

HARRY S. STONEHILL, ROBERT P. BROOKS, JOHN J. BROOKS AND KARL BECK, PETITIONERS, VS. HON. JOSE W. DIOKNO, IN HIS CAPACITY AS SECRETARY OF JUSTICE; JOSE LUKBAN IN HIS CAPACITY AS...

G. R. No. 19550. June 19, 1967

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Upon application of the officers of the government named on the margin[1]- hereinafter referred to as Respondent-Prosecutors - several judges[2] - hereinafter referred to as Respondent-Judges - issued, on different dates,[3] a total of 42 search warrants against petitioners herein[4] and/or the corporations of which they were officers,[5] directed to any peace officer, to search the persons above-named and/or the premises of their offices, warehouses and/or re-sidences, and to seize and take possession of the follow-ing personal property to wit:

"Books of accounts, financial records, vouchers, correspondence, receipts, ledgers, journals, portfolios, credit journals, type-writers, and other documents and/or papers showing all business transactions including disbursements receipts, balance sheets and profit and loss statements and Bobbins (cigarette wrappers)."

as "the subject of the offense; stolen or embezzled and pro-ceeds or fruits of the offense," or "used or intended to be used as the means of committing the offense," which is de-scribed in the applications adverted to above as "violation of Central Bank Laws, Tariff and Customs Laws, Internal Re-venue (Code) and the Revised Penal Code."

Alleging that the aforementioned search warrants are null and void, as contravening the Constitution and the Rules of Court - because, inter alia: (1) they do not describe with particularity the documents, books and things to be seized; (2) cash money, not mentioned in the warrants, were actually seized; (3) the warrants were issued to fish evidence against the aforementioned petitioners in deportation cases filed against them; (4) the searches and seizures were made in an illegal manner; and (5) the documents, papers and cash money seized were not delivered to the courts that issued the war-rants, to be disposed of in accordance with law - on March 20, 1962, said petitioners filed with the Supreme Court this original action for certiorari, prohibition, mandamus and injunction, and prayed that, pending final disposition of the present case, a writ of preliminary injunction be issued re-straining Respondent-Prosecutors, their agents and/or repre-sentatives from using the effects seized as aforementioned, or any copies thereof, in the deportation cases already ad-verted to, and that, in due course, thereafter, decision be rendered quashing the contested search warrants and declaring the same null and void, and commanding the respondents, their agents or representatives to return to petitioners herein, in accordance with Section 3, Rule 67, of the Rules of Court, the documents, papers, things and cash moneys seized or confiscated under the search warrants in question.

In their answer, respondents-prosecutors alleged[6] (1) that the contested search warrants are valid and have been issued in accordance with law; (2) that the defects of said warrants, if any, were cured by petitioners' consent; and

(3) that, in any event, the effects seized are admissible in evidence against herein petitioners, regardless of the alleged illegality of the aforementioned searches and seizures.

On March 22, 1962, this Court issued the writ of preliminary injunction prayed for in the petition. However, by resolution dated June 29, 1962, the writ was partially lifted or dissolved, insofar as the papers, documents and things seized from the offices of the corporations above mentioned are concerned; but, the injunction was maintained as regards the papers, documents and things found and seized in the residences of petitioners herein.[7]

Thus, the documents, papers, and things seized under the alleged authority of the warrants in question may be split into two (2) major groups, namely: (a) those found and seized in the offices of the aforementioned corporations, and (b) those found and seized in the residences of petitioners herein.

As regards the first group, we hold that petitioners herein have no cause of action to assail the legality of the contested warrants and of the seizures made in pursuance thereof, for the simple reason that said corporations have their respective personalities, separate and distinct from the personality of herein petitioners, regardless of the amount of shares of stock or of the interest of each of them in said corporations, and whatever the offices they hold therein may be.⁸ Indeed, it is well settled that the legality of a seizure can be contested only by the party whose rights have been impaired thereby,⁹ and that the objection to an unlawful search and seizure is purely personal and cannot be availed of by third parties.¹⁰ Consequently, petitioners herein may not validly object to the use in evidence against them of the documents, papers and things seized from the offices and premises of the corporations adverted to above, since the right to object to the admission of said papers in evidence belongs exclusively to the corporations, to whom the seized effects belong, and may not be invoked by the corporate officers in proceedings against them in their individual capacity.¹¹ Indeed, it has been held:

x x x that the Government's action in gaining possession of papers belonging to the corporation did not relate to nor did it affect the personal defendants. If these papers were unlawfully seized and thereby the constitutional rights of or any one were invaded, they were the rights of the corporation and not the rights of the other defendants. Next, it is clear that a question of the lawfulness of a seizure can be raised only by one whose rights have been invaded. Certainly, such a seizure, if unlawful, could not affect the constitutional rights of defendants whose property had not been seized or the privacy of whose homes had not been disturbed; nor could they claim for themselves the benefits of the Fourth Amendment, when its violation, if any, was with reference to the rights of another. *Remus vs. United States* (C.C.A.) 291 F.501, 511. It follows, therefore, that the question of the admissibility of the evidence based on an alleged unlawful search and seizure does not extend to the personal defendants but embraces only the corporation whose property was taken. x x x." (*A. Guckenheimer & Bros. Co. vs. United States*, [1925] 3 F. 2d, 786, 789, underscoring supplied.)

