

**ELIZALDE MALALOAN AND MARLON LUAREZ, PETITIONERS, VS.
COURT OF APPEALS; HON. ANTONIO J. FINEZA, IN HIS CAPACITY AS
PRESIDING JUDGE, BRANCH 131, REGIONAL TRIAL COURT OF
KALOOKAN ...**

G.R. No. 104879. May 06, 1994

Ponente: REGALADO, J.

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REGALADO, J.:

Creative legal advocacy has provided this Court with another *prima facie* impressionis case through the present petition wherein the parties have formulated and now pose for resolution the following issue: Whether or not a court may take cognizance of an application for a search warrant in connection with an offense committed outside its territorial boundary and, thereafter, issue the warrant to conduct a search on a place outside the court's supposed territorial jurisdiction.[1]

The factual background and judicial antecedents of this case are best taken from the findings of respondent Court of Appeals[2] on which there does not appear to be any dispute, to wit:

"From the pleadings and supporting documents before the Court, it can be gathered that on March 22, 1990, 1st Lt. Absalon V. Salboro of the CAPCOM Northern Sector (now Central Sector) filed with the Regional Trial Court of Kalookan City an application for search warrant. The search warrant was sought for in connection with an alleged violation of P.D. 1866 (Illegal Possession of Firearms and Ammunitions) perpetrated at No. 25 Newport St., corner Marlboro St., Fairview, Quezon City. On March 23, 1990, respondent RTC Judge of Kalookan City issued Search Warrant No. 95-90. On the same day, at around 2:30 p.m., members of the CAPCOM, armed with subject search warrant, proceeded to the situs of the offense alluded to, where a labor seminar of the Ecumenical Institute for Labor Education and Research (EILER) was then taking place. According to CAPCOM's 'Inventory of Property Seized,' firearms, explosive materials and subversive documents, among others, were seized and taken during the search. And all the sixty-one (61) persons found within the premises searched were brought to Camp Karingal, Quezon City but most of them were later released, with the exception of the herein petitioners, EILER Instructors, who were indicted for violation of P.D. 1866 in Criminal Case No. Q-90-11757 before Branch 88 of the Regional Trial Court of Quezon City, presided over by respondent Judge Tirso D.C. Velasco.

"On July 10, 1990, petitioners presented a 'Motion for Consolidation, Quashal of Search Warrant and For the Suppression of All Illegally Acquired Evidence' before the Quezon City court; and a 'Supplemental Motion to the Motion for Consolidation, Quashal of Search Warrant and Exclusion of Evidence Illegally Obtained'.

"On September 21, 1990, the respondent Quezon City Judge issued the challenged order, consolidating subject cases but denying the prayer for the quashal of the search warrant under attack, the validity of which warrant was upheld; opining that the same falls under the category of Writs and Processes, within the contemplation of paragraph 3(b) of the Interim Rules and Guidelines, and can be served not only within the territorial jurisdiction of the issuing court but anywhere in the judicial region of the issuing court (National Capital Judicial Region); x x x

"Petitioner's motion for reconsideration of the said Order under challenge, having been denied by the assailed Order of October 5, 1990, petitioners have come to this Court via the instant petition, raising the sole issue:

'WHETHER OR NOT A COURT MAY TAKE COGNIZANCE OF AN APPLICATION FOR A SEARCH WARRANT IN CONNECTION WITH AN OFFENSE ALLEGEDLY COMMITTED OUTSIDE ITS TERRITORIAL JURISDICTION AND TO ISSUE A WARRANT TO CONDUCT A SEARCH ON A PLACE LIKEWISE OUTSIDE ITS TERRITORIAL JURISDICTION.'

X X X

Respondent Court of Appeals rendered judgment,[3] in effect affirming that of the trial court, by denying due course to the petition for certiorari and lifting the temporary restraining order it had issued on November 29, 1990 in connection therewith. This judgment of respondent court is now impugned in and sought to be reversed through the present recourse before us.

We are not favorably impressed by the arguments adduced by petitioners in support of their submissions. Their disquisitions postulate interpretative theories contrary to the letter and intent of the rules on search warrants and which could pose legal obstacles, if not dangerous doctrines, in the area of law enforcement. Further, they fail to validly distinguish, hence they do not convincingly delineate the difference, between the matter of (1) the court which has the competence to issue a search warrant under a given set of facts, and (2) the permissible jurisdictional range in the enforcement of such search warrant vis-a-vis the court's territorial jurisdiction. These issues while effectively cognate are essentially discrete since the resolution of one does not necessarily affect or preempt the other. Accordingly, to avoid compounding the seeming confusion, these questions shall be discussed seriatim.

