

**SPOUSES LEOPOLDO AND MA. LUISA VEROY, PETITIONERS, VS. THE
HON. WILLIAM L. LAYAGUE, PRESIDING JUDGE, BRANCH XIV,
REGIONAL TRIAL COURT AT DAVAO CITY; AND BRIG. GEN.
PANTALEON DUM...**

G.R. No. 95630. June 18, 1992

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-95630/>

PARAS, J.:

This was originally a petition for certiorari, mandamus and prohibition under Rule 65 of the Rules of Court: certiorari, to review the Order of the respondent Judge dated October 2, 1990 denying herein petitioner's Motion for Hospital Confinement; mandamus, to compel respondent Judge to resolve petitioners' long pending motion for bail; and prohibition, to enjoin further proceedings on the ground that the legal basis therefore is unconstitutional for being violative of the due process and equal protection clauses of the Constitution.

The facts of this case are as follows:

Petitioners are husband and wife who owned and formerly resided at No. 13 Isidro St., Skyline Village, Catalunan Grande, Davao City. When petitioner Leopoldo Veroy was promoted to the position of Assistant Administrator of the Social Security System sometime in June, 1988, he and his family transferred to 130 K-8th St., East Kamias, Quezon City, where they are presently residing. The care and upkeep of their residence in Davao City was left to two (2) houseboys, Jimmy Favia and Eric Burgos, who had their assigned quarters at a portion of the premises. The Veroy's would occasionally send money to Edna Soquilon for the salary of the said houseboys and other expenses for the upkeep of their house. While the Veroy's had the keys to the interior of the house, only the key to the kitchen, where the circuit breakers were located, was entrusted to Edna Soguilon to give her access in case of an emergency. Hence, since 1988, the key to the master's bedroom as well as the keys to the children's rooms were retained by herein petitioners so that neither Edna Soguilon nor the caretakers could enter the house.

On April 12, 1990, Capt. Reynaldo Obrero of the Talomo Patrol Station, PC/INP, acting upon a directive issued by Metrodiscom Commander Col. Franco Calida, raided the house of herein petitioners in Davao City on information that the said residence was being used as a safehouse of rebel soldiers. They were able to enter the yard with the help of the caretakers but did not enter the house since the owner was not present and they did not have a search warrant. Petitioner Ma. Luisa was contacted by telephone in her Quezon City residence by Capt. Obrero to ask permission to search the house in Davao City as it was reportedly being used as a hideout and recruitment center of rebel soldiers. Petitioner Ma. Luisa Veroy responded that she is flying to Davao City to witness the search but relented if the search would not be conducted in the presence of Major Ernesto Macasaet, an officer of the PC/INP, Davao City and a long time family friend of the Veroy's. The authority given by Ma. Luisa Veroy was relayed by Capt. Obrero to Major Macasaet who answered that Ma. Luisa Veroy has called him twice by telephone on the matter and that the permission was given on the condition that the search be conducted in his presence.

The following day, Capt. Obrero and Major Macasaet met at the house of herein petitioners in Skyline Village to conduct the search pursuant to the authority granted by petitioner Ma. Luisa Veroy. The caretakers facilitated their entry into the yard, and using the key entrusted to Edna Soguilon, they were able to gain entrance into the kitchen. However, a locksmith by the name of George Badiang had to be employed to open the padlock of the door leading to the children's room. Capt. Obrero and Major Macasaet then entered the children's room and conducted the search. Capt. Obrero recovered a .45 cal. handgun with a magazine containing seven (7) live bullets in a black clutch bag inside an unlocked drawer. Three (3) half-full jute sacks containing printed materials of RAM-SFP (samples of which were attached as Annexes "H" and "H-1" of the petition) (Rollo, pp. 49-55) were also found in the children's room. A search of the children's recreation and study area revealed a big travelling bag containing assorted polo shirts, men's brief, two (2) pieces polo barong and short sleeve striped gray polo, sweat shirt, two (2) pairs men's socks, a towel made in U.S.A., one blanket, a small black bag, Gandhi brand, containing a book entitled "Islamic Revolution Future Path of the Nation", a road map of the Philippines, a telescope, a plastic bag containing assorted medicines and religious pamphlets was found in the master's bedroom. Sgt. Leo Justalero was instructed by Capt. Obrero to make an inventory and receipt of the articles seized in the house (Annex "F" of the Petition, Rollo, p. 48). Said receipt was signed by Eric Burgos one of the caretakers, and George Badiang, the locksmith, as witnesses. Sgt. Justalero turned over the articles to Sgt. Rodolfo Urbano at the police station.

