

**People of the Philippines vs. Adoracion Sevilla y Joson @ Baby and Joel
Gaspar y Cabral**
G.R. No. 124077, September 05, 2000
339 SCRA 625

Violation: Section 8, Article II, Republic Act No. 6425 as amended by Republic Act No. 7659

FACTS:

The Provincial Officer of the Narcotics Command for the provinces of Aurora and Nueva Ecija 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.

In the afternoon of September 15, 1995, the Provincial Officer of NARCOM was informed by one of his confidential agents of the exact whereabouts of Sevilla. He immediately instructed one of his men to verify from the Central Intelligence Service (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 Sevilla. A composite team of four police officers from NARCOM and CIS was formed and proceeded to arrest Sevilla.

The police officers, who were in civilian clothes, were allowed inside the house by Sevilla herself who was seated at the sala. After the police officers had introduced themselves and stated their purpose, they conducted a search and allegedly saw a box containing four (4) bricks of dried marijuana leaves and flowering tops. They arrested Sevilla and her male companion, Julio Gaspar

During the trial, the testimonial evidence presented by the prosecution were conflicting such that the first prosecution witness to take the stand categorically declared that he noticed Gaspar *'immediately and instinctively'* carted upstairs a medium-sized carton box when he learned that they were officers of the law while the other witness later disclosed that it was only *upon receiving instructions* from Sevilla that Gaspar carried the carton box upstairs. They also had conflicting narration on the manner in which entrance was effected in the house at Bantug Norte, how the warrant of arrest was served on Sevilla, the subsequent events which happened when Sevilla and Gaspar were taken into custody by the PNP and NARCOM officers and when and how the surveillance was undertaken on the person of Sevilla.

ISSUES:

1. Was the search valid?
2. What is the effect if testimonial evidence were conflicting and inconsistent?
3. How should an accused be appraised of his constitutional right?

RULING

1. No. The search conducted by the agents was illegal. There was no probable cause for conducting an extensive search in the house occupied

by appellants. The truthfulness of the facts in support of probable cause is doubtful and the Court is of the impression that the search in question was not at all incidental to the lawful arrest of Sevilla but rather, pre-planned. Therefore, any evidence obtained in the course thereof must be excluded.

2. Conflicting accounts and improbabilities cast doubt over the credibility of the prosecution witnesses and veracity of their narrations. In *People vs. Noay*, the Court held that where the testimonies of key witnesses cannot stand together, the inevitable conclusion is that one or both must be telling a lie and their story a mere concoction

Moreover, where the inculpatory facts and circumstances are capable of two or more explanations or interpretations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, the evidence does not meet or hurdle the test of moral certainty required for conviction. Consequently, the acquittal of appellants is indicated.

3. It was found that the appellants were not clearly informed of their constitutional rights to remain silent and to independent and competent counsel when they were arrested and investigated in connection with the offense charged. Simply stating the rights to which the arrestee is entitled to or reading the same to him did not suffice. Under the rulings of this Court, the right to be informed of one's right contemplates the "transmission of meaningful information rather than just the ceremonial and perfunctory recitation of an abstract constitutional principle". The right to be informed consists of no less than effective communication which results in a full understanding of what is conveyed.

"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.'

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

^[1] Dated February 1, 1996, Rollo pp. 18-27.

^[2] Presided by Judge Johnson L. Ballutay.

^[3] Otherwise known as the Dangerous Drugs Act of 1972.

^[4] Section 13, amending Section 8, Article II of R.A. 6425 as follows:

SEC. 8. *Possession or Use of Prohibited Drugs.* - The penalty of *reclusion perpetua* to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall possess or use any prohibited drug subject to the provisions of Section 20 hereof. and, Section 17, amending Section 20, Article IV of R.A. 6425 to wit:

SEC. 20. *Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instruments of the Crime.* - The penalties for offenses under Sections 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:

xxx xxx xxx

5. 750 grams or more of indian hemp or marijuana;

xxx xxx xxx

Otherwise, if the quantity involved is less than the foregoing quantities, the penalty shall range from *prision correccional* to *reclusion perpetua* depending upon the quantity.

weighing four thousand (4,000) grams.

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.

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.

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).

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).

Thus, when P/Sr. Insp. Felix was informed by one of his confidential agents at about 3:00

^[5] Original Records, p. 1.

^[6] Original Records, p. 13.