I

Petitioners invoke the jurisdictional rules in the institution of criminal actions to invalidate the search warrant issued by the Regional Trial Court of Kalookan City because it is directed toward the seizure of firearms and ammunition allegedly cached illegally in Quezon City. This theory is sought to be buttressed by the fact that the criminal case against petitioners for violation of Presidential Decree No. 1866 was subsequently filed in the latter court. The application for the search warrant, it is claimed, was accordingly filed in a court of improper venue and since venue in criminal actions involves the territorial jurisdiction of the court, such warrant is void for having been issued by a court without jurisdiction to do so.

The basic flaw in this reasoning is in erroneously equating the application for and the obtention of a search warrant with the institution and prosecution of a criminal action in a trial court. It would thus categorize what is only a special criminal process, the power to issue which is inherent in all courts, as equivalent to a criminal action, jurisdiction over which is reposed in specific courts of indicated competence. It ignores the fact that the requisites, procedure and purpose for the issuance of a search warrant are completely different from those for the institution of a criminal action.

For, indeed, a warrant, such as a warrant of arrest or a search warrant, merely constitutes process.[4] A search warrant is defined in our jurisdiction as an order in writing issued in the name of the People of the Philippines signed by a judge and directed to a peace officer, commanding him to search for personal property and bring it before the court.[5] A search warrant is in the nature of a criminal process akin to a writ of discovery. It is a special and peculiar remedy, drastic in its nature, and made necessary because of a public necessity.[6]

In American jurisdictions, from which we have taken our jural concept and provisions on search warrants,[7] such warrant is definitively considered merely as a process, generally issued by a court in the exercise of its ancillary

jurisdiction, and not a criminal action to be entertained by a court pursuant to its original jurisdiction. We emphasize this fact for purposes of both issues as formulated in this opinion, with the catalogue of authorities herein.

Invariably, a judicial process is defined as a writ, warrant, subpoena, or other formal writing issued by authority of law; also the means of accomplishing an end, including judicial proceedings,[8] or all writs, warrants, summonses, and orders of courts of justice or judicial officers.[9] It is likewise held to include a writ, summons, or order issued in a judicial proceeding to acquire jurisdiction of a person or his property, to expedite the cause or enforce the judgment,[10] or a writ, warrant, mandate, or other process issuing from a court of justice.[11]

2. It is clear, therefore, that a search warrant is merely a judicial process designed by the Rules to respond only to an incident in the main case, if one has already been instituted, or in anticipation thereof. In the latter contingency, as in the case at bar, it would involve some judicial clairvoyance to require observance of the rules as to where a criminal case may eventually be filed where, in the first place, no such action having as yet been instituted, it may ultimately be filed in a territorial jurisdiction other than that wherein the illegal articles sought to be seized are then located. This is aside from the consideration that a criminal action may be filed in different venues under the rules for delitos continuados or in those instances where different trial courts have concurrent original jurisdiction over the same criminal offense.

In fact, to illustrate the gravity of the problem which petitioners' implausible position may create, we need not stray far from the provisions of Section 15, Rule 110 of the Rules of Court on the venue of criminal actions and which we quote:

"Sec. 15. Place where action to be instituted. -

(a) Subject to existing laws, in all criminal prosecutions the action shall be instituted and tried in the court of the municipality or territory wherein the offense was committed or any one of the essential ingredients thereof took place.

(b) Where an offense is committed on a railroad train, in an aircraft, or any other public or private vehicle while in the course of its trip, the criminal action may be instituted and tried in the court of any municipality or territory where such train, aircraft or other vehicle passed during such trip, including the place of departure and arrival.

(c) Where an offense is committed on board a vessel in the course of its voyage, the criminal action may be instituted and tried in the proper court of the first port of entry or of any municipality or territory through which the vessel passed during such voyage, subject to the generally accepted principles of international law.

(d) Other crimes committed outside of the Philippines but punishable therein under Article 2 of the Revised Penal Code shall be cognizable by the proper court in which the charge is first filed. (14a)"

It would be an exacting imposition upon the law enforcement authorities or the prosecutorial agencies to unerringly determine where they should apply for a search warrant in view of the uncertainties and possibilities as to the ultimate venue of a case under the foregoing rules. It would be doubly so if compliance with that requirement would be under pain of nullification of said warrant should they file their application therefor in and obtain the same from what may later turn out to be a court not within the ambit of the aforementioned Section 15.