The case was referred for preliminary investigation to Quezon City Assistant Prosecutor Rodolfo Ponferrada who was designated Acting Provincial Prosecutor for Davao City by the Department of Justice through Department Order No. 88 dated May 16, 1990. In a resolution dated August 6, 1990, Fiscal Ponferrada recommended the filing of an Information against herein petitioners for Violation of Presidential Decree No. 1866 (Illegal Possession of Firearms and Ammunitions in Furtherance of Rebellion) (Annex "L" of the Petition, Rollo, p. 71). Hence, on August 8, 1990 an Information for the said offense was filed by the Office of the City Prosecutor of Davao City before the Regional Trial Court, 11th Judicial Region, Davao City, docketed as Criminal Case No. 20595-90 and entitled "People of the Philippines v. Atty. Leopoldo Veroy and Mrs. Maria Luisa Veroy" (Annex "K" of the Petition, Rollo, p. 70). No bail was recommended by the prosecution.

The aforementioned resolution dated August 6, 1990 of Fiscal Ponferrada was received by the petitioners on August 13, 1990. On the same day, the latter filed a Motion for Bail before herein respondent Judge Layague which was denied on August 17, 1990 for being premature since at that time, petitioners had not yet been arrested. Despite the fact that the warrants for their arrest have not yet been served on them, herein petitioners voluntarily surrendered themselves to Brig. Gen. Pantaleon Dumlao, PC-CIS Chief, since it was the CIS that initiated the complaint. However, the latter refused to receive them on the ground that his office has not yet received copies of their warrants of arrest.

In the meantime, on August 15, 1990, herein petitioners were admitted to the St. Luke's Hospital for various ailments brought about or aggravated by the stress and anxiety caused by the filing of the criminal complaint. On August 17, 1990, Brig. Gen. Dumlao granted their request that they be allowed to be confined at the hospital and placed under guard thereat.

In an Indorsement dated August 20, 1990, the CIS through Capt. Benjamin de los Santos, made its return to the trial court informing the latter of the voluntary surrender of herein petitioners and the fact that they were under hospital confinement. Herein petitioner reiterated their Motion for Bail. In an Order dated August 24, 1990 (Annex "M" of the Petition, Rollo, p. 74), the hearing for the Motion for Bail was set for August 31, 1990 to enable the prosecution to present evidence in opposition to said motion. The prosecution filed its written opposition (Annex "N" of the Petition, Rollo, p. 75) on August 28, 1990, arguing that the evidence of petitioners' guilt was strong and thereafter presented its evidence.

On September 21, 1990, respondent Judge required the CIS to produce the bodies of herein petitioners on October 1, 1990 for arraignment (Annex “O” of the Petition, Rollo, p. 76). Upon their arraignment, herein petitioners entered a plea of not guilty and filed an “Urgent Motion for Hospital Confinement” (Annex “OO” of the Petition, Rollo, p. 77) which was denied by the court in its Order dated October 2, 1990 (Annex “P” of the Petition, Rollo, p. 80). It likewise ordered their commitment at the Davao City Rehabilitation Center, Ma-a, Davao City pending trial on the merits. Herein petitioners argued orally a motion for reconsideration which was opposed by the prosecution. At the conclusion thereof, the court a quo issued a second order (Annex “Q” of the Petition, Rollo, p. 83) denying their motion for reconsideration and as to the alternative prayer to reopen the motion for hospital confinement, set the continuance thereof to October 17, 1990. It was further ordered that the petitioners shall remain under the custody of the PC-CIS pending resolution of the case.

Meanwhile, petitioners were returned to the St. Luke’s Hospital where their physical condition remained erratic. On or about October 18, 1990, herein petitioners were informed that Brig. Gen. Dumlao had issued a directive for their transfer from the St. Luke’s Hospital to Camp Crame on the basis of the October 2, 1990 Order (Annex “Q” of the Petition, Rollo, p. 83). Petitioners made representations that the tenor of the court order warranted maintenance of the status quo, i.e., they were to continue their hospital confinement. However, Brig. Gen. Dumlao informed them that unless otherwise restrained by the court, they would proceed with their transfer pursuant to the order of the trial court.