^[7] Rollo, p. 27.

^[8] Rollo, p. 147.

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).

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).

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 blotted 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

^[9] Rollo, pp. 152-155.

^[10] Rollo, pp. 96-107.

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;

2. THAT EVEN ASSUMING FOR ARGUENDO (SIC) THAT JOEL GASPAR Y CABRAL WAS IN POSSESSION OF BOX (SIC) CONTAINING PROHIBITED

^[11] Brief for Appellant Adoracion Sevilla y Joson, Rollo, pp. 102-103.

^[12] TSN, October 16, 1995, p. 21.

^[13] TSN, October 16, 1995, p. 26.

^[14] TSN, October 16, 1995, p. 21.

^[15] TSN, October 16, 1995, p. 23-24.

^[16] TSN, October 16, 1995, p. 27.

^[17] TSN, October 16, 1995, p. 22.

^[18] TSN, October 16, 1995, p. 27.

^[19] Brief for Appellant Adoracion Sevilla, Rollo, p. 103.

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;

^[20] Brief for Appellant Joel Gaspar, Rollo, pp. 68-69.

^[21] 288 SCRA 626, 636.

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 finds the evidence for the People to be conflicting. While P/Sr. Inspector Felix and SPO3 De Vera are steadfast in their claim that the search they conducted was borne of a reasonable suspicion that the box which Gaspar carted away contained marijuana, SPO1 Pineda, on the other hand, declared quite candidly that the NARCOM officers joined them in serving the warrant on Sevilla for the specific purpose of making a search. Pineda testified thus:

"xxx xxx xxx

FISCAL MACARAIG:

Q. When was the time this particular warrant of arrest against Adoracion Sevilla for Violation of Republic Act No. 6425 served ?

A. September 15, 1995 at 4:00 o'clock in the afternoon, Sir.

Q. Will you please state how was or what was the manner this particular warrant of arrest implemented (sic) ?

ATTORNEY BANSAL:

No basis, Your Honor.

FISCAL MACARAIG:

The witness has testified that they served the warrant of arrest, we are asking the manner or implementation, Your Honor.

^[22] People vs. Aruta, supra, pp. 637-638, citing: Padilla vs. CA and People, G.R. No. 121917, March 12, 1997; People vs. Solayao, 262 SCRA 255; and People vs. De Gracia, 233 SCRA 716.

^[23] People vs. Argawanon, 215 SCRA 652, 667.

COURT: Witness may answer.

A. We served it at her residence in Bantug, Sir.

FISCAL MACARAIG:

Q. How do you know that it is her residence?

A. We were accompanied by an informant who stayed in that house, Sir.

COURT: Who stated that she is staying in that house?

A. It was the informant who told us, Your Honor.

FISCAL MACARAIG:

Q. Were you alone in serving the warrant of arrest?

A. We were four (4), Sir.

Q. Who were your companions in serving the warrant of arrest?

A. SPOII Padilla, Capt. Felix and SPOIII Rivera,^[24] a member of the NARCOM, Sir.

Q. Who in particular among this group are the members of the Narcotics Command?

A. Capt. Felix and SPOIII Rivera, Sir.

Q. How about SPOII Padilla?

A. He is a member of the 302nd CISC, Sir.

Q. Aside from the fact that your office has a copy of the warrant of arrest against four (4) criminal cases (sic), against Adoracion Sevilla, how were you able to effect the warrant of arrest?

A. Because according to the informant, she lives there and so we went in Bantug, Sir.

Q. Is this informant that you are talking about, is he or she an informant of the CIS?(sic)

A. No, Sir.

Q. To your knowledge, was he or she an informant of the NARCOM?

A. No also, Sir.

Q. *Why were the NARCOM elements became (sic) a member of the composite team who served the warrant of arrest against Adoracion Sevilla?*

A. *Because according to our informant, there is marijuana in the house of Adoracion Sevilla, Sir.*

^[24] De Vera as per records p. 33.

Q. In other words, it is a joint group undertaken (sic) in the office of the Narcom and CIS regarding the serving of the warrant of arrest?

ATTY. BANSALE:
Leading, Your Honor.

COURT:
Witness may answer.