Our Rules of Court, whether of the 1940, 1964 or the present vintage, and, for that matter, the Judiciary Act of 1948[12] or the recent Judiciary Reorganization Act,[13] have never required the jurisdictional strictures that the petitioners' thesis would seek to be inferentially drawn from the silence of the reglementary provisions. On the contrary, we are of the view that said statutory omission was both deliberate and significant. It cannot but mean

that the formulators of the Rules of Court, and even Congress itself, did not consider it proper or correct, on considerations of national policy and the pragmatics of experience, to clamp a legal manacle on those who would ferret out the evidence of a crime. For us to now impose such conditions or restrictions, under the guise of judicial interpretation, may instead be reasonably construed as trenching on judicial legislation. It would be tantamount to a judicial act of engrafting upon a law something that has been omitted but which someone believes ought to have been embraced therein.[14]

Concededly, the problem of venue would be relatively easier to resolve if a criminal case has already been filed in a particular court and a search warrant is needed to secure evidence to be presented therein. Obviously, the court trying the criminal case may properly issue the warrant, upon proper application and due compliance with the requisites therefor, since such application would only be an incident in that case and which it can resolve in the exercise of its ancillary jurisdiction. If the contraband articles are within its territorial jurisdiction, there would appear to be no further complications. The jurisdictional problem would resurrect, however, where such articles are outside its territorial jurisdiction, which aspect will be addressed hereafter.

3. Coming back to the first issue now under consideration, petitioners, after discoursing on the respective territorial jurisdictions of the thirteen Regional Trial Courts which correspond to the thirteen judicial regions,[15] invite our attention to the fact that this Court, pursuant to its authority granted by law,[16] has defined the territorial jurisdiction of each branch of a Regional Trial Court[17] over which the particular branch concerned shall exercise its authority.[18] From this, it is theorized that "only the branch of a Regional Trial Court which has jurisdiction over the place to be searched could grant an application for and issue a warrant to search that place." Support for such position is sought to be drawn from issuances of this Court, that is, Circular No. 13 issued on October 1, 1985, as amended by Circular No. 19 on August 4, 1987.

We reject that proposition. Firstly, it is evident that both circulars were not intended to be of general application to all instances involving search warrants and in all courts as would be the case if they had been adopted as part of the Rules of Court. These circulars were issued by the Court to meet a particular exigency, that is, as emergency guidelines on applications for search warrants filed only in the courts of Metropolitan Manila and other courts with multiple salas and only with respect to violations of the Anti-Subversion Act, crimes against public order under the Revised Penal Code, illegal possession of firearms and/or ammunitions, and violations of the Dangerous Drugs Act. In other words, the aforesaid theory on the court's jurisdiction to issue search warrants would not apply to single-sala courts and other crimes. Accordingly, the rule sought by petitioners to be adopted by the Court would actually result in a bifurcated procedure which would be vulnerable to legal and constitutional objections.

For that matter, neither can we subscribe to petitioners' contention that Administrative Order No. 3 of this Court, supposedly "defining the limits of the territorial jurisdiction of the Regional Trial Courts," was the source of the subject matter jurisdiction of, as distinguished from the exercise of jurisdiction by, the courts. As earlier observed, this administrative order was issued pursuant to the provisions of Section 18 of Batas Pambansa Blg. 129, the pertinent portion of which states:

"SEC. 18. Authority to define territory appurtenant to each branch. - The Supreme Court shall define the territory over which a branch of the Regional Trial Court shall exercise its authority. The territory thus defined shall be deemed to be the territorial area of the branch concerned for purposes of determining the venue of all writs, proceedings or actions, whether civil or criminal, x x x." (Italics ours.)

Jurisdiction is conferred by substantive law, in this case Batas Pambansa Blg. 129, not by a procedural law and, much less, by an administrative order or circular. The jurisdiction conferred by said Act on regional trial courts and their judges is basically regional in scope. Thus, Section 17 thereof provides that "(e)very Regional Trial

Judge shall be appointed to a region which shall be his permanent station," and he "may be assigned by the Supreme Court to any branch or city or municipality within the same region as public interest may require, and such assignment shall not be deemed an assignment to another station x x x" which, otherwise, would necessitate a new appointment for the judge.

In fine, Administrative Order No. 3 and, in like manner, Circulars Nos. 13 and 19, did not per se confer jurisdiction on the covered regional trial court or its branches, such that non-observance thereof would nullify their judicial acts. The administrative order merely defines the limits of the administrative area within which a branch of the court may exercise its authority pursuant to the jurisdiction conferred by Batas Pambansa Blg. 129. The circulars only allocated to the three executive judges the administrative areas for which they may respectively issue search warrants under the special circumstance contemplated therein, but likewise pursuant to the jurisdiction vested in them by Batas Pambansa Blg. 129.

Secondly, and more importantly, we definitely cannot accept the conclusion that the grant of power to the courts mentioned therein, to entertain and issue search warrants where the place to be searched is within their territorial jurisdiction, was intended to exclude other courts from exercising the same power. It will readily be noted that Circular No. 19 was basically intended to provide prompt action on applications for search warrants. Its predecessor, Administrative Circular No. 13, had a number of requirements, principally a raffle of the applications for search warrants, if they had been filed with the executive judge, among the judges within his administrative area. Circular No. 19 eliminated, by amendment, that required raffle and ordered instead that such applications should immediately be "taken cognizance of and acted upon by the Executive Judges of the Regional Trial Court, Metropolitan Trial Court, and Municipal Trial Court under whose jurisdiction the place to be searched is located," or by their substitutes enumerated therein.

