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THIRD DIVISION

[G.R. No. 120915, April 03, 1998]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROSA ARUTA Y MENGUIN, ACCUSED-APPELLANT.

D E C I S I O N

ROMERO, J.:

With the pervasive proliferation of illegal drugs and its pernicious effects on our society, our law enforcers tend at times to overreach themselves in apprehending drug offenders to the extent of failing to observe well-entrenched constitutional guarantees against illegal searches and arrests. Consequently, drug offenders manage to evade the clutches of the law on mere technicalities.

Accused-appellant Rosa Aruta y Menguin was arrested and charged with violating Section 4, Article II of Republic Act No. 6425 or the Dangerous Drugs Act. The information reads:

> "That on or about the fourteenth (14th) day of December, 1988, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being lawfully authorized, did then and there wilfully, unlawfully and knowingly engage in transporting approximately eight (8) kilos and five hundred (500) grams of dried marijuana packed in plastic bag marked 'Cash Katutak' placed in a travelling bag, which are prohibited drugs."

Upon arraignment, she pleaded "not guilty." After trial on the merits, the Regional Trial Court of Olongapo City convicted and sentenced her to suffer the penalty of life imprisonment and to pay a fine of twenty thousand (₱20,000.00) pesos.[1]

The prosecution substantially relied on the testimonies of P/Lt. Ernesto Abello, Officer-in-Charge of the Narcotics Command (NARCOM) of Olongapo City and P/Lt. Jose Domingo. Based on their testimonies, the court *a quo* found the following:

> On December 13, 1988, P/Lt. Abello was tipped off by his informant, known only as Benjie, that a certain "Aling Rosa" would be arriving from Baguio City the following day, December 14, 1988, with a large volume of marijuana. Acting on said tip, P/Lt. Abello assembled a team composed of P/Lt. Jose Domingo, Sgt. Angel Sudiacal, Sgt. Oscar Imperial, Sgt. Danilo Santiago and Sgt. Efren Quirubin.
>
> Said team proceeded to West Bajac-Bajac, Olongapo City at around 4:00 in the afternoon of December 14, 1988 and deployed themselves near the Philippine National Bank (PNB) building along Rizal Avenue and the Caltex gasoline station. Dividing themselves into two groups, one group, made up of P/Lt. Abello, P/Lt. Domingo and the informant posted

themselves near the PNB building while the other group waited near the Caltex gasoline station.

While thus positioned, a Victory Liner Bus with body number 474 and the letters BGO printed on its front and back bumpers stopped in front of the PNB building at around 6:30 in the evening of the same day from where two females and a male got off. It was at this stage that the informant pointed out to the team "Aling Rosa" who was then carrying a travelling bag.

Having ascertained that accused-appellant was "Aling Rosa," the team approached her and introduced themselves as NARCOM agents. When P/Lt. Abello asked "Aling Rosa" about the contents of her bag, the latter handed it to the former.

Upon inspection, the bag was found to contain dried marijuana leaves packed in a plastic bag marked "Cash Katutak." The team confiscated the bag together with the Victory Liner bus ticket to which Lt. Domingo affixed his signature. Accused-appellant was then brought to the NARCOM office for investigation where a Receipt of Property Seized was prepared for the confiscated marijuana leaves.

Upon examination of the seized marijuana specimen at the PC/INP Crime Laboratory, Camp Olivas, Pampanga, P/Maj. Marlene Salangad, a Forensic Chemist, prepared a Technical Report stating that said specimen yielded positive results for marijuana, a prohibited drug.

After the presentation of the testimonies of the arresting officers and of the above technical report, the prosecution rested its case.

Instead of presenting its evidence, the defense filed a "Demurrer to Evidence" alleging the illegality of the search and seizure of the items thereby violating accused-appellant's constitutional right against unreasonable search and seizure as well as their inadmissibility in evidence.

The said "Demurrer to Evidence" was, however, denied without the trial court ruling on the alleged illegality of the search and seizure and the inadmissibility in evidence of the items seized to avoid pre-judgment. Instead, the trial court continued to hear the case.

In view of said denial, accused-appellant testified on her behalf. As expected, her version of the incident differed from that of the prosecution. She claimed that immediately prior to her arrest, she had just come from Choice Theater where she watched the movie "Balweg." While about to cross the road, an old woman asked her help in carrying a shoulder bag. In the middle of the road, Lt. Abello and Lt. Domingo arrested her and asked her to go with them to the NARCOM Office.

During investigation at said office, she disclaimed any knowledge as to the identity of the woman and averred that the old woman was nowhere to be found after she was arrested. Moreover, she added that no search warrant was shown to her by the arresting officers.

After the prosecution made a formal offer of evidence, the defense filed a "Comment and/or Objection to Prosecution's Formal Offer of Evidence" contesting the

admissibility of the items seized as they were allegedly a product of an unreasonable search and seizure.

