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EN BANC

[G.R. No. 124077, September 05, 2000]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ADORACION SEVILLA Y JOSON @ BABY AND JOEL GASPAR Y CABRAL, ACCUSED-APPELLANTS.

D E C I S I O N

PURISIMA, J.:

For automatic review here is a decision[1] handed down by Branch 26[2] of the Regional Trial Court in Cabanatuan City, convicting appellants Adoracion Sevilla y Joson @ Baby and Joel Gaspar y Cabral for violation of Section 8, Article II, Republic Act No. 6425[3] as amended by Republic Act No. 7659,[4] and sentencing both appellants to the supreme penalty of death.

Filed on September 17, 1995 by Prosecutor Amelia C. Tiu, the Information indicting the appellants, Adoracion Sevilla y Joson @ Baby and Joel Gaspar y Cabral, alleges:

> "That on or about the 15th day of September, 1995, in the City of Cabanatuan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding and abetting each other, without authority of law, did then and there, wilfully, unlawfully and feloniously have in their possession, control and custody four (4) bricks of marijuana dried leaves with fruiting tops approximately weighing four thousand (4,000) grams.
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> CONTRARY TO LAW."[5]

Upon arraignment[6] on October 6, 1995 with the assistance of their respective lawyers, appellants pleaded NOT GUILTY to the charged. Thereafter, trial on the merits ensued, resulting in the rendition of the judgment of conviction disposing thus:

> "PREMISES CONSIDERED, and finding both accused Adoracion Sevilla Y Joson and accused Joel Gaspar Y Cabral guilty beyond reasonable doubt of the crime of Violation of Section 8, Art. II, Republic Act 6425, as amended by Republic Act 7659, both of them are hereby sentenced to suffer the penalty of DEATH with all the accessory penalties provided by law, and a fine of Five Hundred Thousand Pesos (P500,000.00), Philippine Currency, and to pay the costs of suit.
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> The 4,000 grams, more or less of marijuana is hereby confiscated in favor of the government and to be disposed of in accordance with law.
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> SO ORDERED."[7]

Evidence for the People upon which the trial court anchored its finding of guilt, consisted of the testimonies of: 1) ROGELIO S. DE VERA, a member of the Philippine National Police (PNP) assigned at the 3rd Regional Field Unit, Nueva Ecija-Aurora Narcotics Command (NARCOM) District Office in Cabanatuan City; 2) Police Senior Inspector ANDREI FELIX, the Provincial Officer of the NARCOM for Aurora and Nueva Ecija; 3) SPO1 NESTOR PINEDA, an officer of the Criminal Investigation Service (CIS) assigned at Cabanatuan City; 4) DANILO TUMANGAN, Barangay Captain of Bantug Norte, Cabanatuan City; and 5) P/Capt. DAISY P. BABOR, a forensic chemist assigned at the PNP Camp Olivas in San Fernando, Pampanga.

The facts and circumstances sued upon are stated by the Solicitor General in the Consolidated Appellee's Brief[8] as follows:

