

ADOLFO OLAES AND LINDA M. CRUZ, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES AND HON. JUDGE ALICIA L. SANTOS (IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF OLO...

G.R. Nos. 78347-49. November 09, 1987

Ponente: CRUZ, J.

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CRUZ, J.:

In this petition for certiorari and prohibition with preliminary injunction, the petitioners challenge the admission by the respondent judge of evidence seized by virtue of an allegedly invalid search warrant and of an extrajudicial confession taken from them without according them the right to assistance of counsel.[1] They seek to restrain further proceedings in the criminal case against them for violation of the Dangerous Drugs Act (which we have suspended)[2] and ask that they be acquitted with the setting aside of the questioned orders.

The Solicitor General, in his Comment, suggests that the petition should be dismissed as it is not alleged there-in that the respondent judge has committed grave abuse of discretion or acted without or in excess of jurisdiction. He adds that if any reversible error has been committed, it may be corrected not in this petition but in an ordinary appeal, which may not even be necessary if the petitioners are exonerated.[3]

The petitioners, in their Reply, do not meet these arguments head-on, thus impliedly admitting the formal defect in their petition, but submit that technicalities should yield to substantial questions in the interest of justice and to avoid unnecessary or protracted litigation. Their contention is that since there are important constitutional issues involved, these questions should be decided in this petition instead of having them debated and resolved first in the lower court in accordance with the usual procedure, to the prejudice of the speedy disposition of their case.[4]

We are not usually persuaded by this kind of argument, since procedural rules are intended precisely to insure an orderly administration of justice. Rights are best established in accordance with the procedure laid down by the adjective law, which is as binding on the parties as the substantive law since they are supposed to complement each other. The Solicitor General is obviously correct in faulting the petition and in contending that, besides being defective, it is not the proper remedy at this time. There is no disputing this stand.

Worthy of note in this connection is the separate opinion of the present Chief Justice in *Joseph v. Villaluz*,[5] where he declared that:

"... the Court adheres to the settled rule that it will not overrule in a special civil action the trial court's interlocutory order denying a motion to dismiss for failure or insufficiency of the prosecution's evidence since it cannot review in such special civil action the prosecution's evidence and decide here and now in advance that it has or has not established beyond reasonable doubt the guilt of the petitioners-accused. The orderly procedure prescribed by the Rules of Court is for the accused to present their evidence after which the trial court will on the basis of the evidence presented before it by both the prosecution and the defense render its judgment of conviction or acquittal. If the verdict be one of acquittal, the case ends there. If it be a verdict of

conviction, then appeal is the proper remedy - and such appeal in order to have a review of the trial court's findings of fact lies within the exclusive appellate jurisdiction of the Court of Appeals."

We reiterate the rule here.

Even so, the Court has decided, without detracting from the validity of the above-cited observations, to deviate from the established procedure on this matter and to categorically resolve the issues presented in the case before us. The challenged orders are, indeed, interlocutory. Nevertheless, a restatement of the principles governing such issues will, it is expected, simplify the proceedings in the court below and speed up the disposition of the criminal case against the petitioners.

The petitioners claim that the search warrant issued by the respondent judge is unconstitutional because it does not indicate the specific offense they are supposed to have committed. There is, therefore, according to them, no valid finding of probable cause as a justification for the issuance of the said warrant in conformity with the Bill of Rights. In support of this argument, they cite *Stonehill v. Diokno*,^[6] where Chief Justice Concepcion struck down the search warrants issued therein for being based on the general allegation that the petitioners had committed violations of "Central Bank Laws, Tariff and Customs Laws, Internal Revenue Code and Revised Penal Code." He declared:

"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 law."

We have examined the search warrant issued in the instant case and find it does not come under the strictures of the *Stonehill* doctrine. In the case cited, there was a bare reference to the laws in general, without any specification of the particular sections thereof that were alleged to have been violated out of the hundreds of prohibitions contained in such codifications. There is no similar ambiguity in the instant case.