A. Yes, Sir. ^[25]

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CROSS EXAMINATION CONDUCTED BY ATTY. RAUL N. BANSALE:

ATTY. BANSALE:

Q. How many vehicles did you use in going to the house where you arrested Adoracion Sevilla on September 15, 1995?

FISCAL MACARAIG:

May we know the materiality of this question, Your Honor because the question has not testified by the witness (sic), as to whether there were vehicles used!

COURT :
Witness may answer.

A. Two (2) vehicles, Sir.

ATTY. BANSALE:

Q. What kind of vehicles?

A. Two (2) owner type jeeps, Sir.

Q. How many persons were riding in that jeep when you served the warrant of arrest on September 15, 1995?

A. Two (2) passengers for every jeep, Sir.

COURT:

Q. You mean the Narcom Officers were in a jeep and the members of the CIS were also in another jeep?

A. Yes, Your Honor.

ATTY. BANSALE:

Q. Does that include the driver?

^[25] TSN, October 13, 1995, pp. 6-8.

A. Yes, Sir.

Q. You said that you were accompanied by an informant, how come that you were saying that there were only two (2) occupants in a jeep?

A. The informant went ahead and was riding in a tricycle, Sir.

Q. So that, in serving the warrant of arrest, you used three (3) vehicles, including the tricycle?

A. Yes, Sir.

COURT:

Q. *What did you think of using two (2) vehicles when you were only to serve a warrant of arrest?*

A. *Because there was also a marijuana (sic) in their house, Sir.*

ATTY. BANSAL:

Q. *And because of that report, that was the reason why the Narcom agents joined your team ?*

A. *Yes, Sir.*

Q. *And the purpose of the Narcom agents in joining your team is to search and get the marijuana?*

A. *Yes, Sir.*^[26]

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ATTY. BANSAL:

Q. *When did this informant inform you about this Adoracion Sevilla?*

A. *On that same day we served the warrant of arrest, Sir.*

Q. You said that this informant is not connected with the Philippine National Police, do you know the reason why said informant gave you the information regarding the whereabouts of Adoracion Sevilla, as well as the marijuana in the house of Adoracion Sevilla?

A. I do not know the reason, Sir.

Q. *Did you try to secure a search warrant with respect to the information of marijuana by the informant?*

A. *No, Sir.*

Q. *You did not advise the Narcom agents to secure a search warrant with respect to the seizure of marijuana?*

A. *No, sir, what we are concerned only is the warrant of arrest (sic).*^[27]

^[26] TSN, October 13, 1995, pp. 9-11.

^[27] TSN, October 13, 1995, pp. 13-14.

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ATTY. BANSALE:

Q. What happened after you served the warrant of arrest against Adoracion Sevilla?

A. The Narcom agents searched the house, Sir.

Q. Did they also search the upper portion of the house?

FISCAL MACARAIG:

Your Honor, the witness is no longer in the position to answer that.

COURT:

Okey, what did you understand to (sic) the word “search”?

A. Searching of the house, Your Honor.

ATTY. BANSALE:

Q. Did they search the other parts of the house?

FISCAL MACARAIG:

He is incompetent, Your Honor. How can he knows (sic) if he is guarding Adoracion Sevilla?

COURT:

Sustained. Do not use him as your witness.

ATTY. BANSALE:

That would be all, Your Honor.^[228]

As can be gathered from the above testimony, the NARCOM officers had every intention of conducting a search in subject house at Bantug Norte even before they proceeded to the place to arrest Sevilla. Per SPO1 Pineda’s account, they received prior information that there was marijuana in the said house at Bantug Norte and it was precisely on the basis of such information the NARCOM officers joined in the service of the warrant. In short, the NARCOM officers were of the impression that they were to search the house and yet, they failed to even try to secure a search warrant as required by law although there was opportunity to do so.

Then too, except for the admission that no search warrant was ever procured, SPO1 Pineda’s revelation traversed that of SPO3 De Vera who declared that their only purpose of going to Bantug Norte was to arrest Sevilla.^[29] Also, SPO3 De Vera made it appear in his testimony that it was upon the prodding of the CIS operatives that they decided to join forces, which was not what SPO1 Pineda recounted. SPO3 De Vera’s account was as follows:

^[28] TSN, October 13, 1995, p.18.

^[29] TSN, Oct. 6, 1995, p. 34.

