

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DANILO SIMBAHON Y QUIATZON, APPELLANT.

G.R. No. 132371. April 09, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On April 22, 1995, the Regional Trial Court of Manila, Branch 23, issued Search Warrant No. 95-100,[1] commanding the search in the premises of 771 Roxas Street, Sampaloc, Manila, owned by appellant Danilo Simbahon y Quiatzon, for alleged violation of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, and Presidential Decree No. 1866, penalizing the illegal possession of firearms.

The search led to the prosecution and conviction of appellant for violation of Section 8, Article III of RA 6425 by the Regional Trial Court of Manila, Branch 9, in Criminal Case No. 95-142514.

The facts as narrated by the trial court are as follows:

Stripped of their immaterialities, the prosecution's evidence tends to establish that about 3:00 o'clock in the early morning of April 23, 1995, police operatives, together with the chairman of the barangay which had jurisdiction over the place, and a member of media, served Search Warrant No. 95-100, Exhibit "F", issued by Hon. Judge William Bayhon on April 22, 1995, upon Danilo Simbahon, Maricar Morgia, and Charito Mangulabnan at their residence at No. 771 Roxas Street, Sampaloc, Manila, that although at first they were met with slight resistance, the team nevertheless gained entry into the house and, rounding up all the occupants found therein, herded them to the sala. Thereafter, they began conducting a search of all the rooms in accordance with the search warrant; that in the room occupied by live-in partners Danilo Simbahon and Charito Mangulabnan, the police officers found under the bed a brick of dried flowering tops suspected to be marijuana, weighing 856.8 grams, wrapped in a newspaper and placed inside a plastic (Exhibit "C") and a black bullet pouch containing six (6) live ammunitions, while in the room occupied by Maricar Morgia, the operative recovered a green plastic pencil case containing nine (9) pieces of small transparent sachets with white crystalline substance suspected to be shabu (Exhibit "B-1") and five (5) pieces of .38 caliber live ammunitions. When lastly the living room was searched, the policemen found therein a red and black synthetic case. Inside the case were three (3) pieces of small transparent plastic sachets containing suspected shabu (Exhibit "B-2"), some sniffing paraphernalias such as improvised burner, tooter (Exhibit "B-6"), scissors (Exhibit "B-8"), eight (8) strips of aluminum foil (Exhibit "B-5), plastic sachets with residue (Exhibit "B-3"), and empty plastic sachets (Exhibit "B-4"). After the search, an inventory receipt (Exhibit "G") of the items seized from the house of the suspects was prepared and, together with an affidavit of orderly search (Exhibit "H"), was signed by Danilo Simbahon; that the three accused were then arrested and brought to the precinct for investigation. The ammunitions recovered were sent to the Firearms and Explosive Unit, Camp Crame, Quezon City, to determine their identities and on September 22, 1995 and August 6, 1996, certifications were issued by said office to the effect that accused Maricar Morgia and Danilo Simbahon were not licensed/registered firearm/ammunitions holders of any kind and caliber. The other evidence recovered were brought to the National Bureau of Investigation for laboratory examination and were found to be positive for shabu and marijuana as evidenced by Exhibit "E".

For his part, Danilo Simbahon denied the allegations against him and gave his version of the incident as follows:

That in the early morning of April 23, 1995, he was sleeping, together with his wife and children, in one of the rooms in their house located at No. 771 Roxas Street, Sampaloc, Manila, when some male persons who introduced themselves as police officers but were not in uniform forcibly pushed open the door of their house and just barged in; that all of them were herded by the police officers to the sala from their room but he and his wife, Charito, were not aware if something was indeed taken from the other rooms; that thereafter they were all brought, together with another female companion, to the headquarters and he (Simbahon) was investigated but despite his request, the investigation was not reduced into writing. Simbahon denied that a leather bag containing the evidence marked as Exhibits "B-1" to "B-11" and a belt bag with six (6) live ammunitions were found under their bed claiming that they have no bed in their room as they were sleeping only on the floor. He admitted, however, that they were shown a document or paper by the police officers but the same was never handed to him inspite of his request and that one of the policemen also showed them a taped package saying that it was recovered from the room of Maricar Morgia but the contents of the taped package were never shown to them despite demands. He likewise stated that the only reason he was charged by the police was he refused to accede to their demand of P20,000.00 in exchange for his release.[2]

