

NESTOR ILANO, PETITIONER, VS. COURT OF APPEALS, HON. MAXIMIANO C. ASUNCION, PRESIDING JUDGE, REGIONAL TRIAL COURT OF QUEZON CITY, BR. 104, HON. ANTONIO J. FINEZA, IN HIS CAPACIT...

G.R. No. 109560. May 26, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

In *Malaloan v. Court of Appeals*[1] we ruled that when necessitated and justified by compelling considerations of urgency, subject, time and place, a court may issue a search warrant covering a place outside its territorial jurisdiction. Speaking for the Court En Banc, Mr. Justice Regalado distinguishes the act of issuing a search warrant from the act of acquiring or assuming jurisdiction over a case, and explains that a warrant is merely a process issued by a court in the exercise of its ancillary jurisdiction and not a criminal action which it may entertain pursuant to its original jurisdiction. And since there is no law or rule which limits the issuance of search warrants to cover only those places which are within the territorial jurisdiction of the issuing court, this right of the court cannot be restrained or restricted.

We invoke this precedent in resolving the present controversy.

In the case at bench, petitioner Ilano seeks to nullify the search warrants issued by the Regional Trial Court of Kalookan City, Metro Manila, ordering the search of his house and parlor in Quezon City, Metro Manila, which is outside the territorial jurisdiction of the RTC of Kalookan City. He seeks refuge in Circular No. 19 of this Court, or the Amended Guidelines and Procedures on Applications for Search Warrants for Illegal Possession of Firearms and Other Serious Crimes filed in Metro Manila Courts and Other Courts with Multiple Salas, par. 1 of which reads -

1. All applications for search warrants relating to violation of the Anti-Subversive Act, crimes against public order as defined in the Revised Penal Code, as amended, illegal possession of firearms and/or ammunitions and violations of the Dangerous Drugs Act of 1972, as amended, shall no longer be raffled and shall immediately be taken cognizance of and acted upon by the Executive Judge of the Regional Trial Court, Metropolitan Trial Court, and Municipal Trial Court, under whose jurisdiction the place to be searched is located (underscoring supplied by petitioner).

As a side issue, he laments the "arbitrary" and "discriminate" denial of his motion for a reinvestigation, and his subsequent motion to suppress evidence and suspend the hearing, which according to him amount to a denial of his right to a preliminary investigation tantamount to a denial of due process. In this regard, he invokes *Go v. Court of Appeals*.[2]

The present controversy arose when the PNP-NARCOM, National Capital Region, through 1Lt. Josephus Angan, applied for a search warrant before the RTC of Kalookan City, Br. 131, to search petitioner Ilano's house and

parlor at No. 7 and 9 Masigasig Street, Barangay Piñahan, Quezon City, Metro Manila. After personally examining 1Lt. Angan and his witness, Presiding Judge Antonio J. Fineza issued Search Warrants Nos. 1-017-91 (NCR) and 1-018-91 (NCR). As manifested in the Return of Search Warrant filed by 1Lt. Angan, the following were seized during the raid: (a) one (1) stick of suspected marijuana cigarette; (b) two (2) tablets of suspected mogadon; (c) one (1) aluminum foil containing shabu residue; (d) one (1) improvised tooter used in administering shabu; and, (e) approximately fifteen (15) grams of suspected shabu wrapped in three (3) separate transparent plastic bags.

Forthwith, on 1 February 1991 an Information charging petitioner Ilano for violation of Sec. 16, Art. III, R.A. 6425, as amended, was filed before the RTC of Quezon City and raffled to Br. 104 presided by respondent Judge Maximiano C. Asuncion. Some seven (7) months later or on 2 September 1991 petitioner filed a Motion for Leave of Court to File Reinvestigation on the ground that "material evidence has been discovered which x x x due to inadvertence (was) not produced during the preliminary investigation and x x x if produced would probably change the outcome of the said investigation." [3] On 5 September 1991 the RTC of Quezon City denied the motion. Subsequently on 18 February 1992 petitioner filed a Motion to Suppress and to Suspend Hearing and/or Postponement assailing the validity of the search warrants and seeking to enjoin the introduction in evidence of the items seized during the search. Again on 24 February 1992 the motion was denied. Aggrieved, petitioner Ilano went to the Court of Appeals on certiorari. On 24 March 1993 the Tenth Division of the Court of Appeals speaking through Mme. Justice Ordoñez-Benitez unanimously denied the petition for certiorari.

Petitioner Ilano's argument is premised on the proposition that in no instance can a trial court issue a search warrant ordering the search of a place outside its territorial jurisdiction. *Malaloan v. Court of Appeals* [4] which was promulgated during the pendency of the instant petition has already resolved this very same issue. We quote *Malaloan* where the factual circumstances bear a striking similarity with those of the case at bench -

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. [5]

Likewise, *Malaloan* has already jettisoned the reliance of petitioner Ilano on Circular No. 19 -

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.[6]

In fine, while the trial court which has territorial jurisdiction over the place has primary authority to issue search warrants therefor, any court of competent jurisdiction when necessitated and justified by compelling considerations of urgency, subject, time and place, may issue a search warrant covering a place outside its territorial jurisdiction, and this issue has been settled when *Malaloan* was promulgated.

The collateral issue raised by petitioner to strengthen his allegation that he was denied due process of law is seriously flawed. Petitioner equates the denial of his motion for reinvestigation and thereafter his motion to suppress and to suspend hearing with a denial of his right to a preliminary investigation which we said in *Go v. Court of Appeals*[7] to be a substantive right. The record shows that petitioner himself admitted that a preliminary investigation was in fact conducted.[8] Thus the RTC of Quezon City was merely exercising its sound discretion in denying petitioner's motion for reinvestigation which was filed some seven (7) months after the information was filed with the trial court and which sought to disprove the evidence already considered by the prosecutor during the preliminary investigation, as well as his motion to suppress and suspend hearing which is basically anchored on the supposed nullity of the search warrants.

WHEREFORE, finding no grave abuse of discretion on the part of the RTC of Quezon City, Br. 104, the petition for review is DENIED and the Decision of the Court of Appeals upholding the validity of the assailed orders of the trial court is AFFIRMED.

SO ORDERED.

Padilla, (Chairman), and Kapunan, J., concur.

Davide, Jr., J., reiterate his dissenting opinion in *Malaloan vs. Court of Appeals* (232 SCRA 249).

Quiason, J., on official leave.

[1] G.R. No. 104879, 6 May 1994, 232 SCRA 249.

[2] G.R. No. 101837, 11 February 1992, 206 SCRA 138.

[3] Motion for Leave of Court to File Reinvestigation, p. 1; Rollo, p. 39.

[4] See Note 1.

[5] *Id.*, p. 14.

[6] *Id.*, p. 10.

[7] See Note 2.

[8] See Note 3.

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