> "On September 15, 1995, at about 4:00 o'clock in the afternoon, a team of police officers composed of P/Sr. Insp. Andrei Felix and SPO3 Rogelio de Vera of the Narcotics Command (NARCOM), and SPO2 Padilla and SPO1 Pineda of the Central Intelligence Service (CIS), arrived at 904 Martinez Street, Bantug Norte, Cabanatuan City, to effect the arrest of Adoracion Sevilla (TSN, October 9, 1995, p. 12).
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> Prior to the operation, P/Sr. Insp. Felix, being the Provincial Officer of the NARCOM for the provinces of Aurora and Nueva Ecija, had disseminated to his confidential agents a list of suspected drug dealers. Among those in the list was Adoracion Sevilla who had a warrant for her arrest issued in Criminal Case No. 1317 for violation of Presidential Decree No. 6425 (TSN, October 9, 1995, p. 8).
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> Thus, when P/Sr. Insp. Felix was informed by one of his confidential agents at about 3:00 o'clock in the afternoon of September 15, 1995, of the exact whereabouts of Adoracion Sevilla, he immediately instructed one of his men to verify from the CIS if the warrant of arrest issued in Criminal Case No. 1317 was still unserved. On being told that it was still unserved, he then coordinated with the CIS to effect the arrest of Adoracion Sevilla. Thus, the composite team of police officers from NARCOM and CIS was formed and proceeded to 904 Martinez Street, Bantug Norte, Cabanatuan City (TSN, October 9, 1995, pp. 8-10).
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> The police officers, who were in civilian clothes, were allowed inside the house by Adoracion Sevilla herself who was seated at the sala. She had a male companion, later identified as Joel Gaspar, who was standing near the stairs. After the police officers had introduced themselves and stated their purpose, P/Sr. Insp. Felix observed Adoracion Sevilla instructing Joel Gaspar to bring upstairs a box of Ginebra San Miguel which was lying on the floor beside him. Suspecting the box to contain illegal drugs, P/Sr. Insp. Felix followed Joel Gaspar upstairs and there asked the latter what were the contents of the box. Joel Gaspar readily replied that the box contained marijuana. Joel Gaspar then opened the box and voluntarily handed it to P/ Sr. Insp. Felix, telling the latter that the box belonged to Adoracion Sevilla. Inside the box were four (4) bricks of dried marijuana leaves and flowering tops (TSN, October 9, 1995, pp. 12-15).
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> Both Adoracion Sevilla and Joel Gaspar were arrested and the bricks of

> dried marijuana leaves and flowering tops confiscated. Adoracion Sevilla was brought directly to the office of the CIS while Joel Gaspar was first brought to the Barangay Hall where his arrest was blottered and, in the presence of the Barangay officials, the bricks of dried marijuana leaves and flowering tops were inventoried and a receipt therefor prepared (TSN, October 9, 1995, pp. 15-16). The confiscated articles were consequently turned over to the PNP Crime Laboratory. Upon physical, chemical and confirmatory tests conducted by P/Capt. Daisy P. Babor, a forensic chemist, the articles were found to be marijuana, a prohibited drug (TSN, October 16, 1995, pp. 12-13; Exhibit 'E')"[9]

For the defense, appellants took the witness stand.

Expectedly, appellant Sevilla presented a different version of what led to the indictment. In her Appellant's Brief,[10] Sevilla theorized:

> "xxx she was in Cabanatuan City on September 15,1995, particularly at Bantug Norte in the apartment of her daughter Micaela Santos. She had just arrived from the PJGMRMC hospital where she had gone for treatment as she was then bleeding. She had just seated in the sala resting for about ten minutes when several persons numbering about twelve, came, introduced themselves as NARCOM agents and presented her a warrant of arrest. Some of the agents went at the back of the house and at the kitchen where they searched every cabinet overturning in the process, the two (2) boxes under the stairs. Others went upstairs. She did not know what they did upstairs but she heard noise. She asked the agents if they had a search warrant but they answered that 'there is no need for a search warrant'. The agents stayed there for 15 to 20 minutes. When they left, Adoracion Sevilla and her companion were brought with them. Sevilla was first brought to the CIS Office, then at the NARCOM office. Thereat, the agents typed some papers which they forced her to sign but she refused because it was stated therein that the house as well as the marijuana belonged to her. She denied seeing the box presented by the prosecution and claimed that she only saw it in Court. She likewise denied owning the box containing the marijuana. She did not know who owned the same (TSN, October 23, 1995, pp. 2-11)." [11]

For his part, appellant Gaspar recounted that he was inside the toilet washing his clothes at the time of the incident, when he heard Sevilla conversing with someone. Upon opening the door of the toilet, he saw a man standing in front of Sevilla and several other men on the stairs going up the second floor of the apartment. Then, the men descended from the upper portion of the house with a carton box which contained the marijuana complained of.[12] Gaspar averred that the men were already searching the house when he saw them.[13]

Gaspar testified that he did not see who carried the said box upstairs even as he denied any knowledge regarding the source thereof. According to him, it was only on that day that he went to the house at Bantug Norte, Cabanatuan City. He had just arrived from Bulacan with the son of his co-accused,[14] who he had befriended at the Luneta Park in Manila when he was a "stow-away" during the previous summer.