With respect to the documents, papers and things seized in the residences of petitioners herein, the aforementioned resolution of June 29, 1962, denied the lifting of the writ of preliminary injunction previously issued by this Court,¹² thereby, in effect, restraining herein Respondent-Prosecutors from using them in evidence against petitioners herein.

In connection with said documents, papers and things, two (2) important questions need be settled, namely: (1) whether the search warrants in question, and the searches and seizures made under the authority thereof, are valid or not; and (2) if the answer to the preceding question is in the negative, whether said documents, papers and things may be used in evidence against petitioners herein.

Petitioners maintain that the aforementioned search warrants are in the nature of general warrants and that, accordingly, the seizures effected upon the authority thereof are null and void. In this connection, the Constitution¹³ provides:

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, to be determined 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."

Two points must be stressed in connection with this constitutional mandate, namely: (1) that no warrant shall issue but upon probable cause, to be determined by the judge in the manner set forth in said provision; and (2) that the warrant shall particularly describe the things to be seized.

None of these requirements has been complied with in the contested warrants. Indeed, the same were issued upon applications stating that the natural and juridical persons therein named had committed a "violation of Central Bank Laws, Tariff and Customs Laws, Internal Revenue (Code) and Revised Penal Code." In other words, no specific offense had been alleged in said applications. The averments thereof with respect to the offense committed were abstract. As a consequence, it was impossible for the judges who issued the warrants to have found the existence of probable cause, for the same presupposes the introduction of competent proof that the party against whom it is sought has performed particular acts, or committed specific omissions, violating a given provision of our criminal laws. As a matter of fact, the applications involved in this case do not allege any specific acts performed by herein petitioners. It would be a legal heresy, of the highest order, to convict anybody of a "violation of Central Bank Laws, Tariff and Customs Laws, Internal Revenue (Code) and Revised Penal Code," - as alleged in the aforementioned applications - without reference to any determinate provision of said laws or codes.

To uphold the validity of the warrants in question would be to wipe out completely one of the most fundamental rights guaranteed in our Constitution, for it would place the sanctity of the domicile and the privacy of communication and correspondence at the mercy of the whims, caprice or passion of peace-officers. This is precisely the evil sought to be remedied by the constitutional provision above quoted - to outlaw the so-called general warrants. It is not difficult to imagine what would happen, in times of keen political strife, when the party in power feels that the minority is likely to wrest it, even though by legal means.

Such is the seriousness of the irregularities committed in connection with the disputed search warrants, that this Court deemed it fit to amend Section 3 of Rule 122 of the former Rules of Court¹⁴ by providing in its counterpart under the Revised Rules of Court¹⁵ that "a search warrant shall not issue but upon probable cause in connection with one specific offense." Not satisfied with this qualification, the Court added thereto a paragraph, directing that "no search warrant shall issue for more than one specific offense."

The grave violation of the Constitution made in the application for the contested search warrants was compounded by the description therein made of the effects to be searched for and seized, to wit:

"Books of accounts, financial records, vouchers, journals, correspondence, receipts, ledgers, portfolios, credit journals, type-writers, and other documents and/or papers showing all business transactions including disbursement receipts, balance sheets and related profit and loss statements."

Thus, the warrants authorized the search for and seizure of records pertaining to all business transactions of petitioners herein, regardless of whether the transactions were legal or illegal. The warrants sanctioned the seizure of all records of the petitioners and the aforementioned corporations, whatever their nature, thus openly contravening the explicit command of our Bill of Rights - that the things to be seized be particularly described - as well as tending to defeat its major objective: the elimination of general warrants.

Relying upon *Moncado vs. People's Court* (80 Phil. 1), Respondent-Prosecutors maintain that, even if the searches and seizures under consideration were unconstitutional, the documents, papers and things thus seized are

admissible in evidence against petitioners herein. Upon mature deliberation, however, we are unanimously of the opinion that the position taken in the *Moncado* case must be abandoned. Said position was in line with the American common law rule, that the criminal should not be allowed to go free merely "because the constable has blundered,"¹⁶ upon the theory that the constitutional prohibition against unreasonable searches and seizures is protected by means other than the exclusion of evidence unlawfully obtained,¹⁷ such as the common-law action for damages against the searching officer, against the party who procured the issuance of the search warrant and against those assisting in the execution of an illegal search, their criminal punishment, resistance, without liability to an unlawful seizure, and such other legal remedies as may be provided by other laws.