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ATTY. BANSALE:

Q. *The only purpose why you went to Bantug Norte on September 15, 1995 is to arrest Adoracion Sevilla, is it not?*

A. *Yes, sir.*

Q. *At the time, you were only armed with a warrant of arrest dated August 1989, is it not?*

A. *Yes, sir.*

Q. *You were not there to conduct a buy-bust operation, is it not?*

A. *Yes, sir.*

Q. How many were you when you served the warrant of arrest against Adoracion Sevilla on September 15, 1995?

A. We were four (4), sir.

Q. Who are those four (4)?

A. Me and Police Senior Inspector Andrei Felix, both of NARCOM and two (2) members of the CIC namely, SPO2 Padilla and SPO1 Pineda.

Q. *You said that your only purpose is to serve a warrant of arrest against Adoracion Sevilla: My question to you is this: Is it your Standard Operating Procedures (sic) when you serve a warrant of arrest to have assistance from the CIC considering that the person you are going to arrest is a woman?*

A. *Not all, sir.*

ATTY. BANSALE:

Q. Why did you ask assistance from the CIC on that particular date when the one you are going to arrest is a woman only?

A. I referred to the members of the CIS the copy of the warrant of arrest considering that the said document is dated 1989, sir.

COURT:

Q. What was the reaction to you of their office when you referred that date (sic)?

A. According to the members of the CIC, the warrant of arrest is still valid to serve against the person.

Q. *Aside from the statement that it is still valid, what was, if any, is the reaction of that office to whom you referred (sic)?*

A. *According to them, it was one of their functions, so, we better join forces.*

ATTY. BANSALE:

- Q. In the warrant of arrest, it was stated there that the address was MS Garcia. How were you able to know that accused Adoracion Sevilla is at Bantug Norte?
- A. Based on the report by a civilian informant that Adoracion Sevilla is now residing at Bantug Norte.
- Q. *You said a while ago that you conducted surveillance for months against Adoracion Sevilla, when did you conduct said surveillance?*
- A. *I cannot remember the exact date but it is this year only, sir.*

ATTY. BANSALÉ:

- Q. *Why did you conduct a surveillance against Adoracion Sevilla?*
- A. *Because many reports were reaching to our office (sic) that she is allegedly involved in transporting and selling of marijuana dried leaves in the city.*^[30]

In light of the testimonies aforecited and evidence on record, the Court entertains serious doubts over the circumstances under which the NARCOM agents conducted the search. What appears more probable is that having been informed of Sevilla's presence as well as the existence of the contraband in subject house, the NARCOM agents joined the arresting team and forthwith turned the whole place upside-down under the assumption that "a search warrant was not needed" - a conclusion consistent with Sevilla's narration of the events and scenario she was in.

The Court is not impressed with the People's stance that the search was incidental to a lawful arrest and therefore did not require the procurement of a search warrant. The facts establishing a probable cause for the law enforcers to conduct a warrantless search, as theorized upon by the prosecution, do not seem to accord with human nature and experience. While there is no hard and fast rule to determine the truthfulness of one's testimony, that which conforms, however, to the quotidian knowledge, observation and experience of man is often deemed to be reliable.^[31]

The Court finds it hard to believe that appellant Sevilla, supposedly a notorious drug pusher who had a standing warrant for her arrest, would casually allow and even ask the police officers to enter the house after introducing themselves.^[32] If Sevilla had indeed something to hide or be wary of, it would have been a more natural reaction for her to evade the police officers or at least exert an effort to conceal the box in which the prohibited article was kept *before* allowing the arresting officers to enter the premises. The evidence shows that Sevilla did neither and was even seated at the sala, apparently unaffected by the arrival of the four men who entered the house to serve the warrant.^[33]

^[30] TSN, October 6, 1995 pp. 34-36.

^[31] People vs. Niño, 290 SCRA 155, 160.

^[32] TSN, October 9, 1995, pp. 21 & 24.

^[33] TSN, October 9, 1995, p. 22.

All things viewed in proper perspective, the Court is inclined to believe the posture of the defense that over the objection and protestation of Sevilla, the arresting officers just barged into the place and searched the house straightaway. This conclusion is more logical and consistent with the evidence on record especially in the face of appellants' insistence that such transpired on that fateful day.

Also hard to believe is the tale of P/Sr. Inspector Felix that after having introduced themselves as police authorities, Sevilla instructed Gaspar to bring the carton box to the second floor.^[34] It is difficult to imagine why Sevilla would arouse more suspicion by doing such a thing in the presence of the four arresting officers.

