

## SECOND DIVISION

[ G.R. No. 213875, July 15, 2020 ]

**MERLINA R. DIAZ, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### DECISION

**HERNANDO, J.:**

This Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court seeks to reverse and set aside the May 12, 2014 Decision<sup>[2]</sup> and August 11, 2014 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 132942. The CA dismissed the Petition for *Certiorari*<sup>[4]</sup> under Rule 65 of the Rules of Court, assailing the July 16, 2013<sup>[5]</sup> and September 20, 2013<sup>[6]</sup> Orders of Judge Francisco D. Paño of the Regional Trial Court (RTC) of San Pedro, Laguna, Branch 93, which denied the Motion to Quash Search Warrant<sup>[7]</sup> and Motion for Reconsideration,<sup>[8]</sup> respectively, filed by petitioner Merlina R. Diaz in Criminal Case No. 12-8358-SPL.

#### **Factual Antecedents**

On April 27, 2012, on the basis of the application filed by and examination under oath of applicant Police Officer 2 Pio P. Avila (PO2 Avila), RTC Judge Agripino Morga, Presiding Judge of San Pablo City, Branch 32, issued Search Warrant No. 97 (12)<sup>[9]</sup> which read, in part, as follows:

It appearing to the satisfaction of the undersigned that after examining under oath by searching questions and answers PO2 Pio Pievro Avila, there exists a probable cause for Violation of RA 9165 which has been committed and there is a good sufficient reason to believe that MERLY DIAZ @ Merly Palayok has possession and control of undetermined amount of Metham[pheta]mine Hydrochloride commonly known as *shabu* which [she] is keeping and concealing in [her] house at Gitna, Brgy. Cuyab, San Pedro[, ] Laguna.

You are, therefore, hereby commanded to make an immediate search at anytime of the day or anytime of the night the house aforesated and thereafter seize and bring said undetermined amount of Prohibited Drugs (*shabu*) to the undersigned so that the same could be dealt with in accordance with law.

In support of PO2 Avila's application, an informant, a certain Jericho S. Labrador

(Labrador), submitted to Judge Morga two sketches of the house of petitioner in Gitna, Brgy. Cuyab, San Pedro, Laguna. The first sketch<sup>[10]</sup> of Labrador depicted a floor plan of a studio-type apartment with an anteroom where the entrance gate of the property was located. The second sketch<sup>[11]</sup> depicted three buildings along Gitna, one of which was marked with a large "X" enclosed in a square that supposedly identified petitioner's house.<sup>[12]</sup>

Pursuant to the search warrant, members of the San Pedro Police Station searched the house of petitioner. Approximately nine grams of *shabu* were then found in and seized from the premises. Petitioner was immediately arrested and detained by the members of the searching team for her alleged violation of Section 11 of Republic Act No. 9165 (R.A. No. 9165), or the Comprehensive Dangerous Drugs Act of 2002.<sup>[13]</sup>

Immediately after the search and petitioner's arrest, the following information was uncovered from petitioner: (1) that the complete address of her residence is No. 972, Gitna, Brgy. Cuyab, San Pedro, Laguna; and (2) that the house located at No. 972, Gitna, Brgy. Cuyab, San Pedro, Laguna was divided into five separate units each occupied by petitioner and her four siblings, namely, Nomer (Leomer) R. Diaz, Edwin R. Diaz, Flordeliza R. Diaz, and Leonora Diaz Nesola (Leonora), and their respective families.<sup>[14]</sup>

Thereafter, on May 2, 2012, Inquest Proceedings were conducted by Assistant Provincial Prosecutor Clarence R. Gaité. On the same day, an Information for Violation of Section 11 of R.A. No. 9165, docketed as Criminal Case No. 12-8358-SPL, was filed before the RTC of San Pablo City, Laguna, Branch 93, against petitioner.<sup>[15]</sup>

On May 22, 2012, petitioner filed before the RTC of San Pablo City, Laguna, Branch 32, a Motion to Quash Search Warrant No. 97 (12)<sup>[16]</sup> on the ground that the same was in the nature of a general warrant which failed to describe with particularity the place to be searched. Particularly, petitioner averred in her motion that: (a) house number 972 did not appear in her home address as stated in the search warrant; and (b) the search warrant failed to distinguish petitioner's unit, which was the place intended to be searched, from the other units or rooms representing the four other households inside the house located in Gitna, Brgy. Cuyab, San Pedro, Laguna.