Separate informations were filed against Danilo Simbahon, Charito Mangulabnan, and Maricar Morgia for violation of RA 6425, as amended, and PD 1866, as amended, before the Regional Trial Court of Manila, Branch 9, docketed as Criminal Cases Nos. 95-142512 to 95-142515.

The three accused were arraigned on June 2, 1995 and respectively pleaded not guilty. Thereafter, upon motion of the prosecution, the charges against Charito Mangulabnan were dismissed on the ground that she had no participation in the crimes charged against her.[3] The cases were then consolidated and jointly tried against Danilo Simbahon and Maricar Morgia. After trial, the court a quo rendered a decision, the dispositive portion of which states:

WHEREFORE, for the failure of the prosecution to prove the guilt of the accused Maricar Morgia y Mangulabnan on evidence beyond reasonable doubt, both in Criminal Case No. 95-142512 and in Criminal Case No. 95-142513, she is hereby ACQUITTED of the charges against her in the above mentioned criminal cases. The warrant of arrest issued against her dated November 15, 1995 is hereby ordered recalled.

Likewise, for failure also of the prosecution to prove the guilt of accused Danilo Simbahon y Quiatzon beyond reasonable doubt, said accused is hereby ACQUITTED of the charge against him in Criminal Case No. 95-142515.

However, the Court is convinced that there is proof beyond reasonable doubt that accused Danilo Simbahon y Quiatzon committed the crime charged against him in Criminal Case No. 95-142514 thereby finding him guilty thereof and hereby sentences him to suffer the penalty of Reclusion Perpetua and to pay a fine of Five Hundred Thousand Pesos (P500,000.00) and to pay the cost.

x x x x x x x x
SO ORDERED.[4]

In view of the imposition of the penalty of reclusion perpetua, appellant interposed this direct appeal raising the following issues:

I
WHETHER OR NOT THE LOWER COURT ERRED IN RULING THAT THE PROSECUTION PROVED BEYOND REASONABLE DOUBT THAT APPELLANT COMMITTED A VIOLATION OF SECTION 8 OF REPUBLIC ACT NO. 6425 (1972).

II

WHETHER OR NOT THE LOWER COURT ERRED IN RULING THAT SEARCH WARRANT NO. 95-100 WAS VALID.

III

WHETHER OR NOT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION IN FAILING TO SUSPEND THE APPELLANT'S ARRAIGNMENT AFTER GRANTING A REINVESTIGATION.

IV

WHETHER OR NOT THE PUBLIC ATTORNEY WAS GROSSLY NEGLIGENT IN FAILING TO CHALLENGE THE VALIDITY OF THE SEARCH CONDUCTED PRIOR TO THE ARRAIGNMENT OF THE APPELLANT.

Appellant contends that the prosecution failed to prove that he was caught in flagrante delicto in possession of the brick of marijuana flowering tops. He cites the testimony of SPO2 Nelson Estuaria that he never admitted ownership or possession of the seized items, particularly the marijuana, and that the same could belong to any one of the occupants of the house that was searched.[5]

On the other hand, the Solicitor General argues that the positive testimony of SPO2 Nelson Estuaria that marijuana was found inside the room of accused-appellant prevails over his mere denial.[6]

In all prosecutions for violation of The Dangerous Drugs Act, the existence of the dangerous drug is condition sine qua non for conviction. The dangerous drug is the very corpus delicti of the crime.[7]

We find that the prosecution's evidence on the identification of the marijuana allegedly seized from appellant is demonstrably weak, unreliable and unconvincing. The prosecution failed to identify that the marijuana presented in court was the very same marijuana allegedly seized from appellant.[8] Such failure to identify the corpus delicti of the crime charged against the appellant or to establish the chain of custody cannot but inure to the detriment of the prosecution's case.[9] SPO2 Nelson Estuaria testified in this wise:

FISCAL SULIDUM:

Q What happened after you have searched the room of Danilo Simbahon?