Evidently, that particular provision of Circular No. 19 was never intended to confer exclusive jurisdiction on said executive judges. In view of the fact, however, that they were themselves directed to personally act on the applications, instead of farming out the same among the other judges as was the previous practice, it was but necessary and practical to require them to so act only on applications involving search of places located within their respective territorial jurisdictions. The phrase above quoted was, therefore, in the nature of an allocation in the assignment of applications among them, in recognition of human capabilities and limitations, and not a mandate for the exclusion of all other courts. In truth, Administrative Circular No. 13 even specifically envisaged and anticipated the non-exclusionary nature of that provision, thus:

"4. If, in the implementation of the search warrant properties are seized thereunder and the corresponding case is filed in court, said case shall be distributed conformably with Circular No. 7 dated September 23, 1974, of this Court, and thereupon tried and decided by the judge to whom it has been assigned, and not necessarily by the judge who issued the search warrant." (Emphasis supplied.)

It is, therefore, incorrect to say that only the court which has jurisdiction over the criminal case can issue the search warrant, as would be the consequence of petitioners' position that only the branch of the court with jurisdiction over the place to be searched can issue a warrant to search the same. It may be conceded, as a matter of policy, that where a criminal case is pending, the court wherein it was filed, or the assigned branch thereof, has primary jurisdiction to issue the search warrant; and where no such criminal case has yet been filed, that the executive judges or their lawful substitutes in the areas and for the offenses contemplated in Circular No. 19 shall have primary jurisdiction.

This should not, however, mean that a court whose territorial jurisdiction does not embrace the place to be searched cannot issue a search warrant therefor, where the obtention of that search warrant is necessitated and justified by compelling considerations of urgency, subject, time and place. Conversely, neither should a search

warrant duly issued by a court which has jurisdiction over a pending criminal case, or one issued by an executive judge or his lawful substitute under the situations provided for by Circular No. 19, be denied enforcement or nullified just because it was implemented outside the court's territorial jurisdiction.

This brings us, accordingly, to the second issue on the permissible jurisdictional range of enforcement of search warrants.

II

As stated in limine, the affiliated issue raised in this case is whether a branch of a regional trial court has the authority to issue a warrant for the search of a place outside its territorial jurisdiction. Petitioners insistently answer the query in the negative. We hold otherwise.

1. We repeat what we have earlier stressed: No law or rule imposes such a limitation on search warrants, in the same manner that no such restriction is provided for warrants of arrest. Parenthetically, in certain states within the American jurisdiction, there were limitations of the time wherein a warrant of arrest could be enforced. In our jurisdiction, no period is provided for the enforceability of warrants of arrest, and although within ten days from the delivery of the warrant of arrest for execution a return thereon must be made to the issuing judge,[19] said warrant does not become *functus officio* but is enforceable indefinitely until the same is enforced or recalled. On the other hand, the lifetime of a search warrant has been expressly set in our Rules at ten days[20] but there is no provision as to the extent of the territory wherein it may be enforced, provided it is implemented on and within the premises specifically described therein which may or may not be within the territorial jurisdiction of the issuing court.

We make the foregoing comparative advertence to emphasize the fact that when the law or rules would provide conditions, qualifications or restrictions, they so state. Absent specific mention thereof, and the same not being inferable by necessary implication from the statutory provisions which are presumed to be complete and expressive of the intendment of the framers, a contrary interpretation on whatever pretext should not be countenanced.

A bit of legal history on this contestation will be helpful. The jurisdictional rule heretofore was that writs and processes of the so-called inferior courts could be enforced outside the province only with the approval of the former court of first instance.[21] Under the Judiciary Reorganization Act, the enforcement of such writs and processes no longer needs the approval of the regional trial court.[22] On the other hand, while, formerly, writs and processes of the then courts of first instance were enforceable throughout the Philippines,[23] under the Interim or Transitional Rules and Guidelines, certain specified writs issued by a regional trial court are now enforceable only within its judicial region. In the interest of clarity and contrast, it is necessary that said provision be set out in full:

"3. Writs and processes. -

(a) Writs of certiorari, prohibition mandamus, quo warranto, habeas corpus and injunction issued by a regional trial court may be enforced in any part of the region.

(b) All other processes, whether issued by a regional trial court or a metropolitan trial court, municipal trial court or municipal circuit trial court may be served anywhere in the Philippines, and, in the last three cases, without a certification by the judge of the regional trial court." (Italics ours.)

