Information to include the second element of the offense as defined in the disputed orders of respondent Judges. We have ruled that if the facts alleged in the Information do not constitute a punishable offense, the case should not be dismissed but the prosecution should be given an opportunity to amend the Information.[16]

Second, if the facts so justified, the People could have filed a complaint either under Section 26 of Act No. 1780, Second, quoted earlier, or Manila City Ordinance No. 3820, as amended by Ordinance No. 3928, especially since in most if not all of the cases, the dismissal was made prior to arraignment of the accused and on a motion to quash.

Section 8, Rule 117 states that:

"An order sustaining the motion to quash is not a bar to another prosecution for the same offense unless the motion was based on the grounds specified in section 2, subsections (f) and (h) of this rule."

Under the foregoing, the filing of another complaint or Information is barred only when the criminal action or liability had been extinguished (Section 2(f)) or when the motion to quash was granted for reasons of double jeopardy. (ibid., [h])

As to whether or not a plea of double jeopardy may be successfully invoked by the accused in all these cases should new complaints be filed against them, is a matter We need not resolve for the present.

H - We conclude with high expectations that police authorities and the prosecuting arm of the government true to the oath of office they have taken will exercise utmost circumspection and good faith in evaluating the particular circumstances of a case so as to reach a fair and just conclusion if a situation falls within the purview of P.D. 9 (3) and the prosecution under said decree is warranted and justified. This obligation becomes a sacred duty in the face of the severe penalty imposed for the offense.

On this point, We commend the Chief State Prosecutor Rodolfo A. Nocon on his letter to the City Fiscal of Manila on October 15, 1975, written for the Secretary, now Minister of Justice, where he stated the following:

"In any case, please study well each and every case of this nature so that persons accused of carrying bladed weapons, specially those whose purpose is not to subvert the duly constituted authorities, may not be unduly

indicted for the serious offenses falling under P.D. No. 9."^[17]

Yes, while it is not within the power of courts of justice to inquire into the wisdom of a law, it is however a judicial task and prerogative to determine if official action is within the spirit and letter of the law and if basic fundamental rights of an individual guaranteed by the Constitution are not violated in the process of its implementation. We have to face the fact that it is an unwise and unjust application of a law, necessary and justified under prevailing circumstances, which renders the measure an instrument of oppression and evil and leads the citizenry to lose their faith in their government.

WHEREFORE, We DENY these 26 Petitions for Review and We AFFIRM the Orders of respondent Judges dismissing or quashing the Information concerned, subject however to Our observations made in the preceding pages 23 to 25 of this Decision regarding the right of the State or Petitioner herein to file either an amended Information under Presidential Decree No. 9, paragraph 3, or a new one under other existing statute or city ordinance as the facts may warrant.

Without costs.

SO ORDERED.

Fernando, Teehankee, Santos, Fernandez, and Guerrero, JJ., concur.

Castro, C.J., and Antonio, J., in the result.

Barredo, J., concurs with the qualification that under existing jurisprudence conviction is possible, without the need of amending information, in violation of other laws or ordinance on concealment of deadly weapon.

Makasiar, J., concurs with Justice Barredo in that under the information, the accused can be validly convicted of violating Sec. 26 of Act No. 1780 or the city or town ordinances on carrying concealed weapons.

Concepcion, Jr., J., concurs with the additional observation that accused could properly be convicted of a violation of Art 1780 of the Philippine Commission or of the ordinance.

Aquino, J., took no part.

[1] p. 118, rollo of L-42050-66

[2] pp. 10-11, brief of Petitioner at p. 218, *ibid*.

[3] Art. IV, Sec. 19, 1973 Constitution

[4] Francisco on the Revised Rules of Court, 1969 Ed., Vol. on Criminal Procedure, p. 86

[5] pp. 33-34 brief of Petitioner filed by the City Fiscal of Manila

[6] Valera v. Tuason, Jr., et al., 80 Phil. 823, citing U.S. v. Palacio, 33 Phil. 208 Quimsing v. Lachica, 2 SCRA 182 Almeda v. Florentino, 15 SCRA 514 Lechoco v. Civil Aeronautics Board, 43 SCRA 670

[7] People v. Elkanish, 1951, 90 Phil. 53, 57 People v. Yadao, 1954, 94 Phil. 726, 728

[8] 33 SCRA 105. See also 73 Am Jur 2d 351 citing: United States v. N.E. Rosenblum Truck Lines, Inc., 315 US 50, 86 L Ed 671; United States v. Stone & Downer Co., 274 US 225, 71 L Ed 1013; Ebert v. Poston, 266 US 548, 69 L Ed 435; Wisconsin C.R. Co. v. Forsythe, 159 US 46, 40 L Ed 71.

[9] 13 SCRA 449, 453; Emphasis supplied.

[9-a] 73 Am Jur 2d 428

[10] See 73 Am Jur 2d 432-433 for cases on the foregoing undesirable consequences.

[11] United States v. Harris, 177 US 305, 44 L Ed 780, 20 S Ct 609; Braffith v. Virgin Islands (CA3) 26 F2d 646; Caudill v. State, 224 Ind 531, 69 NE2d 549; Jennings v. Commonwealth, 109 Va 821, 63 SE 1080, all cited in 73 Am Jur 2d, 452.

[12] State v. Zazzaro, 20 A 2d 737, quoted in Martin's Handbook on Statutory Construction, Rev. Ed. pp. 183-184

[13] People v. Supnad, 7 SCRA 603, 606.

[14] 28 Phil. 128. See Moran, Comments on the Rules of Court, 1970 Ed., Vol. 4, p. 222

[15] 94 Phil. 726

[16] People v. Plaza, 7 SCRA 617

[17] This letter which was addressed to the City Fiscal of Manila referred to a decision of the Court of First Instance of Manila, Branch III, in Criminal Case No. 21178, "People vs. Conrado C. Petate, for violation of Presidential Decree No. 9.

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