Witness

A I found several specimens, ma'am.

FISCAL SULIDUM:

Q I am showing to you a brick of flowering tops dried leaves of marijuana, will you please tell this Honorable Court what is the relation of this brick of marijuana to the marijuana which you recovered from the room of Danilo Simbahon?

Witness

A This is the same brick of marijuana, ma'am.

FISCAL SULIDUM:

Q How do you know that this marijuana was recovered from the room of Danilo Simbahon?

Witness

A It was marked by the investigator, ma'am.

COURT:

Q How about you, did you put your own marking in order to identify that this was recovered from the room of Danilo Simbahon?

Witness

A None, Your Honor. I did not put my marking.

COURT:

Q Where is the marking that were marked by the investigator?

Witness

A I could not find the marking, Your Honor.[10]

The prosecution's failure to explain why the markings were no longer on the bricks of marijuana leaves is certainly damaging to its case. The prosecution must ensure that the item presented in court is the very same item seized from an accused in order to discourage tampering with the evidence. Its failure to do so, therefore, raised serious doubt as to appellant's guilt.

Considering that in criminal cases, proof beyond reasonable doubt is necessary to establish the guilt of an accused, similarly, unwavering exactitude in the identification of the corpus delicti is necessary. Every fact necessary to constitute the crime must be established by proof beyond reasonable doubt.[11]

More importantly, this case should be dismissed on the ground of manifest violations of the constitutional right of the accused against illegal search and seizure. While appellant may be deemed to have waived his right to question the legality of the search warrant and the admissibility of the evidence seized for failure to raise his objections at the opportune time,[12] however, the record shows serious defects in the search warrant itself which render the same null and void.[13]

As a general rule, factual findings of the trial court are entitled to respect absent any indication that it overlooked certain facts or circumstances of weight and influence which, if considered, would alter the result of the case.[14] In this case, we find that the trial court overlooked defects in Search Warrant No. 95-100, to wit:[15]

TO ANY PEACE OFFICER:
GREETINGS:

It appearing to the satisfaction of the undersigned after examining under oath SPO1 Bayani Corpuz Agulan and his witness, that there are reasonable grounds to believe that a violation of Section 15 and 16, Article III of RA 6425, as amended, and violation of PD 1866 has been committed or is about to be committed and there are good and sufficient reasons to believe that DANILO SIMBAJON @ Danny Pilay, CHARITO MANGULABNAN @ Chato and MARICAR MORGIA @ Caycay has in his possession the following: (Emphasis provided)

Undetermined amount of methamphetamine Hydrochloride or "Shabu", regulated drugs;

Packaging/sniffing paraphernalia such as weighing scale, plastic sachet/bags, tooters, aluminum foils, burner, scissor and knife;

.38 caliber revolver unlicensed firearm

You are hereby commanded to make an immediate search anytime of the day or night of the premises including the ground floor, the second floor and in all floors and rooms therein above-mentioned and forthwith seize and

take possession of the above-mentioned properties subject of the offense and bring to this Court said properties and persons to be dealt with as the law direct. You are further directed to submit return with in (10) days from today.

GIVEN UNDER MY HAND AND SEAL OF THIS COURT, this 20[th] day of April, 1995 in Manila, Philippines.