On May 25, 2012, the RTC of San Pablo City, Laguna, Branch 32, issued an Order<sup>[17]</sup> forwarding the motion to the RTC of San Pedro, Laguna, Branch 93, for resolution.

On March 1, 2013, the prosecution filed its objection<sup>[18]</sup> to the Motion to Quash averring that the search warrant is presumed regular unless and until petitioner presents evidence to prove otherwise.

### **Ruling of the Regional Trial Court**

In an Order<sup>[19]</sup> dated July 16, 2013, the RTC of San Pedro, Laguna, Branch 93, denied petitioner's motion for lack of merit considering that the description of the

place as stated in the search warrant was sufficient, thus:

Acting on the Motion to Quash filed by accused through counsel, with the objection thereto by the public prosecutor, the Court resolves to deny the said motion for utter lack of merit. The Court finds the description of the place as stated in the warrant sufficient as the officer with warrant can with reasonable effort, ascertain and identify the place intended to be searched.

SO ORDERED.

The Motion for Reconsideration<sup>[20]</sup> filed by petitioner was denied by the RTC in its September 20, 2013 Order.<sup>[21]</sup> Unconvinced, petitioner filed a Petition for *Certiorari*<sup>[22]</sup> before the CA.

### **Ruling of the Court of Appeals**

Petitioner reiterated in her Petition for *Certiorari* the issues and arguments previously raised and passed upon by the RTC. Thus, in its May 12, 2014 Decision, <sup>[23]</sup> the CA dismissed the Petition and ruled that the search warrant did not partake of the nature of a general warrant as it sufficiently described with particularity the place to be searched stated therein. The CA explained that the police officers who served the warrant and conducted the search of petitioner's residence were able to identify the building where she actually resided notwithstanding the fact that the search warrant did not specifically indicate house number 972.

Petitioner sought reconsideration of the CA's May 12, 2014 Decision of the CA, which was, however, denied by the appellate court in its August 11, 2014 Resolution.<sup>[24]</sup>

### **Issues**

Undeterred, petitioner filed the instant Petition for Review on *Certiorari*<sup>[25]</sup> raising the following assignment of errors:

- A. THE COURT OF APPEALS ERRED WHEN IT RULED THAT SEARCH WARRANT NO. 97 (12) IS VALID AND [DOES] NOT CONSTITUTE A GENERAL WARRANT[.]
- B. THE COURT OF APPEALS ERRED WHEN IT RULED THAT THE ACTS OF PUBLIC RESPONDENT IN DENYING PETITIONER'S MOTION TO QUASH SEARCH WARRANT NO. 97 (12) AND DENYING HER MOTION FOR RECONSIDERATION DO NOT CONSTITUTE GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION[.]

C. THE COURT OF APPEALS ERRED WHEN IT DISMISSED  
PETITIONER'S PETITION FOR CERTIORARI.<sup>[26]</sup>

Plainly, the threshold issue for resolution is whether Search Warrant No. 97 (12) is a general warrant for failing to describe the place to be searched with sufficient particularity.

**Our Ruling**

We deny the Petition.

The requirements of a valid search warrant are laid down in Article III, Section 2 of the 1987 Constitution<sup>[27]</sup> and in Rule 126, Section 4<sup>[28]</sup> of the Rules Court, *viz.*: " (1) probable cause is present; (2) such probable cause must be determined personally by the judge; (3) the judge must examine, in writing and under oath or affirmation, the complainant and the witnesses he or she may produce; (4) the applicant and the witnesses testify on the facts personally known to them; and (5) the warrant specifically describes the place to be searched and the things to be seized."<sup>[29]</sup> The absence of any of these requisites will cause the downright nullification of the search warrant.<sup>[30]</sup>

There is no question that the search warrant was issued after judicial determination of probable cause. This Court is thus confined in determining the presence or absence of the fifth requisite element as stated above, *i.e.*, whether the subject warrant specifically described the place to be searched.