However, most common law jurisdictions have already given up this approach and eventually adopted the exclusionary rule, realizing that this is the only practical means of enforcing the constitutional injunction against unreasonable searches and seizures. In the language of Judge Learned Hand:

"As we understand it, the reason for the exclusion of evidence competent as such, which has been unlawfully acquired, is that exclusion is the only practical way of enforcing the constitutional privilege. In earlier times the action of trespass against the offending official may have been protection enough; but that is true no longer. Only in case the prosecution which itself controls the seizing officials, knows that it cannot profit by their wrong, will that wrong be repressed."¹⁸

In fact, over thirty (30) years before, the Federal Supreme Court had already declared:

"If letters and private documents can thus be seized and held and used in evidence against a citizen accused of an offense, the protection of the 4th Amendment, declaring his rights to be secure against such searches and seizures, is of no value, and, so far as those thus placed are concerned, might as well be stricken from the Constitution. The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land."¹⁹

This view was, not only reiterated, but, also broadened in subsequent decisions of the same Federal Court.²⁰ After reviewing previous decisions thereon, said Court held, in *Mapp vs. Ohio* (supra.):

"x x x Today we once again examine the Wolf's constitutional documentation of the right of privacy free from unreasonable state intrusion, and, after its dozen years on our books, are led by it to close the only courtroom door remaining open to evidence secured by official lawlessness in flagrant abuse of that basic right, reserved to all persons as a specific guarantee against that very same unlawful conduct. We held that all evidence obtained by searches and seizures in violation of the Constitution is, by that same authority, inadmissible in a State court.

"Since the Fourth Amendment's right of privacy has been declared enforceable against the States through the Due Process Clause of the Fourteenth, it is enforceable against them by the same sanction of exclusion as it used against the Federal Government. Were it otherwise, then just as without the *Weeks* rule the assurance against unreasonable federal searches and seizures would be 'a form of words', valueless and underserving of mention in a perpetual charter of inestimable human liberties, so too, without that rule the freedom from state invasions of privacy would be so ephemeral and so neatly severed from its conceptual nexus with the freedom from all brutish means of coercing evidence as not to permit this Court's high regard as a freedom 'implicit in the concept of ordered liberty.' At the time that the Court held in *Wolf* that the Amendment was applicable to the States through the Due Process Clause, the cases of this Court as we have seen, had steadfastly held that as to federal officers the Fourth Amendment included the exclusion of the evidence seized in violation of its provisions. Even *Wolf* 'stoutly adhered' to that proposition. The right to privacy, when conceded operatively enforceable against the States, was not susceptible of destruction by avulsion of the sanction upon which its protection and enjoyment had always been deemed dependent under the *Boyd*, *Weeks* and *Silverthorne* Cases.

Therefore, in extending the substantive protections of due process to all constitutionally un-reasonable searches - state or federal - it was logi-cally and constitutionally necessary that the exclu-sion doctrine - an essential part of the right to privacy - be also insisted upon as an essential ingredient of the right newly recognized by the Wolf Case. In short, the admission of the new constitu-tional right by Wolf could not consistently toler-ate denial of its most important constitutional privilege, namely, the exclusion of the evidence which an accused had been forced to give by rea-son of the unlawful seizure. To hold otherwise is to grant the right but in reality to withhold its privilege and enjoyment. Only last year the Court itself recognized that the purpose of the exclusionary rule 'is to deter - to compel respect for the constitutional guaranty in the only effectively available way - by removing the incentive to disregard it.' x x x.

"The ignoble shortcut to conviction left open to the State tends to destroy the entire system of constitutional restraints on which the liberties of the people rest. Having once recognized that the right to privacy embodied in the Fourth Amendment is enforceable against the States, and that the right to be secure against rude invasions of privacy by state officers is, therefore constitu-tional in origin, we can no longer permit that right to remain an empty promise. Because it is enforceable in the same manner and to like effect as other basic rights secured by the Due Process Clause, we can no longer permit it to be revocable at the whim of any police officer who, in the name of law enforcement itself, chooses to suspend its enjoyment. Our decision, founded on reason and truth, gives to the individual no more than that which the Constitution guarantees him, to the police officer no less than that to which honest law enforce-ment is entitled, and, to the courts, that judicial integrity so necessary in the true administration of justice." (Underscoring ours.)

Indeed, the non-exclusionary rule is contrary, not only to the letter, but, also, to spirit of the constitutional injunction against unreasonable searches and seizures. To be sure, if the applicant for a search warrant has competent evi-dence to establish probable cause of the commission of a given crime by the party against whom the warrant is intended, then there is no reason why the applicant should not comply with the requirements of the fundamental law. Upon the other hand, if he has no such competent evidence, then it is not possible for the Judge to find that there is probable cause, and, hence, no justification for the issuance of the warrant. The only possible explanation (not justification) for its issuance is the necessity of fishing evidence of the commission of a crime. But, then, this fishing expedition is indicative of the absence of evidence to establish a probable cause.

Moreover, the theory that the criminal prosecution of those who secure an illegal search warrant and/or make un-reasonable searches or seizures would suffice to protect the constitutional guarantee under consideration, overlooks the fact that violations thereof are, in general, committed by agents of the party in power, for, certainly, those belonging to the minority could not possibly abuse a power they do not have. Regardless of the handicap under which the minority usually - but, understandably - finds itself in prosecuting agents of the majority, one must not lose sight of the fact that the psychological and moral effect of the possibility²¹ of securing their conviction, is watered down by the pardoning power of the party for whose benefit the illegality had been committed.