Neither can the Court perceive any plausibility in the allegation that appellant Gaspar readily admitted that the contents of the carton box were marijuana and the latter voluntarily handed over the same to the NARCOM officers while confessing that the illegal substance belonged to Sevilla. Suffice it to note such averment too convenient for comfort considering the vehement denial by Gaspar as well as the improbability of the same.

Then too, a thorough scrutiny of the testimonial evidence offered by the People reveals inconsistencies and absurdities which, when viewed in isolation, seem trivial and unimportant. Taken as a whole, however, the conflicting accounts and improbabilities cast doubt over the credibility of the prosecution witnesses and veracity of their narrations. In *People vs. Noay*,^[35] the Court held that where the testimonies of key witnesses cannot stand together, the inevitable conclusion is that one or both must be telling a lie and their story a mere concoction.

De Vera, the first prosecution witness to take the stand, categorically declared that he noticed Gaspar *immediately* and *instinctively* cart upstairs a medium-sized carton box when Gaspar learned that they were officers of the law.^[36] On the other hand, P/Sr. Inspector Felix later disclosed that it was only upon *receiving instructions* from Sevilla that Gaspar carried the carton box upstairs.^[37]

The discrepancy in such testimonies is disturbing given the fact that the same are crucial to the prosecution of Sevilla, whose only link to the said carton box is the "instruction" which she allegedly gave to Gaspar. It is noteworthy that apart from the suggestion made by Prosecutor Macaraig in the course of questioning that an instruction was given by Sevilla (to which the defense counsel timely objected on the ground that the prosecutor was leading the witness), SPO3 De Vera made no mention whatsoever of the purported "instruction" which would establish the connection between Sevilla and the controverted box. It was only when the second prosecution witness (Felix) was called to the witness stand that the incriminating assertion was made, giving the Court the impression that the prosecution tailored Felix's testimony to suit that of De Vera in support of the theory the prosecution wanted to project.

^[34] TSN, October 9, 1995, p.12.

^[35] 296 SCRA 292, 302 citing: *People vs. Jubilag*, 263 SCRA 604.

^[36] TSN, October 6, 1995, pp. 11 & 12.

^[37] TSN, October 9, 1995, p. 25.

As regards the manner in which entrance was effected in the house at Bantug Norte and how the warrant of arrest was served on Sevilla, P/Sr. Inspector Felix, SPO3 De Vera and SPO1 Pineda could not even agree on their respective tales.

For instance, Felix disclosed that when they arrived, the gate was slightly open, Sevilla was standing by the gate and even asked them to enter the house.^[38] De Vera, on the other hand, testified that Sevilla was merely seated inside the house when they arrived.^[39] To add to the uncertainty, Pineda's account completely clashed with Felix's and De Vera's story when the former testified that the door was closed, that they had to knock on the door of the house and that they arrested Sevilla by the door when the latter opened the same.^[40]

Equally sketchy are the subsequent events which happened when Sevilla and Gaspar were taken into custody by the PNP and NARCOM officers.

SPO1 Pineda recounted that after the arrest of the two appellants, they were directly brought to the CIS at the same time for booking and that they did not stop at any place in between.^[41] Meanwhile, De Vera and Felix maintain that Gaspar was initially investigated at the barangay hall while Sevilla was first brought to the NARCOM district office.^[42]

According to SPO3 De Vera, Sevilla was not brought to the barangay hall because she refused to acknowledge that she knew anything about the marijuana.^[43] P/Sr. Inspector Felix, on the other hand, disclosed that the reason Sevilla was not brought to the barangay hall, which, according to De Vera, is a standard operating procedure,^[44] was because she was in an angry mood, and wanted to escape. Yet strangely, Felix also revealed that Sevilla and Gaspar reached the NARCOM district office at the same time because the vehicle and troop which accompanied Sevilla stopped along the highway to wait for Gaspar, who was then being investigated at the barangay hall. If the investigation at the barangay hall was a standard operating procedure, why was Sevilla not investigated considering that Sevilla had to wait for Gaspar along the highway?

The Court cannot also understand why the NARCOM agents could not conclusively state when and how the surveillance was undertaken on the person of appellant Sevilla. If a surveillance had in fact taken place, they would have discovered that the house did not belong to Sevilla but to her daughter, Micaela.