"A search warrant issued must particularly describe the place to be searched and persons or things to be seized in order for it to be valid, otherwise, it is considered as a general warrant which is proscribed by both jurisprudence and the 1987 Constitution."<sup>[31]</sup> The particularity of the place described is essential in the issuance of search warrants to avoid the exercise by the enforcing officers of discretion to decide on their own where to search and whom and what to seize.<sup>[32]</sup> "Additionally, the requisite of particularity is related to the probable cause requirement in that, at least under some circumstances, the lack of a more specific description will make it apparent that there has not been a sufficient showing to the [court] that the described items are to be found in a particular place."<sup>[33]</sup>

Notably, it is well-entrenched in our jurisprudence that a description of a place to be searched is sufficient if the officer with the warrant can ascertain and identify with reasonable effort the place intended, and distinguish it from other places in the community. Hence, "[a] designation that points out the place to be searched to the exclusion of all others, and on inquiry unerringly leads the peace officers to it, satisfies the constitutional requirement of definiteness."<sup>[34]</sup>

Simply put, the test of whether the requirement of definiteness or particularity has been met is whether the description of the place to be searched under the warrant is sufficient and descriptive enough to prevent a search of other premises located

within the surrounding area or community. A "place" may refer to a single building or structure, or a house or residence,<sup>[35]</sup> such as in the case at bar.

Thus, it has been held that a designation of a place to be searched as *"MASAGANA compound located at Governor's Drive, Barangay Lapidario, Trece Martires, Cavite City "*;<sup>[36]</sup> *"the house of the accused Estela Tuan at Brgy. Gabriela Silang, Baguio City "*;<sup>[37]</sup> or *"premises of Felix Gumpal Compound located at Ipil Junction, Echague, Isabela"*<sup>[38]</sup> is sufficient description of the premises to be searched.

The search warrant in the instant case clearly complied with the foregoing standard since it particularly described the place to be searched, which is petitioner's *"house at Gitna, Brgy. Cuyab, San Pedro, Laguna."* The subject search warrant sufficiently described the place to be searched with clear indication that the same was intended to authorize a search of the entire house of petitioner, albeit confined to the area of her house, to the exclusion of the other two structures or buildings similarly located along the street of Gitna. Simply put, the constitutional requirement of definiteness has been met. We therefore agree with the CA when it held, *viz.*:

In this case, although the house number of petitioner's house was not indicated in Search Warrant No. 97 (12), the description of the place to be searched was sufficient as the police officers who served the same were able, with reasonable effort, to ascertain and identify the house of petitioner at Gitna, Barangay Cuyab, San Pedro, Laguna, as stated in the search warrant. It bears emphasis that informant Jericho Labrador, when asked by Executive Judge Morga, also drew sketches where petitioner's house was located as well [as] the floor plan of her house, which were used by the searching team.<sup>[39]</sup>

This notwithstanding, petitioner argued that the warrant was issued on a mistaken belief that the house was a single dwelling unit occupied by petitioner alone. Petitioner thus insisted that the inaccurate depiction of the house's floor plan, and the consequent search of the entire premises of a supposed multiple-occupancy structure, invalidated the warrant.

In this regard, the records would confirm that the house described in the warrant was composed of and divided into five separate units or rooms each occupied by petitioner, and her four siblings and their families. Petitioner explained that although the units or rooms were contiguous to each other, each unit was a complete household independent of the other and may be entered only through their respective front doors. Considering the foregoing, petitioner stressed that the central issue in the instant case is not whether the police officers who enforced the warrant can, with reasonable effort, ascertain and identify the place to be searched, but rather, whether the *description* of the place to be searched set out in the warrant was sufficient which would prevent the officers from exercising discretion.

From the foregoing, it would appear that the issue on the requirement of definiteness raised by petitioner is two-tiered – that of the place to be searched, *i.e.*, her home at No. 972, Gitna, Brgy. Cuyab, San Pedro, Laguna, and the *interior*