In their Motion for Reconsideration and Amendment of the Resolution of this Court dated June 29, 1962, petition-ers allege that Rooms Nos. 81 and 91 of Carmen Apartments, House No. 2008, Dewey Boulevard, House No. 1436, Colorado Street, and Room No. 304 of the Army-Navy Club, should be included among the premises considered in said Resolution as residences of herein petitioners, Harry S. Stonehill, Robert P. Brook, John J. Brooks and Karl Beck, respectively, and that, furthermore, the records, papers and other ef-fects seized in the offices of the corporations above referred to include personal belongings of said petitioners and other effects under their exclusive possession and con-trol, for the exclusion of which they have a standing under the latest rulings of the federal courts of the United States.²²

We note, however, that petitioners' theory, regarding their alleged possession of and control over the

aforemen-tioned records, papers and effects, and the alleged "personal" nature thereof, has been advanced, not in their petition or amended petition herein, but in the Motion for Recon-sideration and Amendment of the Resolution of June 29, 1962. In other words, said theory would appear to be a readjustment of that followed in said petitions, to suit the approach in-timated in the Resolution sought to be reconsidered and amend-ed. Then, too, some of the affidavits or copies of alleged affidavits attached to said motion for reconsideration, or submitted in support thereof, contain either inconsistent allegations, or allegations inconsistent with the theory now advanced by petitioners herein.

Upon the other hand, we are not satisfied that the alle-gations of said petitions and motion for reconsideration, and the contents of the aforementioned affidavits and other papers submitted in support of said motion, have sufficiently esta-blished the facts or conditions contemplated in the cases relied upon by the petitioners, to warrant application of the views therein expressed, should we agree thereto. At any rate, we do not deem it necessary to express our opinion thereon, it being best to leave the matter open for determi-nation in appropriate cases in the future.

We hold, therefore, that the doctrine adopted in the Mon-cado case must be, as it is hereby, abandoned; that the war-rants for the search of three (3) residences of herein petitioners, as specified in the Resolution of June 29, 1962, are null and void; that the searches and seizures therein made are illegal; that the writ of preliminary injunction hereto-fore issued, in connection with the documents, papers and other effects thus seized in said residences of herein peti-tioners is hereby made permanent; that the writs prayed for are granted, insofar as the documents, papers and other ef-fects so seized in the aforementioned residences are concern-ed; that the aforementioned motion for Reconsideration and Amendment should be, as it is hereby, denied; and that the petition herein is dismissed and the writs prayed for denied, as regards the documents, papers and other effects seized in the twenty-nine (29) places, offices and other premises enumerated in the same Resolution, without special pronouncement as to costs.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ. concur.
Castro, J. concurred and dissented in a separate opinion.

[1] Hon. Jose W. Diokno, in his capacity as Secretary of Jus-tice, Jose Lukban, in his capacity as Acting Director Na-tional Bureau of Investigation, Special Prosecutors Pedro D. Cenzone, Efren I. Plana and Manuel Villareal, Jr., and Assistant Fiscal Manases G. Reyes, City of Manila.

[2] Hon. Amado Roan, Judge of the Municipal (now City) Court of Manila, Hon. Roman Cansino, Judge of the Municipal (now City) Court of Manila, Hon. Hermogenes Caluag, Judge of the Court of First Instance of Rizal, Quezon City Branch, Hon. Eulogio Mencias, Judge of the Court of First Instance of Rizal, Pasig Branch, and Hon. Damian Jimenez, Judge of the Municipal (now City) Court of Quezon City.

[3] Covering the period from March 3 to March 9, 1962.

[4] Harry S. Stonehill, Robert P. Brooks, John J. Brooks and Karl Beck.

[5] U. S. Tobacco Corporation, Atlas Cement Corporation, Atlas Development Corporation, Far East Publishing Corporation (Evening News), Investment Inc., Industrial Business Manage-ment Corporation, General Agricultural Corporation, Ameri-can Asiatic Oil Corporation, Investment Management Corpora-tion, Holiday Hills, Inc., Republic Glass Corporation, In-dustrial and Business Management Corporation, United Housing

Corporation, The Philippine Tobacco-Flue-Curing and Redrying Corporation, Republic Real Estate Corporation and Merconsel Corporation.

[6] Inter alia.