We feel that the foregoing provision is too clear to be further belabored or enmeshed in unwarranted polemics. The rule enumerates the writs and processes which, even if issued by a regional trial court, are enforceable only

within its judicial region. In contrast, it unqualifiedly provides that all other writs and processes, regardless of which court issued the same, shall be enforceable anywhere in the Philippines. As earlier demonstrated, a search warrant is but a judicial process, not a criminal action. No legal provision, statutory or reglementary, expressly or impliedly provides a jurisdictional or territorial limit on its area of enforceability. On the contrary, the above-quoted provision of the interim Rules expressly authorizes its enforcement anywhere in the country, since it is not among the processes specified in paragraph (a) and there is no distinction or exception made regarding the processes contemplated in paragraph (b).

2. This is but a necessary and inevitable consequence of the nature and purpose of a search warrant. The Court cannot be blind to the fact that it is extremely difficult, as it undeniably is, to detect or elicit information regarding the existence and location of illegally possessed or prohibited articles. The Court is accordingly convinced that it should not make the requisites for the apprehension of the culprits and the confiscation of such illicit items, once detected, more onerous if not impossible by imposing further niceties of procedure or substantive rules of jurisdiction through decisional dicta. For that matter, we are unaware of any instance wherein a search warrant was struck down on objections based on territorial jurisdiction. In the landmark case of *Stonehill, et al. vs. Diokno, et al.*,^[24] the searches in the corporate offices in Manila and the residences in Makati of therein petitioners were conducted pursuant to search warrants issued by the Quezon City and Pasig branches of the Court of First Instance of Rizal and by the Municipal Courts of Manila and Quezon City,^[25] but the same were never challenged on jurisdictional grounds although they were subsequently nullified for being general warrants.

3. A clarion call supposedly of libertarian import is further sounded by petitioners, dubiously invoking the constitutional proscription against illegal searches and seizures. We do not believe that the enforcement of a search warrant issued by a court outside the territorial jurisdiction wherein the place to be searched is located would create a constitutional question. Nor are we swayed by the professed apprehension that the law enforcement authorities may resort to what could be a permutation of forum shopping, by filing an application for the warrant with a "friendly" court. It need merely be recalled that a search warrant is only a process, not an action. Furthermore, the constitutional mandate is translated into specifically enumerated safeguards in Rule 126 of the 1985 Rules on Criminal Procedure for the issuance of a search warrant,^[26] and all these have to be observed regardless of whatever court in whichever region is importuned for or actually issues a search warrant. Said requirements, together with the ten-day lifetime of the warrant^[27] would discourage resort to a court in another judicial region, not only because of the distance but also the contingencies of travel and the danger involved, unless there are really compelling reasons for the authorities to do so. Besides, it does seem odd that such constitutional protests have not been made against warrants of arrest which are enforceable indefinitely and anywhere although they involve, not only property and privacy, but persons and liberty.

On the other hand, it is a matter of judicial knowledge that the authorities have to contend now and then with local and national criminal syndicates of considerable power and influence, political or financial in nature, and so pervasive as to render foolhardy any attempt to obtain a search warrant in the very locale under their sphere of control. Nor should we overlook the fact that to do so will necessitate the transportation of applicant's witnesses to and their examination in said places, with the attendant risk, danger and expense. Also, a further well-founded precaution, obviously born of experience and verifiable data, is articulated by the court a quo, as quoted by respondent court:

"This court is of the further belief that the possible leakage of information which is of utmost importance in the issuance of a search warrant is secured (against) where the issuing magistrate within the region does not hold court sessions in the city or municipality, within the region, where the place to be searched is located."^[28]

The foregoing situations may also have obtained and were taken into account in the foreign judicial

pronouncement that, in the absence of statutory restrictions, a justice of the peace in one district of the county may issue a search warrant to be served in another district of the county and made returnable before the justice of still another district or another court having jurisdiction to deal with the matters involved.[29] In the present state of our law on the matter, we find no such statutory restrictions both with respect to the court which can issue the search warrant and the enforcement thereof anywhere in the Philippines.

III

Concern is expressed over possible conflicts of jurisdiction (or, more accurately, in the exercise of jurisdiction) where the criminal case is pending in one court and the search warrant is issued by another court for the seizure of personal property intended to be used as evidence in said criminal case. This arrangement is not unknown or without precedent in our jurisdiction. In fact, as hereinbefore noted, this very situation was anticipated in Circular No. 13 of this Court under the limited scenario contemplated therein.

Nonetheless, to put such presentiments to rest, we lay down the following policy guidelines:

1. The court wherein the criminal case is pending shall have primary jurisdiction to issue search warrants necessitated by and for purposes of said case. An application for a search warrant may be filed with another court only under extreme and compelling circumstances that the applicant must prove to the satisfaction of the latter court which may or may not give due course to the application depending on the validity of the justification offered for not filing the same in the court with primary jurisdiction thereover.
2. When the latter court issues the search warrant, a motion to quash the same may be filed in and shall be resolved by said court, without prejudice to any proper recourse to the appropriate higher court by the party aggrieved by the resolution of the issuing court. All grounds and objections then available, existent or known shall be raised in the original or subsequent proceedings for the quashal of the warrant, otherwise they shall be deemed waived.
3. Where no motion to quash the search warrant was filed in or resolved by the issuing court, the interested party may move in the court where the criminal case is pending for the suppression as evidence of the personal property seized under the warrant if the same is offered therein for said purpose. Since two separate courts with different participations are involved in this situation, a motion to quash a search warrant and a motion to suppress evidence are alternative and not cumulative remedies. In order to prevent forum shopping, a motion to quash shall consequently be governed by the omnibus motion rule, provided, however, that objections not available, existent or known during the proceedings for the quashal of the warrant may be raised in the hearing of the motion to suppress. The resolution of the court on the motion to suppress shall likewise be subject to any proper remedy in the appropriate higher court.
4. Where the court which issued the search warrant denies the motion to quash the same and is not otherwise prevented from further proceeding thereon, all personal property seized under the warrant shall forthwith be transmitted by it to the court wherein the criminal case is pending, with the necessary safeguards and documentation therefor.
5. These guidelines shall likewise be observed where the same criminal offense is charged in different informations or complaints and filed in two or more courts with concurrent original jurisdiction over the criminal action. Where the issue of which court will try the case shall have been resolved, such court shall be considered as vested with primary jurisdiction to act on applications for search warrants incident to the criminal case.

WHEREFORE, on the foregoing premises, the instant petition is DENIED and the assailed judgment of respondent Court of Appeals in CA-G.R. SP No. 23533 is hereby AFFIRMED.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Bidin, Romero, Bellosillo, Melo, Quiason, Puno, Vitug, and Kapunan, JJ., concur.
Davide, Jr., J., separate opinion.
Padilla, J., no part.

[1] Petition, 4, Rollo, 11; Comment, 5, Rollo, 131.

[2] Decision, CA-G.R. SP No. 23533, November 28, 1991, 109-111.

[3] Penned by Justice Fidel P. Purisima, with the concurrence of Justices Eduardo R. Bengson and Salome A. Montoya.

[4] 72 C.J.S., Process, 988.

[5] Section 1, Rule 126, Rules of Court.

[6] Moran, Comments on the Rules of Court, 1980 ed., Vol. IV, 387.

[7] See *Macondray & Co., Inc. vs. Bernabe, etc., et al.*, 67 Phil. 658 (1939); *Co Kim Chan vs. Valdez Tan Keh, et al.*, 75 Phil. 113 (1945).

[8] *Gollobitch vs. Rainbow*, 84 Ia., 567; 51 N.W. 48, cited in 3 *Bouvier's Law Dictionary*, 2731.

[9] 50 C.J.S., Process, 441-442.

[10] *Royal Exchange Assurance of London vs. Bennettsville & C.R. Co.*, 95 S.C. 375, 79 S.E. 104-105.

[11] *Grossman vs. Weiss*, 221 N.Y.S. 206, 267, 129 Misc. 234.

[12] R.A. No. 296, as amended.

[13] B.P. Blg. 129, as amended.

[14] *Tañada vs. Yulo, et al.*, 61 Phil. 515 (1935).

[15] Sec. 13, B.P. Blg. 129.

[16] Sec. 18, id.

[17] For the Regional Trial Court in the National Capital Judicial Region, the Court issued Administrative Order No. 3.

[18] Par. 2(b), Interim or Transitional Rules and Guidelines.

[19] Sec. 4, Rule 113, 1985 Rules on Criminal Procedure.

[20] Sec. 9, Rule 126, id.

[21] Sec. 4, Rule 135, Rules of Court.

[22] Sec. 38(2), B.P. Blg. 129; Sec. 3(b), Interim or Transitional Rules and Guidelines.

[23] Sec. 3, Rule 135, which was, however, delimited on this particular score by Sec. 44(h) of R.A. No. 296 with respect to writs of injunction, and by Sec. 2, Rule 102 with regard to writs of habeas corpus.

[24] G.R. No. L-19550, June 19, 1967, 20 SCRA 383.

[25] At that time, Manila constituted the Sixth Judicial District, while the Province of Rizal and the Cities of Quezon, Pasay and Caloocan, inter alia, belonged to the Seventh Judicial District (Sec. 49, R.A. No. 296, as amended).

[26] Sec. 2 of said Rules declares what personal property may be seized; Sec. 3, the requisites for the issuance of the search warrant, specifically the need for probable cause and the limitation of the warrant to one specific offense; Sec. 3, the examination under oath of the complainant and his witnesses; Sec. 5, the form of the warrant; Sec. 6, the permissible means to effect the search; Sec. 7, the need for a resident witness to the search; and Sec. 8, the time of making the search.

[27] Sec. 9, id., id.

[28] Rollo, 48.

[29] 79 C.J.S., Searches and Seizures, 855.