While it is true that the caption of the search warrant states that it is in connection with "Violation of RA 6425, otherwise known as the Dangerous Drugs Acts of 1972," it is clearly recited in the text thereof that "there is probable cause to believe that Adolfo Olaes alias 'Debie' and alias 'Baby' of No. 628 Comia St., Filtration, Sta. Rita, Olongapo City, has in their possession and control and custody of marijuana dried stalks/leaves/seeds/cigarettes and other regulated/prohibited and exempt narcotics preparations which is the subject of the offense stated above."^[7] Although the specific section of the Dangerous Drugs Act is not pinpointed, there is no question at all of the specific offense alleged to have been committed as a basis for the finding of probable cause. The search warrant also satisfies the requirement in the Bill of Rights of the particularity of the description to be made of the "place to be searched and the persons or things to be seized."

The petitioners also fault the admission of the extrajudicial confessions which they had given without the assistance or advice of counsel and cite Section 20 of the Bill of Rights of the 1973 Constitution providing that "any confession obtained in violation of this section shall be inadmissible in evidence."

In the separate sworn statements taken from Adolfo Olaes and Linda Cruz on September 24, 1982,^[8] it appears that both petitioners were, before being examined, specifically informed of their right to the assistance of counsel, which would be provided them by the investigating office at their request. Asked if they understood, they said "Opo" and affixed their signatures opposite their answer. This was followed by a statement entitled "Pagpapatunay" or Verification in which they said inter alia that they did not need the assistance of counsel ("Hindi ko na kailangan ang tulong ng isang manananggol.") which they also signed. It was only after these

preliminary precautions had been taken that the interrogation began and was recorded in the sworn statement later introduced against them at their trial.

There is no claim that any force, violence, intimidation or threat or any means vitiating the free will was employed against them. Their only objection to the extra-judicial confessions is that they were obtained without the assistance of counsel. They do not aver in their petition that they were not apprised of their right to counsel or that they were denied the assistance of counsel when they asked for it, or, indeed, that they had asked for it.

Even so, their investigation did not conform to the requirements laid down in *People v. Galit*,^[9] where we declared:

"At the time a person is arrested, it shall be the duty of the arresting officer to inform him of the reason for the arrest and he must be shown the warrant of arrest, if any. He shall be informed of his constitutional rights to remain silent and to counsel, and that any statement he might make could be used against him. The person arrested shall have the right to communicate with his lawyer, a relative, or anyone he chooses by the most expedient means - by telephone if possible - or by letter or messenger. It shall be the responsibility of the arresting officer to see to it that this is accomplished. No custodial investigation shall be conducted unless it be in the presence of counsel engaged by the person arrested, by any person on his behalf, or appointed by the court upon petition either of the detainee himself or by anyone on his behalf. The right to counsel may be waived but the waiver shall not be valid unless made with the assistance of counsel. Any statement obtained in violation of the procedure herein laid down, whether exculpatory or inculpatory, in whole or in part, shall be inadmissible in evidence."

These requirements were made even stricter under Article III, Section 12 of the 1987 Constitution, providing as follows:

"Sec. 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel."

"(3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him."

Applying the above rules, we reach the conclusion that the extrajudicial confessions should be declared inadmissible as evidence against the herein petitioners.

WHEREFORE, the petition is partly granted. The extrajudicial confessions are excluded but the articles seized under the challenged search warrant may be admitted in evidence. Our temporary restraining order of May 25, 1987, is lifted. No costs.

SO ORDERED.

Teehankee, C.J., Narvasa, Paras, and Gancayco, JJ., concur.

[1] Rollo, pp. 9-11.

[2] *Ibid.*, p. 47.

[3] *Id.*, p. 64.

[4] Petitioner's Reply, pp. 4-5.

[5] 89 SCRA 324.

[6] 20 SCRA 383.

[7] Annex "A", Rollo, p. 15.

[8] Annex "B" and "B-1", Rollo, pp. 16-17.

[9] 135 SCRA 465.

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