In view of the foregoing, the Court does not see its way clear to give full faith and credence to the prosecution evidence on hand. It is not unmindful of the settled doctrine that the assessment by the trial court of the credibility of the witnesses and their testimonies, as a rule, is binding on appellate courts, absent

^[38] TSN, October 9, 1995, p. 21.

^[39] TSN, October 6, 1995, p. 38.

^[40] TSN, October 13, 1995, p. 16.

^[41] TSN, October 13, 1995, pp. 11 & 12.

^[42] TSN, October 6, 1995, p. 16 and TSN, October 9, 1995 p. 15.

^[43] TSN, October 6, 1995, p.16,

^[44] Ibid.

any fact or circumstance of weight and substance that had been overlooked, misapprehended or misapplied.^[45] In the present case, however, and for the reasons already advanced, the Court finds it proper to apply the exception rather than the general rule because although declarations of law enforcers are accorded weight, their testimonies, to be worthy of belief, must themselves be credible and not suspect.^[46]

Not only that, where the inculpatory facts and circumstances are capable of two or more explanations or interpretations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, the evidence does not meet or hurdle the test of moral certainty required for conviction.^[47] Consequently, the acquittal of appellants is indicated.

The illegal search conducted by the NARCOM agents is not the only constitutional infirmity tainting the case. An exhaustive review of the records discloses that appellants were not duly informed of their constitutional rights after their arrest. Neither were they assisted by counsel at any stage of the custodial investigation, despite the lack of waiver of their right to counsel. In his testimony, P/Sr. Inspector Felix admitted thus:

FISCAL MACARAIG:

XXX XXX XXX

- Q. Before the accused who goes by the name alias Joel at that time he confessed as to who is the owner of the marijuana bricks, in connection of your duty what step or steps did you do (sic)?
- A. As a police officer, after hearing that the contents of the box is marijuana I apprehended him and I told him that I will bring him to the Office for investigation and after saying that “you are under arrest and you have the right to remain silent and if you wish we can provide you with a lawyer” (sic), sir.
- Q. So, in other words Mr. Witness, at that point in time after you arrested the accused and before the same was effected you would like to impress the Court the constitutional right of the accused at that time was stated by you to him (sic)?
- A. Yes, sir.
- Q. What happened afterwards, Mr. Witness?
- A. Afterwards, I called my investigator SPO3 de Vera upstairs and gave to him the marijuana for proper receipts, sir.
- Q. After doing so, what happened afterwards?
- A. Afterwards, we went downstairs and left, the others proceeded to the office while we brought Joel Gaspar at the Barangay Hall, sir.

^[45] People vs. De Los Santos, G.R. No. 126998, Sept. 14, 1999 citing: People vs. Sumbillo, 271 SCRA 428; People vs. Quinao, 269 SCRA 495; People vs. Nuestro, 240 SCRA 221.

^[46] People vs. Pagaura, 267 SCRA 17, 23.

^[47] People vs. De Los Santos, supra.

Q. What about the other accused Adoracion Sevilla was she ever arrested on that occasion?

A. Yes, sir.

Q. And where was she brought in particular after the arrest was made?

A. In the district office of the NARCOM, sir.

Q. What happened after Adoracion Sevilla was brought over to the Narcom District Office?

A. After bringing to the Narcom District Office we sent her to the Narcom Office for booking blotter, sir.

COURT:

How about the other accused Joel Gaspar?

A. We brought Joel Gaspar to our office for investigation, we separated them, sir.^[48]

xxx xxx xxx

Q. What happened after both of them were already at your office?

A. The investigation was conducted, sir.

Q. And who conducted the investigation?

A. SPO3 de Vera, sir.

Q. Was that investigation conducted in your presence?

A. Yes, sir.

Q. Before the investigation was made what particular steps did SPO3 de Vera undertook (sic)?

A. de Vera apprised them the constitutional right (sic), sir.

Q. Will you please state what is the constitutional right read or apprised (sic) before the two accused?

A. That they have the right to remain silent and if they wanted a lawyer they can have their own lawyer, sir.

Q. Aside from these two, were there any other constitution right (sic) that were stated before the two accused?

A. Yes, sir, we further read the constitutional right, sir.

Q. After the appraisal (sic) of the constitutional right of the accused, what happened afterwards Mr. witness?

A. They remained silent while Adoracion Sevilla did not give any statement, sir.

^[48] TSN, October 9, 1995, pp. 14-15.