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SEPARATE OPINION

DAVIDE, JR., J.:

The majority opinion enunciates these two principles:

1. Before the criminal action is filed with the appropriate court, a court which has no territorial jurisdiction over the crime may validly entertain an application for and thereafter issue a search warrant in connection with the commission of such crime; and
2. After the filing of the criminal action, the court with which it was filed has primary jurisdiction to issue search warrants necessitated by and for purposes of said case; however, under extreme and compelling circumstances, another court may issue a search warrant in connection with said case.

I am unable to agree with the first and with the exception to the second.

A. By the very definition of a search warrant which the majority opinion adopts, it is clear to me that only a court having territorial jurisdiction over the crime committed can validly entertain an application for and issue a search warrant in connection with said crime. The majority opinion says:

"For, indeed, a warrant, such as a warrant of arrest or a search warrant, merely constitutes process. A search warrant is defined in our jurisdiction as an order in writing issued in the name of the People of the Philippines signed by a judge and directed to a peace officer, commanding him to search for personal property and bring it before the court. A search warrant is in the nature of a criminal process akin to a writ of discovery. It is a special and peculiar remedy, drastic in nature, and made necessary because of a public necessity.

In American jurisdictions, from which we have taken our jural concept and provisions on search warrants, such warrant is definitively considered merely as a process generally issued by a court in the exercise of its ancillary jurisdiction, and not a criminal action to be entertained by a court pursuant to its original jurisdiction. We emphasize this fact for purposes of both issues as formulated in this opinion, with the catalogue of authorities herein.

Invariably, a judicial process is defined as a writ, warrant, subpoena, or other formal writing issued by authority of law; also the means of accomplishing an end, including judicial proceedings, or all writs, warrants, summonses, and orders of courts of justice or judicial officers. It is likewise held to include a writ, summons,

or order in a judicial proceeding to acquire jurisdiction of a person or his property, to expedite the cause or enforce judgment, or a writ, warrant, mandate, or other processes issuing from a court of justice.

2. It is clear, therefore, that a search warrant is merely a judicial process designed by the Rules to respond only to an incident in the main case, if one has already been instituted, or in anticipation thereof..." (citations omitted)

What are to be underscored in the foregoing definition or disquisition on the concept of a search warrant are the following: (a) it is "in the nature of a criminal process akin to a writ of discovery," (b) it is generally issued by a court "in the exercise of its ancillary jurisdiction," and (c) it is "designed by the Rules to respond only to an incident in the main case... or in anticipation thereof." All of these are premised on the assumption that the court entertaining the application for and issuing the search warrant has jurisdiction over the main case, meaning, of course, the crime in connection with whose commission the warrant was issued.

The writ of discovery is the discovery in federal criminal cases governed by the Federal Rules of Criminal Procedure. Rule 16 thereof provides:

"Upon motion of the defendant at any time after the filing of the indictment or information, the court may order the attorney for the government to permit the defendant to inspect and copy or photograph designated books, papers, documents or tangible objects, obtained from or belonging to the defendant or obtained from others by seizure or process, upon a showing that the items sought may be material to the presentation of his defense and that the request is reasonable." (4 Federal Practice and Procedure with Forms, Rules Edition, 1951 ed., 124).

Note that the required motion is filed after the filing of the indictment or information.

"Ancillary," in reference to jurisdiction can only mean in aid of or incidental to an original jurisdiction. Ancillary jurisdiction is defined as follows:

"Ancillary jurisdiction. Power of court to adjudicate and determine matters incidental to the exercise of its primary jurisdiction of an action.

Under 'ancillary jurisdiction doctrine' federal district court acquires jurisdiction of case or controversy as an entirety and may, as incident to disposition of matter properly before it, possess jurisdiction to decide other matters raised by case, though district court could not have taken cognizance of them if they had been independently presented. x x x 'Ancillary jurisdiction' of federal court generally involves either proceedings which are concerned with pleadings, processes, records or judgments of court in principal case or proceedings which affect property already in court's custody. x x x" (Black's Law Dictionary 79 [5th ed., 1979]).

"Incident in the main case" also presupposes a main case which, perforce, must be within the court's jurisdiction. Incident is defined thus:

Incident. Used both substantively and adjectively of a thing which, either usually or naturally and inseparably, depends upon, appertains to, or follows another that is more worthy. Used as a noun, it denotes anything which inseparably belongs to, or is connected with, or inherent in, another thing, called the 'principal'. Also, less strictly, it denotes anything which is usually connected with another, or connected for some purposes, though not inseparably. x x x" (Id., at 686)

Reliance upon Section 3 of the Interim or Transitional Rules and Guidelines Implementing B.P. Blg. 129 which reads:

"3. Writs and processes. -- (a) Writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction issued by a regional trial court may be enforced in any part of the region.

(b) All other processes, whether issued by a regional trial court or a metropolitan trial court, municipal trial court or municipal circuit trial court may be served anywhere in the Philippines, and, in the last three cases, without a certification by the judge of the regional trial court."

is misplaced for the reason that said section refers to writs or processes issued by a court in a case pending before it and not to a case yet to be filed with it or pending in another court.