7 "Without prejudice to explaining the reasons for this order in the decision to be rendered in the case, the writ of preliminary injunction issued by us in this case against the use of the papers, documents and things from the following premises: (1) The office of the US Tobacco Corp. at the Ledesma Bldg., Arzobispo St., Manila; (2) 932 Gonzales, Ermita, Manila; (3) office at Atlanta St. bounded by Chicago, 15th & 14th Sts., Port Area, Mla; (4) 527 Rosario St., Mla.; (5) Atlas Cement Corp. and/or Atlas Development Corp., Magsaysay Bldg., San Luis, Ermita, Mla.; (6) 205 13th St., Port Area, Mla.; (7) No. 224 San Vicente St., Mla.; (8) Warehouse No. 2 at Chicago & 23rd Sts., Mla.; (9) Warehouse at 23rd St., between Muelle de San Francisco & Boston, Port Area, Mla.; (10) Investment Inc., 24th St. & Boston; (11) IBMC, Magsaysay Bldg., San Luis, Mla.; (12) General Agricultural Corp., Magsaysay Bldg., San Luis, Manila; (13) American Asiatic Oil Corp., Magsaysay Bldg., San Luis, Manila; (14) Room 91, Carmen Apts., Dewey Blvd., Manila; (15) Warehouse Railroad St. between 17 & 12 Sts., Port Area, Manila; (16) Rm 304, Army & Navy Club, Manila South Blvd.; (17) Warehouse Annex Bldg., 18th St., Port Area, Manila; (18) Rm. 81 Carmen Apts., Dewey Blvd., Manila; (19) Holiday Hills, Inc., Trinity Bldg., San Luis, Manila; (20) No. 2008 Dewey Blvd.; (21) Premises of 24th St. & Boston, Port Area, Manila; (22) Republic Glass Corp., Trinity Bldg., San Luis, Manila; (23) IBMC, 2nd Flr., Trinity Bldg., San Luis, Manila; (24) IBMC, 2nd Flr., Go-changco Bldg., 610 San Luis Manila; (25) United Housing Corp., Trinity Bldg., San Luis Manila; (26) Republic Real Estate Corp., Trinity Bldg., San Luis, Manila; (27) 1437 Colorado St., Malate Manila; (28) Phil. Tobacco Flue-Curing, Magsaysay Bldg., San Luis, Manila and (29) 14 Baldwin St., Sta. Cruz, Manila, in the hearing of Deportation Cases Nos. R-953 and 955 against petitioner before the Deportation Board, is hereby lifted. The preliminary injunction shall continue as to the papers, documents and things found in the other premises namely: in those of the residences of petitioners, as follows: (1) 13 Narra Road, Forbes Park, Makati, Rizal; (2) 15 Narra Road, Forbes Park, Makati, Rizal; and (3) 8 Urdaneta Avenue, Urdaneta Village, Makati, Rizal.

8 Newingham, et al. vs. United States, 4 F. 2d. 490.

9 Lesis vs. U.S., 6 F. 2d. 22.

10 In re Dooley (1931) 48 F. 2d. 121; Rouda vs. U.S., 10 F. 2d 916; Lusco v. U.S. 287 F. 69; Ganci vs. U.S., 287 F. 60; Moris vs. U.S. 26 F. 2d 444.

11 U.S. vs. Gass, 17 F. 2d. 997; People vs. Rubio, 57 Phil., 384, 394.

12 On March 22, 1962.

13 Section 1, paragraph 3, of Article III thereof.

14 Reading: xxx A search warrant shall not issue but upon probable cause to be determined by the judge or justice of the peace after examination under oath or affirmation of the complaint and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized.

15 xxx A search warrant shall not issue but upon probable cause in connection with one specific offense to be determined by the judge or justice of the peace after examination under oath or affirmation of the complaint and the witnesses he may produce, and particularly describing the place to be searched and persons or things to be seized.

No search warrant shall issue for more than one specific offense. (Sec. 3, Rule 126.)

16 People v. Defore, 140 NE 585.

17 Wolf vs. Colorado, 93 L. ed 1782.

18 Pugliese (1945) 153 F. 2d. 497.

19 Weeks vs. United States (1914) 232 US 383, 58 L. ed. 652, 34 S. Ct. 341; underscoring supplied.

20 Gouled vs. United States (1921) 255 US 298, 65 L. ed. 647, 41 S. Ct. 261; Olmstead vs. United States (1928) 277 US 438, 72 L. ed. 944, 48 S. Ct. 564; Wolf vs. Colorado, 338 US 25, 93 L. ed. 1782, 69 S. Ct. 1359; Elkins vs. United State, 364 US 206, 4 L. ed. 2d. 1669, 80 S. Ct. 1437 (1960); Mapp vs. Ohio L91961), 367 US 643, 6 L. ed 2d. 1081, 81 S. Ct. 1684.

21 Even if remote.

22 Particularly, Jones vs. U.S., 362 U.S. 257; Alioto vs. Republic, 216 Fed. Supp. 48; U.S. vs. Jeffries, 72 S. Ct. 93; Villano vs. U.S., 300 Fed. 2d 680; and Henzel vs. U.S. 296 Fed. 2d 650.

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CONCURRING AND DISSENTING OPINION

CASTRO, J.:

From my analysis of the opinion written by Chief Justice Roberto Concepcion and from the import of the de-liberations of the Court on this case, I gather the following distinct conclusions:

1. All the search warrants served by the National Bureau of Investigation in this case are general warrants and are therefore proscribed by, and in violation of paragraph 3 of section 1 of Article III (Bill of Rights) of the Constitution;
2. All the searches and seizures conducted under the authority of the said search warrants were consequently illegal;
3. The non-exclusionary rule enunciated in Moncado vs. People, 80 Phil. 1, should be, and is declared, abandoned;
4. The search warrants served at the three residences of the petitioners are expressly declared null and void; the searches and seizures therein made are expressly declared illegal; and the writ of preliminary injunction heretofore issued against the use of the documents, papers and effects seized in the said residences is made permanent; and
5. Reasoning that the petitioners have not in their pleadings satisfactorily demonstrated that they have legal standing to move for the suppression of the documents, pa-pers and effects seized in the places other than to three residences adverted to above, the opinion written by the Chief Justice refrains from expressly declaring as null and void the search warrants served at such other places and as illegal the searches and seizures made therein, and leaves "the matter open for determination in appropriate cases in the future".

It is precisely the position taken by the Chief Justice summarized in the immediately preceding paragraph (numbered 5) with which I am not in accord.