Hence, this petition. On October 25, 1990 this Court issued a Temporary Restraining Order, effective immediately and continuing until further orders from this Court, ordering: (a) respondent Hon. William L. Layague to refrain from further proceeding with petitioners’ “Motion for Hospital Confinement” in Criminal Case No. 20595-90 entitled “People of the Philippines v. Leopoldo Veroy and Ma. Luisa Veroy”; and (b) respondent Brig. Gen. Pantaleon Dumlao to refrain from transferring petitioners from the St. Luke’s Hospital (Rollo, pp. 84-A to 84-C).

On November 2, 1990, respondent Judge issued an order denying petitioners’ Motion for Bail (Annex “A” of the Second Supplemental Petition, Rollo, p. 133). Petitioners filed a Supplemental Petition on November 7, 1990 (Rollo, p. 105) and a Second Supplemental Petition on November 16, 1990 (Rollo, p. 120) which sought to review the order of the trial court dated November 2, 1990 denying their petition for bail.

Acting on the Supplemental Petition filed by petitioners and taking into consideration several factors such as: a) that the possibility that they will flee or evade the processes of the court is fairly remote; b) their poor medical condition; and c) the matters in their Second Supplemental Petition especially since the prosecution’s evidence refers to constructive possession of the disputed firearms in Davao City through the two (2) caretakers while petitioners lived in Manila since 1988, this Court, on November 20, 1990, granted petitioners’ provisional liberty and set the bail bond at P20,000.00 each (Rollo, p. 141). Petitioners posted a cash bond in the said amount on November 23, 1990 (Rollo, pp. 143-145).

The petition was given due course on July 16, 1991 (Rollo, p. 211). Respondents adopted their Comment dated December 28, 1990 (Rollo, pp. 182-191) as their Memorandum while petitioners filed their Memorandum on September 9, 1991 (Rollo, pp. 218-269).

As submitted by the respondents, and accepted by petitioners, the petition for mandamus to compel respondent judge to resolve petitioners’ Motion for Bail, and the petition for certiorari to review the order of respondent judge initially denying their Motion for Hospital Confinement, were rendered moot and academic by the resolutions of this Court dated November 20, 1990 and October 25, 1990, respectively. What remains to be resolved is the petition for prohibition where petitioners raised the following issues:

1. Presidential Decree No. 1866, or at least the third paragraph of Section 1 thereof, is unconstitutional for being

violative of the due process and equal protection clauses of the Constitution;

2. Presidential Decree No. 1866 has been repealed by Republic Act No. 6968;

3. Assuming the validity of Presidential Decree No. 1866, the respondent judge gravely abused his discretion in admitting in evidence certain articles which were clearly inadmissible for being violative of the prohibition against unreasonable searches and seizures.

The issue of constitutionality of Presidential Decree No. 1866 has been laid to rest in the case of *Misolas v. Panga*, G.R. No. 83341, January 30, 1990 (181 SCRA 648), where this Court held that the declaration of unconstitutionality of the third paragraph of Section 1 of Presidential Decree No. 1866 is wanting in legal basis since it is neither a bill of attainder nor does it provide a possibility of a double jeopardy.

Likewise, petitioners' contention that Republic Act 6968 has repealed Presidential Decree No. 1866 is bereft of merit. It is a cardinal rule of statutory construction that where the words and phrases of a statute are not obscure or ambiguous, its meaning and the intention of the legislature must be determined from the language employed, and where there is no ambiguity in the words, there is no room for construction (*Provincial Board of Cebu v. Presiding Judge of Cebu, CFI, Br. IV*, G.R. No. 34695, March 7, 1989 [171 SCRA 1]). A perusal of the aforementioned laws would reveal that the legislature provided for two (2) distinct offenses: (1) illegal possession of firearms under Presidential Decree No. 1866; and (2) rebellion, coup d' etat, sedition and disloyalty under Republic Act 6968; evidently involving different subjects which were not clearly shown to have eliminated the others.

But petitioners contend that Section 1 of Presidential Decree No. 1866 is couched in general or vague terms. The terms "deal in", "acquire", "dispose" or "possess" are capable of various interpretations such that there is no definiteness as to whether or not the definition includes "constructive possession" or how the concept of constructive possession should be applied. Petitioners were not found in actual possession of the firearm and ammunitions. They were in Quezon City while the prohibited articles were found in Davao City. Yet they were being charged under Presidential Decree No. 1866 upon the sole circumstance that the house wherein the items were found belongs to them (Memorandum for Petitioners, Rollo, pp. 242-244).

