PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ZENAIDA BOLASA Y NAKOBOAN AND ROBERTO DELOS REYES, ACCUSED-APPELLANTS.

G.R. No. 125754. December 22, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

An anonymous caller tipped off PO3 Dante Salonga and PO3 Albert Carizon in the early evening of 11 September 1995 that a man and a woman were repacking prohibited drugs at a certain house in Sta. Brigida St., Karuhatan, Valenzuela, Metro Manila. PO3 Salonga and PO3 Carizon together with SPO1 Fernando Arenas immediately proceeded to the house of the suspects and parked their car some three hundred (300) meters away. They walked towards their quarry's lair accompanied this time by their unnamed informer. When they reached the house they "peeped (inside) through a small window and x x x saw one man and a woman repacking suspected marijuana."[1] They entered the house and introduced themselves as police officers to the occupants and thereupon confiscated the tea bags and some drug paraphernalia. They arrested the two (2) who turned out to be the accused Zenaida Bolasa y Nakoboan and Roberto delos Reyes. Subsequent examination of the tea bags by NBI Forensic Chemist Rubie Calalo confirmed the suspicion that the tea bags contained marijuana.

Zenaida Bolasa and Roberto delos Reyes were thus charged with violation of Sec. 8, Art. II, of RA 6425 otherwise known as The Dangerous Drugs Act of 1972. Both however denied on the witness stand ownership over the confiscated tea bags and drug implements.

According to Roberto delos Reyes, he and his wife were merely tenants in the house of Zenaida Bolasa and at the time he was arrested he had just arrived from work. Upon learning that Zenaida was repacking marijuana inside their room, he immediately ordered her to leave. Unfortunately however it was at that precise moment that police authorities entered and announced their presence. He and Zenaida were then brought to the Valenzuela Police Station for questioning and subsequently detained.

On the part of Zenaida Bolasa, she narrated that at 7:30 in the evening of 11 September 1995 she was on her way to 9th Avenue, Caloocan City, where she was working as a waitress. As she was about to leave the house she met a certain "Rico" and conversed with him for some time. She denied knowing PO3 Carizon and the fact that the latter saw her repacking marijuana inside her house.

The trial court upon finding the version of the prosecution to be more plausible convicted both accused Zenaida Bolasa and Roberto delos Reyes of the crime charged and sentenced each of them not only to reclusion perpetua but also to pay a fine of P500,000.00.[2]

Both accused appealed, although separately, each one represented by a separate counsel.

Maintaining his innocence in this appeal, accused-appellant Roberto delos Reyes insists he had just arrived from work and had, in fact, just entered his room when he was arrested. Assuming he was indeed repacking marijuana

when the police officers arrived, he claims it would have been inconceivable for them to know what he was doing inside his room considering the height of his window. Significantly, the police officers had to lean first on the window in order to observe the activities inside the room.

Accused-appellant Zenaida Bolasa meanwhile asserts that the search in her residence was likewise illegal as her arrest preceding it was illegal. Consequently, the marijuana seized from her could not be properly used as evidence against her. She insists that the trial court should not have given credence to the testimony of PO3 Albert Carizon as the same was hearsay. According to her and her co-accused delos Reyes, PO3 Carizon was not among the arresting officers. As such, PO3 Carizon had no personal knowledge regarding the conduct of the arrest and search thus making his testimony hearsay. Since the prosecution did not present the two (2) arresting officers the version of the prosecution cannot stand on its own.

Bolasa likewise impugns the identity of the items confiscated from her person vis-a-vis those which were submitted for laboratory examination and charges that the failure of the prosecution to satisfactorily establish the chain of custody over the specimen is damaging to its case.

We sustain the appeal. This case clearly illustrates how constitutional guarantees against illegal arrests and seizures can be violated by overzealous police officers in the arrest of suspected drug offenders. Thus, after a meticulous evaluation of the evidence at hand, this Court finds itself with no other recourse but to strike down the process adopted by the prosecution and acquit accused-appellants for insufficiency of evidence and reasonable doubt.