I do not share his reluctance or unwillingness to expressly declare, at this time, the nullity of the search warrants served at places other than the three residences, and the illegality of the searches and seizures conducted under the authority thereof. In my view even the exacerbating passions and prejudices inordinately generated by the environmental political and moral developments of this case should not deter this Court from forthrightly laying down the law -- not only for this case but as well for future cases and future generations. All the search warrants, without exception, in this case are admittedly general, blanket and roving warrants and are therefore admittedly and indisputably outlawed by the Constitution; and the searches and seizures made were therefore unlawful. That the petitioners, let us assume in *gratia argumenti*, have no legal standing to ask for the suppression of the papers, things and effects seized from places other than their residences, to my mind, cannot in any manner effect, alter or otherwise modify the intrinsic nullity of the search warrants and the intrinsic illegality of the searches and seizures made thereunder. Whether or not the petitioners possess legal standing, the said warrants are void and remain void, and the searches and seizures were illegal and remain illegal. No inference can be drawn from the words of the Constitution that "legal standing" or the lack of it is a determinant of the nullity or validity of a search warrant or of the lawfulness or illegality of a search or seizure.

On the question of legal standing, I am of the conviction that, upon the pleadings submitted to this Court, the petitioners have the requisite legal standing to move for the suppression and return of the documents, papers and effects that were seized from places other than their family residences.

Our constitutional provision on searches and seizures was derived almost verbatim from the Fourth Amendment to the United States Constitution. In the many years of judicial construction and interpretation of the said constitutional provision, our courts have invariably regarded as doctrinal the pronouncements made on the Fourth Amendment by federal courts, especially the Federal Supreme Court and the Federal Circuit Courts of Appeals.

The U.S. doctrines and pertinent cases on standing to move for the suppression or return of documents, papers and effects which are the fruits of an unlawful search and seizure, may be summarized as follows: (a) ownership of documents, papers and effects gives "standing"; (b) ownership and/or control or possession - actual or constructive - of premises searched gives "standing"; and (c) the "aggrieved person" doctrine where the search warrant and the sworn application for search warrant are "primarily" directed solely and exclusively against the "aggrieved person", gives "standing".

An examination of the search warrants in this case will readily show that, excepting three, all were directed against the petitioners personally. In some of them, the petitioners were named personally, followed by the designation, "the President and/or General Manager" of the particular corporation. The three warrants excepted named three corporate defendants. But the "office/house/warehouse/premises" mentioned in the said three warrants were also the same "office/house/warehouse/premises" declared to be owned by or under the control of the petitioners in all the other search warrants directed against the petitioners and/or "the President and/or General Manager" of the particular corporation. (see pages 5-24 of Petitioners' Reply of April 2, 1962). The searches and seizures were to be made, and were actually made, in the "office/house/warehouse/premises" owned by or under the control of the petitioners.

Ownership of matters seized gives "standing".

Ownership of the properties seized alone entitles the petitioners to bring a motion to return and suppress, and gives them standing as persons aggrieved by an unlawful search and seizure regardless of their location at the time of seizure. *Jones vs. United States*, 362 U.S. 257, 261 (1960) (narcotics stored in the apartment of a friend of the

defendant); *Henzel vs. United States*, 296 F.2d 650, 652-53 (5th Cir. 1961) (personal and corporate papers of corporation of which the defendant was president); *United States vs. Jeffers*, 342 U.S. 48 (1951) (narcotics seized in an apartment not belonging to the defendant); *Pielow vs. United States*, 8F.2d 492, 493 (9th Cir. 1925) (books seized from the defendant's sister but belonging to the defendant); *Cf. Villano vs. United States*, 310 F.2d 680, 683 (10th Cir. 1962) (papers seized in desk neither owned by nor in exclusive possession of the defendant).

In a very recent case (decided by the U.S. Supreme Court on December 12, 1966), it was held that under the constitutional provision against unlawful searches and seizures, a person places himself or his property within a constitutionally protected area, be it his home or his office, his hotel room or his automobile:

"Where the argument falls is in its misapprehension of the fundamental nature and scope of Fourth Amendment protection. What the Fourth Amendment protects is the security a man relies upon when he places himself or his property within a constitutionally protected area, be it his home, or his office, his hotel room or his automobile.

There he is protected from unwarranted governmental intrusion. And when he puts something in his filing cabinet, in his desk drawer, or in his pocket, he has the right to know it will be secure from an unreasonable search or an unreasonable seizure. So it was that the Fourth Amendment could not tolerate the warrantless search of the hotel room in *Jeffers*, the purloining of the petitioner's private papers in *Gould*, or the surreptitious electronic surveillance in *Silverman*. Countless other cases which have come to this Court over the years have involved a myriad of differing factual contexts in which the protections of the Fourth Amendment have been appropriately invoked. No doubt the future will bring countless others. By nothing we say here do we either foresee or foreclose factual situations to which the Fourth Amendment may be applicable." (*Hoffa vs. U.S.* 87 S. Ct. 408 (December 12, 1966) See also *U.S. vs. Jeffers*, 342 U.S. 48, 72 S. Ct. 93 (November 13, 1951). (emphasis supplied)

Control of premises searched gives "standing".

