

SECOND DIVISION

[G.R. No. 149462, March 29, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PRISCILLA DEL NORTE, APPELLANT.

DECISION

PUNO, J.:

Before us is an appeal from the decision of the Regional Trial Court of Caloocan City, Branch 28, finding appellant Priscilla del Norte guilty of the crime of illegal possession of drugs, viz:

WHEREFORE, in view of all the foregoing, this Court finds the accused Pricilla (*sic*) Del Norte (g)uilty beyond reasonable doubt of the crime for (*sic*) Violation of Sec. 8, Art. II, R.A. 6425, and hereby sentences her to suffer imprisonment of Reclusion (P)erpetua and a fine of P1,000,000.00, without subsidiary imprisonment in case of insolvency.

The marijuana subject matter of this case is confiscated and forfeited in favor of the Government. The Branch Clerk of Court is directed to turn-over the subject marijuana to the Dangerous Drugs Board for proper disposal/destruction.

The City Jail Warden of Caloocan City is hereby ordered to transfer the accused Priscilla del Norte to the Correccion (*sic*) Institution for Women, Mandaluyong City for the service of her sentence.

SO ORDERED.^[1]

A search warrant was served on a certain Ising Gutierrez Diwa, on August 1, 1997, by SPO1 Angel Lumabas, SPO3 Celso de Leon, Maj. Dionisio Borromeo, Capt. Jose, SPO3 Malapitan, PO2 Buddy Perez and PO2 Eugene Perida.

As a result of the search, an information against appellant Priscilla del Norte was filed with the trial court, viz:

INFORMATION

The undersigned Assistant City Prosecutor accuses PRISCILLA DEL NORTE Y DIWA AND JANE DOE, true name, real identity and present whereabouts of the last accused still unknown(,) of the crime of VIOLATION OF SEC. 8, ART. II, R.A. (No.) 6425, committed as follows:

That on or about the 1st day of August 1997(,) in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping with (*sic*) one

another, without authority of law, did then and there willfully, unlawfully and feloniously have in their possession, custody and control(,) MARIJUANA weighing 6748.37 gms. knowing the same to be a prohibited drug under the provisions of the above-entitled law.

CONTRARY TO LAW.^[2]

SPO1 Lumabas testified that on August 1, 1997, their group was tasked to serve a search warrant^[3] against a certain Ising Gutierrez Diwa residing at No. 275 North Service Road corner Cruzada St., Bagong Barrio, Caloocan City, for alleged violation of Republic Act No. 6425. They were ordered to "forthwith seize and take possession of an undetermined quantity of shabu and marijuana leaves." They coordinated with the barangay officials and proceeded to the house pointed out to them by the local officials. Upon reaching the house, its door was opened by a woman. SPO3 De Leon introduced themselves as policemen to the woman who opened the door, whom they later identified in court as the appellant.^[4] They informed her they had a search warrant, but appellant suddenly closed and locked the door. It was only after some prodding by the barangay officials that she reopened the door. The authorities then conducted the search. They found a bundle of marijuana wrapped in Manila paper under the bed and inside the room.^[5] They asked appellant who owned the marijuana. She cried and said she had no means of livelihood.^[6] Appellant was brought to the police headquarters for further investigation. Both SPO1 Lumabas and SPO3 De Leon identified the confiscated five (5) bundles of marijuana^[7] in court.

Mrs. Grace Eustaquio, a forensic chemist testified that pursuant to a letter request^[8] from the Chief of the Caloocan City Police, she conducted an examination on a specimen consisting of five bundles of suspected marijuana. She found that each of the bundles was positive for marijuana. This finding was reduced to a Laboratory Report.^[9] The report also contained a finding on the supposed weight of each bundle in grams, *i.e.*, (A) 973.45, (B) 1,840.31, (C) 472.99, (D) 1,678.8, and (E) 1,782.82.^[10]

SPO2 Florencio Ramirez, a police officer in the Intelligence Branch of the Caloocan Police Station, testified that on August 1, 1997, the appellant was brought before him by SPO3 De Leon and SPO1 Lumabas. They also submitted two weighing scales, five bricks of marijuana leaves, and two bunches of marijuana leaves wrapped in an old newspaper.^[11] He apprised appellant of her constitutional rights before investigating her. After the laboratory test showed that the evidence yielded was marijuana, he sent a referral slip^[12] to Prosecutor Zaldy Quimpo for inquest.