The absence of any express statutory provision prohibiting a court from issuing a search warrant in connection with a crime committed outside its territorial jurisdiction should not be construed as a grant of blanket authority to any court of justice in the country to issue a search warrant in connection with a crime committed outside its territorial jurisdiction. The majority view suggests or implies that a municipal trial court in Tawi-Tawi, Basilan, or Batanes can validly entertain an application for a search warrant and issue one in connection with a crime committed in Manila. Elsewise stated, all courts in the Philippines, including the municipal trial courts, can validly issue a search warrant in connection with a crime committed anywhere in the Philippines. Simply put, all courts of justice in the Philippines have, for purposes of issuing a search warrant, jurisdiction over the entire archipelago.

I cannot subscribe to this view since, in the first place, a search warrant is but an incident to a main case and involves the exercise of an ancillary jurisdiction therefore, the authority to issue it must necessarily be co-extensive with the court's territorial jurisdiction. To hold otherwise would be to add an exception to the statutory provisions defining the territorial jurisdiction of the various courts of the country, which would amount to judicial legislation. The territorial jurisdiction of the courts is determined by law, and a reading of Batas Pambansa Blg. 129 discloses that the territorial jurisdiction of regional trial courts, metropolitan trial courts, municipal trial courts and municipal circuit trial courts are confined to specific territories. In the second place, the majority view may legitimize abuses that would result in the violation the civil rights of an accused or the infliction upon him of undue and unwarranted burdens and inconvenience as when, for instance, an accused who is a resident of Basco, Batanes, has to file a motion to quash a search warrant issued by the Metropolitan Trial Court of Manila in connection with an offense he allegedly committed in Itbayat, Batanes.

Nor can *Stonehill vs. Diokno* (20 SCRA 383) be an authoritative confirmation of the unlimited or unrestricted power of any court to issue search warrants in connection with crimes committed outside its territorial jurisdiction. While it may be true that the forty-two search warrants involved therein were issued by several Judges -- specifically Judges (a) Amado Roan of the City Court of Manila, (b) Roman Cansino of the City Court of Manila, (c) Hermogenes Caluag of the Court of First Instance of Rizal (Quezon City Branch), (d) Eulogio Mencias of the Court of First Instance of Rizal (Pasig Branch), and (e) Damian Jimenez of the City Court of Quezon City (Footnote 2, page 387) -- there is no definite showing that the forty-two search warrants were for the searches and seizures of properties outside the territorial jurisdiction of their respective courts. The warrants were issued against the petitioners and corporations of which they were officers and some of the corporations enumerated in Footnote 7 have addresses in Manila and Makati. (pp. 388-89). Rizal (which includes Makati) and Quezon City both belonged to the Seventh Judicial District. That nobody challenged on jurisdictional ground the issuance of these search warrants is no argument in favor of the unlimited power of a court to issue search warrants.

B. I have serious misgivings on the exception to the second principle where another court may, because of extreme and compelling circumstances, issue a search warrant in connection with a criminal case pending in an appropriate court. To illustrate this exception, the Municipal Trial Court of Argao, Cebu, may validly issue a warrant for the search of a house in Davao City and the seizure of any property therein that may have been used in committing an offense in Manila already the subject of an information filed with the Metropolitan Trial Court of

Manila. I submit that the exception violates the settled principle that even in cases of concurrent jurisdiction, the first court which acquires jurisdiction over the case acquires it to the exclusion of the other. (*People vs. Fernando*, 23 SCRA 867, 870 [1968]). This being so, it is with more reason that a court which does not have concurrent jurisdiction with the first which had taken cognizance of the case does not also have the authority to issue writs or processes, including search warrants, in connection with the pending case. Moreover, since the issuance of a search warrant is an incident to a main case or is an exercise of the ancillary jurisdiction of a court, the court where the main case is filed has exclusive jurisdiction over all incidents thereto and in the issuance of all writs and processes in connection therewith. Furthermore, instead of serving the ends of justice, the exception may provide room for unwarranted abuse of the judicial process, wreak judicial havoc and procedural complexities which effective law enforcement apparently cannot justify. I cannot conceive of any extreme and compelling circumstance which the court that first acquired jurisdiction over the case cannot adequately meet within its broad powers and authority.

In the light of the foregoing, and after re-examining my original view in this case, I respectfully submit that:

1. Any court within whose territorial jurisdiction a crime was committed may validly entertain an application for and issue a search warrant in connection with said crime. However, in the National Capital Judicial Region, Administrative Circulars No. 13 of 1 October 1985, and No. 19 of 4 August 1987 must be observed.
2. After the criminal complaint or information is filed with the appropriate court, search warrants in connection with the crime charged may only be issued by said court.

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