Independent of ownership or other personal interest in the records and documents seized, the petitioners have standing to move for return and suppression by virtue of their proprietary or leasehold interest in many of the premises searched. These proprietary and leasehold interests have been sufficiently set forth in their motion for reconsideration and need not be recounted here, except to emphasize that the petitioners paid rent, directly or indirectly, for practically all the premises searched (Room 91, 84 Carmen Apts.; Room 304, Army & Navy Club; Premises 2008, Dewey Boulevard; 1436 Colorado Street); maintained personal offices within the corporate offices (IBMC, USTC); made improvements or furnished such offices; or had paid for the filing cabinets in which the papers were stored (Room 204, Army & Navy Club); and individually, or through their respective spouses, owned the controlling stock of the corporations involved. The petitioners' proprietary interest in most, if not all, of the premises searched therefore independently gives them standing to move for the return and suppression of the books, papers and effects seized therefrom.

In *Jones vs. United States*, *supra*, the U.S. Supreme Court delineated the nature and extent of the interest in the searched premises necessary to maintain a motion to suppress. After reviewing what it considered to be the unduly technical standards of the then prevailing circuit court decisions, the Supreme Court said (362 U.S. 266).

"We do not lightly depart from this course of decisions by the lower courts. We are persuaded, however, that it is unnecessary and ill-advised to import into the law surrounding the constitutional right to be free from unreasonable searches and seizures subtle distinctions, developed and refined by the common law in evolving the body of private property law which, more than almost any other branch of law, has been shaped by distinctions whose validity is largely historical. Even in the area from which they derive, due consideration has led to the discarding of those distinctions in the homeland of the common law. See *Occupiers' Liability Act*, 1957, 5 and 6 Eliz. 2, c. 31, carrying out Law Reform Committee, Third Report, Cmd. 9305. Distinctions such as those

bet-ween 'lessee,' 'licensee,' 'invitee,' and 'guest,' often only of gossamer strength, ought not be de-terminative in fashioning procedures ultimately re-ferable to constitutional safeguards." See also *Chapman vs. United States*, 354 U.S. 610, 616-17 (1961).

It has never been held that a person with requisite interest in the premises searched must own the property seized in order to have standing in a motion to return and suppress. In *Alioto vs. United States*, 216 F. Supp. 48 (1963), a bookkeeper for several corporations from whose apartment the corporate records were seized successfully moved for their re-turn. In *United States vs. Autonelli Fireworks Co.*, 53 P. Supp. 870, 873 (W. D. N. Y. 1943), the corporation's presi-dent successfully moved for the return and suppression as to him of both personal and corporate documents seized from his home during the course of an illegal search:

"The lawful possession by Antonelli of docu-ments and property, either his own or the corporation's was entitled to protection against unreasonable search and seizure. Under the circumstan-ces in the case at bar, the search and seizure were unreasonable and unlawful. The motion for the re-turn of seized articles and the suppression of the evidence so obtained should be granted." (emphasis supplied)

Time was when only a person who had property interest in either the place searched or the articles seized had the necessary standing to invoke the protection of the exclu-sionary rule. But in *MacDonald vs. United States*, 335 U.S. 461 (1948), Justice Robert Jackson, joined by Justice Felix Frankfurter, advanced the view that "even a guest may expect the shelter of the roof-tree he is under against criminal intrusion". This view finally became the official view of the U.S. Supreme Court and was articulated in *United States vs. Jeffers*, 342 U.S. 48 (1951). Nine years later, in 1960, in *Jones vs. United States*, 362 U.S. 257, 267, the U.S. Supreme Court went a step further. Jones was a mere guest in the apartment unlawfully searched, but the Court nonetheless declared that the exclusionary rule protected him as well. The concept of "person aggrieved by an unlawful search and seizure" was enlarged to include "anyone legitimate-ly on premises where the search occurs".

Shortly after the U.S. Supreme Court's Jones decision, the U.S. Court of Appeals for the Fifth Circuit held that the defendant organizer, sole stockholder and president of a corporation had standing in a mail fraud prosecution against him to demand the return and suppression of corpo-rate property. *Henzel vs. United States*, 296 F. 2d. 650, 652 (5th Cir. 1961), *supra*. The court concluded that the defendant had standing on two independent grounds: First -he had a sufficient interest in the property seized, and second - he had an adequate interest in the premises searched Just like in the case at bar). A postal inspector had unlawfully searched the corporation's premises and had seized most of the corporation's books and records. Looking to Jones, the court observed:

"Jones clearly tells us, therefore, what is not required to qualify one as a 'person aggrieved by an unlawful search and seizure.' It tells us that ap-pellant should not have been precluded from object-ing to the Postal Inspector's search and seizure of the corporation's books and records merely because the appellant did not show ownership or possession of the books and records or a substantial possessory interest in the invaded premises. . ." *Henzel vs. United States*, 296 F. 2d at 651.

Henzel was soon followed by *Villano vs. United States*, 310 F. 2d 680, 683, (10th Cir. 1962). In *Villano*, police officers seized two notebooks from a desk in the defendant's place of employment; the defendant did not claim ownership of either; he asserted that several employees (including himself) used the notebooks. The Court held that the employee had a protected interest and that there also was an invasion of privacy. Both Hensel and Villano considered also the fact that the search and seizure were "directed at" the moving defendant. *Henzel v vs. United States*, 296 F. 2d at 682; *Villano vs. United States*, 310 F. 2d a 683.