Appellant assailed the validity of the search warrant against her. She contended that she lived at 376 Dama de Noche, Barangay Baesa, Caloocan City,^[13] and that on August 1, 1997, she was merely visiting a friend, Marlyn, who lived at 275 North Service Road corner Cruzada St., Bagong Barrio, Caloocan City. She went to Marlyn's house to borrow money. Marlyn was out and she waited. While appellant was seated near the door, several people introduced themselves as policemen, made her sign a white paper and entered the house. She heard them say "we already got Ising," and was surprised why they suddenly arrested her. She saw Ising, her sister, at a house two steps away from the house where she was arrested. Despite her

claim that she was not Ising, the policemen brought her to the police station.^[14]

Appellant's daughter, Christine also took the witness stand. She testified that she is one of the eight children of the appellant. Since June 1997, she recalled that they had lived at 376 Dama de Noche St., Caloocan City, as proved by the address stated in her school identification card,^[15] and a receipt evidencing payment for the rental of their house at Dama de Noche St. from July 18 to August 18, 1997.^[16]

The trial court convicted appellant. In this appeal, she raises the lone error that "the lower court erred in convicting the accused-appellant of the crime charged, when her guilt has not been proved beyond reasonable doubt."^[17]

Appellant contends that the prosecution failed to establish who owned the house where the search was conducted, and avers that her mere presence therein did not automatically make her the owner of the marijuana found therein. She likewise argues that the search warrant specified the name of Ising Gutierrez as the owner of the house to be searched, and that since she is not Ising Gutierrez, the lower court erred in admitting the confiscated drugs as evidence against her.^[18]

The Solicitor General contends that "the totality of the evidence demonstrates appellant's guilt beyond reasonable doubt."^[19] He cites the case of **United States vs. Gan Lian Po**,^[20] that when illegal drugs are found in the premises occupied by a certain person, such person is presumed to be in possession of the prohibited articles. It then becomes the accused's burden to prove the absence of *animus possidendi*.^[21]

We reverse the trial court's decision. The prosecution failed to establish the guilt of appellant beyond reasonable doubt.

In a prosecution for illegal possession of dangerous drugs, the following facts must be proven with moral certainty: (1) that the accused is in possession of the object identified as a prohibited or regulated drug; (2) that such possession is not authorized by law; and (3) that the accused freely and consciously possessed the said drug.^[22]

We first rule on the validity of the search warrant. Article III, Section 2 of the 1987 Philippine Constitution provides:

SEC. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally 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**. (*emphases supplied*)

Appellant argues that the marijuana seized as a result of the search is inadmissible due to the irregularity of the search warrant which contained the name Ising Gutierrez Diwa and not Priscilla del Norte. She alleges that Ising is her sister. During her arrest, she claimed she saw Ising nearby and pointed her to the

authorities, but her efforts were futile – the authorities arrested her.

The Constitution requires search warrants to particularly describe not only the place to be searched, but also the persons to be arrested. We have ruled in rare instances that mistakes in the name of the person subject of the search warrant do not invalidate the warrant, provided the place to be searched is properly described. In **People v. Tiu Won Chua**,^[23] we upheld the validity of the search warrant despite the mistake in the name of the persons to be searched. In the cited case, the authorities conducted surveillance and a test-buy operation before obtaining the search warrant and subsequently implementing it. They had personal knowledge of the identity of the persons and the place to be searched although they did not specifically know the names of the accused.

The case at bar is different. We cannot countenance the irregularity of the search warrant. The authorities did not have personal knowledge of the circumstances surrounding the search. They did not conduct surveillance before obtaining the warrant. It was only when they implemented the warrant that they coordinated with the barangay officials. One of the barangay officials informed SPO3 De Leon that Ising Gutierrez Diwa and Priscilla Del Norte are one and the same person, but said barangay official was not presented in court. The authorities based their knowledge on pure hearsay.

On the merits, we believe the prosecution failed to discharge its burden of proving appellant's guilt beyond reasonable doubt. The prosecution's witnesses failed to establish appellant's ownership of the house where the prohibited drugs were discovered. Except for their bare testimonies, no other proof was presented.

This is in contrast to appellant's proof of her residence. The prosecution did not contest the punong barangay's certification,^[24] Christina's school ID^[25] and the rental receipt,^[26] all of which show that appellant and her family live at 376 Dama de Noche St. There being no substantial contrary evidence offered, we conclude that appellant does not own the house subject of the search.

The prosecution likewise failed to prove that appellant was in actual possession of the prohibited articles at the time of her arrest. This is shown by the testimony of the prosecution's witness:

Fiscal Lomadilla to Witness –

Q: What did you find in that house at No. 275?

A: We found marijuana.

Q: What is the quantity of the marijuana you found?

A: Five bunch (*sic*) or bricks of marijuana and two weighing scale(s), sir.

Q: Mr. Lumabas, you mentioned a search warrant issued by Judge Rivera. What was the result of the execution of that search warrant?

A: We were able to find marijuana inside the house of Priscilla del Norte.