Additionally, Gaspar declared that he was forced to sign a document stating that the box containing marijuana belonged to his co-accused, Adoracion Sevilla,[15] and was requested to point at the marijuana leaves spread on a table at the CIS office so that pictures of the same could be taken.[16] He stressed that he was not informed of his constitutional rights nor was he given an opportunity to engage the services of a lawyer during the questioning at the barangay hall[17] and at the CIS office.[18]

Relying on the presumption that the arresting officers performed their official duties regularly and rejecting appellants' defense of denial, the trial court convicted appellants and sentenced them to DEATH.

Appellant Adoracion Sevilla urges the Court to acquit her on the sole assignment of error, that:

> THE TRIAL COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT ADORACION SEVILLA GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED IN THE INFORMATION.[19]

Appellant Joel Gaspar theorized that:

> "1. THE COURT ERRED IN CONVICTING THE ACCUSED INSPITE OF THE ABSENCE OF SEARCH WARRANT;
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> 2. THAT EVEN ASSUMING FOR ARGUENDO (SIC) THAT JOEL GASPAR Y CABRAL WAS IN POSSESSION OF BOX (SIC) CONTAINING PROHIBITED DRUGS BUT HE WAS ONLY INSTRUCTED BY ADORACION SEVILLA TO BRING UPSTAIRS (SIC) AND NO PROOF HE HAS KNOWLEDGE OF THIS BOX (SIC)."[20]

After meticulous examination of the records and evidence on hand, the Court is of the finding and conclusion that a reversal of the decision *a quo* under review is in order.

Article III, Section 2 of the 1987 Constitution reads:

> 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.

From the aforecited constitutional provision, it can readily be gleaned that as a general rule, the procurement of a warrant is required before a law enforcer can validly search or seize the person, house, papers or effects of any individual. In *People vs. Aruta*,[21] this Court ruled that "this constitutional guarantee is not a blanket prohibition against all searches and seizures as it operates only against 'unreasonable' searches and seizures. The plain import of the language of the

Constitution, which in one sentence prohibits unreasonable searches and seizures and at the same time prescribes the requisites for a valid warrant, is that searches and seizures are normally unreasonable unless authorized by a validly issued search warrant or warrant of arrest."

To underscore the significance the law attaches to the fundamental right of an individual against unreasonable searches and seizures, the Constitution of this Republic succinctly declares under its Article III, Section 3(2) that "any evidence obtained in violation of this or the preceding section shall be inadmissible in evidence for any purpose in any proceeding." Consequently, evidence derived from an illegal search is placed beyond the Court's consideration, as a practical means to enforce the constitutional injunction and to discourage violations of basic civil rights under the guise of legitimate law enforcement.

Of course, there are certain cases where the law itself allows a search even in the absence of a warrant. Jurisprudence mentions the following instances under which a warrantless search and seizure may be effected, to wit:

1. Search which is incidental to a lawful arrest (Rule 126, Section 12, Rules of Court);

2. Seizure of evidence in "plain view";

3. Search of a moving vehicle;

4. Consented warrantless search;

5. Customs search;

6. Stop and Frisk;

7. Exigent and emergency circumstances.[22]

The enumeration above being exceptions to the general rule, their application must be limited to the situations clearly falling within their contemplation. Furthermore, what is sought to be protected by the proscription being a basic right guaranteed by the fundamental law of the land, no less, the requirement of a warrant must be construed strictly and cannot lightly be disregarded. To do otherwise would unnecessarily infringe upon individuals' personal liberty and encroach upon a basic right "so deserving of full protection and vindication".[23]

In the case at bar, the prosecution posits that the search conducted in subject house at Bantug Norte, which yielded the *corpus delicti* of the present accusation, is incidental to the lawful arrest of Sevilla who had been long wanted by the police in Criminal Case No. 1317. It is the theory of the State that the act of Gaspar in picking up the box containing the marijuana in question and bringing it to the second floor of said apartment, allegedly upon Sevilla's instruction, gave the arresting officers probable cause to act upon the idea that prohibited drugs were in such box.

First of all, the Court does not fully subscribe to the submission of the prosecution that the search was in the course of a lawful arrest. With respect thereto, the Court