(sgd.) WILLIAM M. BAYHON

Executive Judge

The caption as well as the body of Search Warrant No. 95-100 show that it was issued for more than one offense – for violation of RA 6425 and for violation of PD 1866. In *Tambasen v. People, et al.*, it was held:

On its face, the search warrant violates Section 3, Rule 123 of the Revised Rules of Court, which prohibits the issuance of a search warrant for more than one specific offense. The caption of Search Warrant No. 365 reflects the violation of two special laws: P.D. No. 1866 for illegal possession of firearms, ammunitions and explosives; and R.A. No. 1700, the Anti-Subversive Law. Search Warrant No. 365 was therefore a “scatter-shot warrant” and totally null and void.[16]

Likewise, the warrant failed to describe the place to be searched with sufficient particularity. The rule is that a description of a place to be searched is sufficient if the officer with the warrant can, with reasonable effort, ascertain and identify the place intended.[17] The constitutional requirement is a description which particularly points to a definitely ascertainable place, so as to exclude all others. In the case at bar, only the application for search warrant[18] contained the address of the place to be searched. The search warrant issued by the court merely referred to appellant’s residence as “premises”, without specifying its address. The Constitution and the Rules of Court limit the place to be searched only to those described in the warrant.[19] The absence of a particular description in the search warrant renders the same void.

Finally, the seized marijuana was not mentioned in the search warrant issued for the search of appellant’s house. The seizure by the police officers conducting the search of articles not described in the search warrant was beyond the parameters of their authority under the search warrant. Article III, Section 2 of the 1987 Constitution requires that a search warrant should particularly describe the things to be seized. The evident purpose and intent of the requirement is to limit the things to be seized to those, and only those, particularly described in the search warrant, to leave the officers of the law with no discretion regarding what articles they should seize, to the end that unreasonable searches and seizures may not be made and that abuses may not be committed.[20] Neither can the admissibility of such seized items be justified under the plain view doctrine, for the bricks of marijuana in this case were found not inadvertently or in plain view. Rather, they were found after a meticulous search under the bed, wrapped in a newspaper and inside a plastic bag. In *People v. Musa*,[21] the marijuana recovered by NARCOM agents was declared inadmissible because the said drugs were contained in a plastic bag which bore no indication of its contents.

WHEREFORE, in view of the foregoing, the decision of the trial court is REVERSED and SET ASIDE. Appellant Danilo Simbahon y Quiatzon is ACQUITTED of the crime charged against him. He is ordered immediately released unless he is being held for some other valid or lawful cause.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Carpio, and Azcuna, JJ., concur.

- [1] Records, Folder No. 2 “Search Warrant No. 95-100”, p. 1.
- [2] Decision, per Judge Zeus C. Abrogar, Rollo, Annex “A”, pp. 120-124.
- [3] Record, p. 108.
- [4] Record, p. 229.
- [5] Appellant’s Brief, Rollo, pp. 83-119.
- [6] Brief for the Appellee, Rollo, pp. 139-152.
- [7] *People v. Mendiola*, G.R. No. 110778, 4 August 1994, 235 SCRA 116, 120.
- [8] *Id.*
- [9] See *People v. Dismuke*, G.R. No. 108453, 11 July 1994, 234 SCRA 51.
- [10] TSN, August 28, 1996, pp. 4-5.
- [11] *People v. Mendiola*, supra, citing *People v. Garcia*, G.R. No. 94187, 4 November 1992, 215 SCRA 349.
- [12] See *Demaisip v. Court of Appeals, et al.*, G.R. No. 89393, 25 January 1991, 193 SCRA 373, 382.
- [13] *Burgos, Sr. v. Chief of Staff, AFP*, 218 Phil. 754 (1984).
- [14] *People v. Balano*, G.R. No. 138474, 28 March 2001.
- [15] Records, Folder No. 2 “Search Warrant No. 95-100”, p. 1.
- [16] 316 Phil. 237 (1995).
- [17] *People v. Veloso*, 48 Phil. 169, 180 (1927).
- [18] Records, Folder No. 2 “Search Warrant No. 95-100”, pp. 2-3.
- [19] *Paper Industries Corporation of the Phils. v. Asuncion*, 366 Phil. 717 (1999).
- [20] *Tambasen v. People, et. al.*, supra.
- [21] G.R. No. 96177, 27 January 1997, 217 SCRA 597.

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