Not convinced with her version of the incident, the Regional Trial Court of Olongapo City convicted accused-appellant of transporting eight (8) kilos and five hundred (500) grams of marijuana from Baguio City to Olongapo City in violation of Section 4, Article 11 of R.A. No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972 and sentenced her to life imprisonment and to pay a fine of twenty thousand (₱20,000.00) pesos without subsidiary imprisonment in case of insolvency.[2]

In this appeal, accused-appellant submits the following:

> 1. The trial court erred in holding that the NARCOM agents could not apply for a warrant for the search of a bus or a passenger who boarded a bus because one of the requirements for applying a search warrant is that the place to be searched must be specifically designated and described.
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> 2. The trial court erred in holding or assuming that if a search warrant was applied for by the NARCOM agents, still no court would issue a search warrant for the reason that the same would be considered a general search warrant which may be quashed.
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> 3. The trial court erred in not finding that the warrantless search resulting to the arrest of accused-appellant violated the latter's constitutional rights.
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> 4. The trial court erred in not holding that although the defense of denial is weak yet the evidence of the prosecution is even weaker.

These submissions are impressed with merit.

In People v. Ramos,[3] this Court held that a search may be conducted by law enforcers only on the strength of a search warrant validly issued by a judge as provided in Article III, Section 2 of the Constitution which provides:

> "Section 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."

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. Thus, the fundamental protection accorded by the search and seizure clause is that between

person and police must stand the protective authority of a magistrate clothed with power to issue or refuse to issue search warrants or warrants of arrest.[4]

Further, articles which are the product of unreasonable searches and seizures are inadmissible as evidence pursuant to the doctrine pronounced in Stonehill v. Diokno.[5] This exclusionary rule was later enshrined in Article III, Section 3(2) of the Constitution, thus:

> "Section 3(2). Any evidence obtained in violation of this or the preceding section shall be inadmissible in evidence for any purpose in any proceeding."

From the foregoing, it can be said that the State cannot simply intrude indiscriminately into the houses, papers, effects, and most importantly, on the person of an individual. The constitutional provision guaranteed an impenetrable shield against unreasonable searches and seizures. As such, it protects the privacy and sanctity of the person himself against unlawful arrests and other forms of restraint.[6]

Therewithal, the right of a person to be secured against any unreasonable seizure of his body and any deprivation of his liberty is a most basic and fundamental one. A statute, rule or situation which allows exceptions to the requirement of a warrant of arrest or search warrant must perforce be strictly construed and their application limited only to cases specifically provided or allowed by law. To do otherwise is an infringement upon personal liberty and would set back a right so basic and deserving of full protection and vindication yet often violated.[7]

The following cases are specifically provided or allowed by law:

1. *Warrantless search incidental to a lawful arrest* recognized under Section 12, Rule 126 of the Rules of Court[8] and by prevailing jurisprudence;

2. Seizure of evidence in "plain view," the elements of which are:

(a) a prior valid intrusion based on the valid warrantless arrest in which the police are legally present in the pursuit of their official duties;

(b) the evidence was inadvertently discovered by the police who had the right to be where they are;

(c) the evidence must be immediately apparent, and

(d) "plain view" justified mere seizure of evidence without further search;

3. Search of a moving vehicle. Highly regulated by the government, the vehicle's inherent mobility reduces expectation of privacy especially when its transit in public thoroughfares furnishes a highly reasonable suspicion amounting to probable cause that the occupant committed a criminal activity;

4. *Consented* warrantless search;

5. Customs search;[9]

6. *Stop and Frisk*;[10] and

7. *Exigent and Emergency Circumstances*.[11]

The above exceptions, however, should not become unbridled licenses for law enforcement officers to trample upon the constitutionally guaranteed and more fundamental right of persons against unreasonable search and seizures. The essential requisite of probable cause must still be satisfied before a warrantless search and seizure can be lawfully conducted.

Although *probable cause* eludes exact and concrete definition, it generally signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged. It likewise refers to the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and that the item(s), article(s) or object(s) sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched.[12]

It ought to be emphasized that in determining probable cause, the average man weighs facts and circumstances without resorting to the calibrations of our rules of evidence of which his knowledge is technically nil. Rather, he relies on the calculus of common sense which all reasonable men have in abundance. The same quantum of evidence is required in determining probable cause relative to search. Before a search warrant can be issued, it must be shown by substantial evidence that the items sought are in fact seizable by virtue of being connected with criminal activity, and that the items will be found in the place to be searched.[13]

In searches and seizures effected without a warrant, it is necessary for probable cause to be present. Absent any probable cause, the article(s) seized could not be admitted and used as evidence against the person arrested. Probable cause, in these cases, must only be based on reasonable ground of suspicion or belief that a crime has been committed or is about to be committed.

In our jurisprudence, there are instances where information has become a sufficient probable cause to effect a warrantless search and seizure.

In People v. Tangliben,[14] acting on information supplied by informers, police officers *conducted a surveillance* at the Victory Liner Terminal compound in San Fernando, Pampanga against persons who may commit misdemeanors and also on those who may be engaging in the traffic of dangerous drugs. At 9:30 in the evening, the policemen noticed a person carrying a red travelling bag *who was* acting suspiciously. They confronted him and requested him to open his bag but he refused. He acceded later on when the policemen identified themselves. Inside the bag were marijuana leaves wrapped in a plastic wrapper. The police officers only knew of the activities of Tangliben on the night of his arrest.

In instant case, the apprehending officers already had prior knowledge from their informant regarding Aruta's alleged activities. In Tangliben policemen were confronted with an on-the-spot tip. Moreover, the policemen knew that the Victory Liner compound is being used by drug traffickers as their "business address". More significantly, Tangliben was acting suspiciously. His actuations and surrounding circumstances led the policemen to reasonably suspect that Tangliben is committing