In a case in which an attorney closed his law office, placed his files in storage and went to Puerto Rico, the Court of Ap-peals for the Eighth Circuit recognized his standing to move to quash as unreasonable search and seizure

under the Fourth Amendment of the U.S. Constitution a grand jury subpoena duces tecum directed to the custodian of his files. The Government contended that the petitioner had no standing because the books and papers were physically in the possession of the custodian, and because the subpoena was directed against the custodian. The court rejected the contention, holding that

"Schwimmer legally had such possession, control and unrelinquished personal rights in the books and papers as not to enable the question of unreasonable search and seizure to be escaped through the mere procedural device of compelling a third-party naked possessor to produce and deliver them." *Schwimmer vs United States*, 232 F. 2d 855, 861 (8th Cir. 1956).

Aggrieved person doctrine where the search warrant is primarily directed against said person gives "standing".

The latest United States decision squarely in point is *United States vs. Birrell*, 242 F. Supp. 191 (1965, U.S.D.C., S.D.N.Y.). The defendant had stored with an attorney certain files and papers, which attorney, by the name of Dunn, was not, at the time of the seizing of the records, Birrell's attorney.* Dunn, in turn, had stored most of the records at his home in the country and on a farm which, according to Dunn's affidavit, was under his (Dunn's) "control and management". The papers turned out to be private, personal and business papers together with corporate books and records of certain unnamed corporations in which Birrell did not even claim ownership. (All of these type records were seized in the case at bar). Nevertheless, the search in Birrell was held invalid by the court which held that even though Birrell did not own the premises where the records were stored, he had "standing" to move for the return of all the papers and properties seized. The court, relying on *Jones vs. U.S.*, supra; *U.S. vs. Antonelli Fireworks Co.*, 53 F. Supp. 870, Aff'd 155 F. 2d 631; *Henzel vs. U.S.*, supra; and *Schwimmer vs. U.S.*, supra, pointed out that

"It is overwhelmingly established that the searches here in question were directed solely and exclusively against Birrell. The only person suggested in the papers as having violated the law was Birrell. The first search warrant described the records as having been used 'in committing a violation of Title 18, United States Code, Section 1341, by the use of the mails by one Lowell M. Birrell, ...' The second search warrant was captioned: 'United States of America v. Lowell M. Birrell. p.198)

"Possession (actual or constructive), no less than ownership, gives standing to move to suppress. Such was the rule even before *Jones*." (p. 199)

"If, as thus indicated, Birrell had at least constructive possession of the records stored with Dunn, it matters not whether he had any interest in the premises searched." See also *Jeffers v. United States*, 88 U.S. Appl. D.C. 58, 187 F. 2d 498 (1950), affirmed 342 U.S. 48, 72 S. Ct. 93, 96 L. Ed. 459 (1951).

The ruling in the Birrell case was reaffirmed on motion for reargument; the United States did not appeal from this decision. The factual situation in Birrell is strikingly similar to the case of the present petitioners; as in Birrell, many personal and corporate papers were seized from premises not petitioners' family residences; as in Birrell, the searches were "PRIMARILY DIRECTED SOLELY AND EXCLUSIVELY" against the petitioners. Still both types of documents were suppressed in Birrell because of the illegal search. In the case at bar, the petitioners' connection with the premises raided is much closer than in Birrell.

Thus, the petitioners have full standing to move for the quashing of all the warrants regardless of whether these were directed against residences in the narrow sense of the word, as long as the documents were personal papers of the petitioners or (to the extent that they were corporate papers) were held by them in a personal capacity or under their personal control.

Prescinding from the foregoing, this Court, at all events, should order the return to the petitioners all personal and private papers and effects seized, no matter where these were seized, whether from their residences or corporate

offices or any other place or places. The uncontradicted sworn statements of the petitioners in their various pleadings submitted to this Court indisputably show that amongst the things seized from the corporate offices and other places were personal, and private papers and effects belonging to the petitioners.

If there should be any categorization of the documents, papers and things which were the objects of the unlawful searches and seizures, I submit that the grouping should be: (a) personal or private papers of the petitioners wherever they were unlawfully seized, be it their family residences, offices, warehouses and/or premises owned and/or controlled and/or pos-sessed (actually or constructively) by them as shown in all the search warrants and in the sworn applications filed in securing the void search warrants, and (b) purely corporate papers be-longing to corporations. Under such categorization or grouping, the determination of which unlawfully seized papers, documents and things are personal/private of the petitioners or purely corporate papers will have to be left to the lower courts which issued the void search warrants in ultimately effecting the suppression and/or return of the said documents.

And as unequivocally indicated by the authorities above cited, the petitioners likewise have clear legal standing to move for the suppression of purely corporate papers as "President and/or General Manager" of the corporations involved as specifically mentioned in the void search warrants.

Finally, I must articulate my persuasion that although the cases cited in my disquisition were criminal prosecutions, the great clauses of the constitutional proscription on illegal searches and seizures do not withhold the mantle of their protection from cases not criminal in origin or nature.

* Attorney-client relationship played no part in the decision of the case.

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