Otherwise stated, other than their ownership of the house in Skyline Village, there was no other evidence whatsoever that herein petitioners possessed or had in their control the items seized (*Ibid.*, pp. 248-250). Neither was it shown that they had the intention to possess the Firearms or to further rebellion (*Ibid.*, p. 252).

In a similar case, the revolver in question was found in appellant's store and the question arose whether he had possession or custody of it within the meaning of the law.

This Court held that:

"The animus possidendi must be proved in opium cases where the prohibited drug was found on the premises of the accused and the same rule is applicable to the possession of firearms. The appellant denied all knowledge of the existence of the revolver, and the Government's principal witness stated that there were a number of employees in the store. The only testimony which tends to show that the appellant had the possession or custody of this revolver is the inference drawn from the fact that it was found in his store, but we think that this inference is overcome by the positive testimony of the appellant, when considered with the fact that there were a number of employees in the store, who, of course, could have placed the revolver in the secret place where it was found without the knowledge of the appellant. At least there is a very serious doubt whether he knew of the existence of this revolver. In such case the doubt must be resolved in favor of the appellant." (*U.S. v. Jose and Tan Bo.*, 34 Phil. 724 [1916])

But more importantly, petitioners question the admissibility in evidence of the articles seized in violation of their constitutional right against unreasonable search and seizure.

Petitioners aver that while they concede that Capt. Obrero had permission from Ma. Luisa Veroy to break open the door of their residence, it was merely for the purpose of ascertaining thereat the presence of the alleged “rebel” soldiers. The permission did not include any authority to conduct a room to room search once inside the house. The items taken were, therefore, products of an illegal search, violative of their constitutional rights. As such, they are inadmissible in evidence against them.

The Constitution guarantees the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures (Article III, Section 2 of the 1987 Constitution). However, the rule that searches and seizures must be supported by a valid warrant is not an absolute one. Among the recognized exceptions thereto are: (1) a search incidental to an arrest; (2) a search of a moving vehicle; and (3) seizure of evidence in plain view (*People v. Lo Ho Wing*, G.R. No. 88017, January 21, 1991 [193 SCRA 122]).

None of these exceptions pertains to the case at bar. The reason for searching the house of herein petitioners is that it was reportedly being used as a hideout and recruitment center for rebel soldiers. While Capt. Obrero was able to enter the compound, he did not enter the house because he did not have a search warrant and the owners were not present. This shows that he himself recognized the need for a search warrant, hence, he did not persist in entering the house but rather contacted the Veroyos to seek permission to enter the same. Permission was indeed granted by Ma. Luisa Veroy to enter the house but only to ascertain the presence of rebel soldiers. Under the circumstances it is undeniable that the police officers had ample time to procure a search warrant but did not.

In a number of cases decided by this Court, (*Guazon v. De Villa*, supra.; *People v. Aminnudin*, G.R. No. L-74869, July 6, 1988 [163 SCRA 402]; *Alih v. Castro*, G.R. No. L-69401, June 23, 1987 [151 SCRA 279]), warrantless searches were declared illegal because the officials conducting the search had every opportunity to secure a search warrant. The objects seized, being products of illegal searches, were inadmissible in evidence in the criminal actions subsequently instituted against the accused-appellants (*People v. Cendana*, G.R. No. 84715, October 17, 1990 [190 SCRA 538]).

Undeniably, the offense of illegal possession of firearms is *malum prohibitum* but it does not follow that the subject thereof is necessarily illegal *per se*. Motive is immaterial in *mala prohibita* but the subjects of this kind of offense may not be summarily seized simply because they are prohibited. A search warrant is still necessary. Hence, the rule having been violated and no exception being applicable, the articles seized were confiscated illegally and are therefore protected by the exclusionary principle. They cannot be used as evidence against the petitioners in the criminal action against them for illegal possession of firearms. (*Roan v. Gonzales*, 145 SCRA 689-690 [1986]). Besides, assuming that there was indeed a search warrant, still in *mala prohibita*, while there is no need of criminal intent, there must be knowledge that the same existed. Without the knowledge or voluntariness there is no crime.

PREMISES CONSIDERED, the petition is granted and the criminal case against the petitioners for illegal possession of firearms is DISMISSED.

SO ORDERED.

Narvasa, C.J., Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and Bellosillo, JJ., concur.

Nocon, J., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.