> Section 2, Art. III, of the 1987 Constitution provides -
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> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

The State cannot in a cavalier fashion intrude into the persons of its citizens as well as into their houses, papers and effects. The constitutional provision sheathes the private individual with an impenetrable armor against unreasonable searches and seizures. It protects the privacy and sanctity of the person himself against unlawful arrests and other forms of restraint,[3] and prevents him from being irreversibly "cut off from that domestic security which renders the lives of the most unhappy in some measure agreeable."[4]

For sure, this constitutional guarantee is not a blanket prohibition against all searches and seizures as it obviously operates only against searches and seizures that are "unreasonable."[5] Thus, arrests and seizures in the following instances are not deemed "unreasonable" and are thus allowed even in the absence of a warrant -

> 1. Warrantless search incidental to a lawful arrest (Sec. 12, Rule 126 of the Rules of Court and prevailing jurisprudence);
>
> 2. Search of evidence in "plain view." The elements are: (a) a prior valid intrusion based on the valid warrantless arrest in which the police are legally present in the pursuit of their official duties; (b) the evidence was inadvertently discovered by the police who have the right to be where they are; (c) the evidence must be immediately apparent; and, (d) "plain view" justified mere seizure of evidence without further search.
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> 3. Search of a moving vehicle. Highly regulated by the government, the vehicle’s inherent mobility reduces expectation of privacy especially when its transit in public thoroughfares furnishes a highly reasonable suspicion amounting to probable cause that the occupant committed a criminal activity;

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4. Consented warrantless search;

5. Customs search;

6. Stop and Frisk; and

7. Exigent and emergency circumstances.[6]

An arrest is lawful even in the absence of a warrant: (a) when the person to be arrested has committed, is actually committing, or is about to commit an offense in his presence; (b) when an offense has in fact been committed and he has reasonable ground to believe that the person to be arrested has committed it; and, (c) when the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.[7] A person charged with an offense may be searched for dangerous weapons or anything which may be used as proof of the commission of the offense.[8]

The manner by which accused-appellants were apprehended does not fall under any of the above-enumerated categories. Perforce, their arrest is illegal. First, the arresting officers had no personal knowledge that at the time of their arrest, accused-appellants had just committed, were committing, or were about to commit a crime. Second, the arresting officers had no personal knowledge that a crime was committed nor did they have any reasonable ground to believe that accused-appellants committed it. Third, accused-appellants were not prisoners who have escaped from a penal establishment.

Neither can it be said that the objects were seized in plain view. First, there was no valid intrusion. As already discussed, accused-appellants were illegally arrested. Second, the evidence, i.e., the tea bags later on found to contain marijuana, was not inadvertently discovered. The police officers intentionally peeped first through the window before they saw and ascertained the activities of accused-appellants inside the room. In like manner, the search cannot be categorized as a search of a moving vehicle, a consented warrantless search, a customs search, or a stop and frisk; it cannot even fall under exigent and emergency circumstances, for the evidence at hand is bereft of any such showing.

On the contrary, it indicates that the apprehending officers should have conducted first a surveillance considering that the identities and address of the suspected culprits were already ascertained. After conducting the surveillance and determining the existence of probable cause for arresting accused-appellants, they should have secured a search warrant prior to effecting a valid arrest and seizure. The arrest being illegal ab initio, the accompanying search was likewise illegal. Every evidence thus obtained during the illegal search cannot be used against accused-appellants;[9] hence, their acquittal must follow in faithful obeisance to the fundamental law.

WHEREFORE, the 12 July 1996 Decision of the Regional Trial Court finding accused-appellants Zenaida Bolasa y Nakoboan and Roberto delos Reyes guilty of violating Sec. 8, Art. II, of RA 6425 is REVERSED and SET ASIDE for insufficiency of evidence and on reasonable doubt; consequently, both are ACQUITTED and ordered RELEASED immediately from confinement unless held for another lawful cause.

Their Jailers - the Correctional Institution for Women, Mandaluyong City, for Zenaida Bolasa y Nakoboan, and the Bureau of Corrections, Muntinlupa City, for Roberto delos Reyes - are DIRECTED to implement this Decision immediately and to report to this Court within five (5) days from receipt hereof their compliance herewith WITHOUT DELAY.

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SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Testimony of PO3 Alberto Carizon, TSN, 7 February 1996, p. 3.

[2] Decision penned by Judge Adriano R. Osorio, RTC-Br. 171, Valenzuela, Metro Manila, Records, pp. 60-66.

[3] Bernas, Joaquin G., The Constitution of the Republic of the Philippines, A Commentary, 1987, First Ed., pp. 85-86.

[4] Infringement and Violations of Rights, enumerated by the Committee of Correspondence for the Town of Boston, 1772 (The First Assertion By An American Governmental Body of the People's Right to be Free from Unreasonable Searches and Seizures), cited by Alfred H. Knight in "The Life of the Law," Crown Publishers, Inc., New York, 1996 Ed., p. 115.

[5] See Note 2.

[6] People v. Aruta, G.R. No. 120915, 3 April 1998, 288 SCRA 637-638.

[7] Sec. 6, Rule 113, Rules of Court.

[8] Sec. 12, Rule 126, id.

[9] Sec. 3(2), Art. III, 1987 Constitution.

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