Q. How about the other accused Joel Gaspar?

A. Only his confession, sir.

xxx xxx xxx

Q. Upon being informed that both the witness refused to give their statement on their own, what step did SPO3 de Vera undertook (sic) afterwards?

A. He continued conducting the investigation, sir.^[49]

xxx xxx xxx

CROSS EXAMINATION:

xxx xxx xxx

ATTY. FERRER:

xxx xxx xxx

Q. The investigation was conducted by the CIS, am I correct in the person of Joel Gaspar (sic)?

A. No, sir.

Q. Who conducted the investigation?

A. SPO3 de Vera, sir.

Q. The investigation was put in writing?

A. Typewritten, sir.

xxx xxx xxx

Q. During the investigation conducted in your office, were you present?

A. Yes, sir.

Q. And you noticed that there was no lawyer representing the person of Joel Gaspar?

A. Yes, sir, Joel Gaspar stated that he knows nothing.

Q. During the whole investigation conducted in your office you were present?

A. Yes, sir.

Q. And there was no lawyer?

A. Yes, sir.

xxx xxx xxx

^[49] TSN, October 9, 1995, pp. 16-18.

FISCAL MACARAIG:

Only one re-direct, Your Honor.

COURT: Proceed.

FISCAL MACARAIG:

Mr. Witness, when the investigation was conducted at your office and according to the defense there was no counsel despite the reading of constitutional right, please tell us categorically, was there any forced (sic) made upon the person of the accused while this investigation was conducted?

A. None, sir. “[50]

XXX XXX XXX

Therefrom, it can be deduced that appellants were not clearly informed of their constitutional rights to remain silent and to independent and competent counsel, when they were arrested and investigated in connection with the offense charged. Simply stating the rights to which the arrestee is entitled to or reading the same to him did not suffice. Under the rulings of this Court, the right to be informed of one’s right contemplates the “transmission of meaningful information rather than just the ceremonial and perfunctory recitation of an abstract constitutional principle”. [51] The right to be informed consists of no less than effective communication which results in a full understanding of what is conveyed.

The investigating officer is tasked to explain to the person under custody the significance as well as the consequences of his rights under Section 12, Article III of the Constitution and should not simply assume that the person arrested fully comprehended the same. To merely say that “you have the right to remain silent and if you want, you can have your own lawyer” is not enough. It is not the appraisal of rights required by law.

Worth stressing upon are the following guidelines laid down by this Court [52] regarding the procedure to be observed by police officers in effecting an arrest and conducting an investigation:

“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

[50] TSN, October 9, 1995, pp. 29-31.

[51] People vs. Nicandro, 141 SCRA 289, 298.

[52] People vs. Canela, 208 SCRA 842, 850-851 citing: People vs. Galit, 135 SCRA 465. See also: People vs. Lumayok, 139 SCRA 1, 19-20; People vs. Penillos, 205 SCRA 546, 562-563 and People vs. Basay, 219 SCRA 404, 418.

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.”

The fact that there was no lawyer present during the interrogation at the NARCOM district office leads the Court to question the law enforcers’ adherence to the constitutional mandate relating to persons held for the commission of a crime. It reinforces the Court’s conclusion that the NARCOM officers did transgress appellants’ constitutional rights during, and after their arrest. It does not matter that no force or coercion was ever employed by them during the investigation, as the prosecution is wont to insist, because in the absence of any showing that the arresting officers properly complied with what was incumbent upon them in the performance of their functions, any importunings to that effect would be futile.

Given the attendant circumstances, the Court cannot uphold the trial court’s conclusion that the policemen regularly performed their duties as public officers. Such presumption has been effectively rebutted by evidence to the contrary. Besides, as correctly argued by appellant Sevilla in her brief,^[53] the presumption of regularity in the performance of official duty cannot by itself overcome the presumption of innocence nor constitute proof of guilt beyond reasonable doubt.^[54] It must be emphasized that even granting that appellants were allegedly drug pushers, they would nonetheless be entitled to their basic constitutional rights.

In sum, the Court is of the irresistible conclusion that there was no probable cause for conducting an extensive search in the house occupied by appellants. The truthfulness of the facts in support of probable cause is doubtful and the Court is of the impression that the search in question was not at all incidental to the lawful arrest of Sevilla but rather, pre-planned. Therefore, any evidence obtained in the course thereof must be excluded.

The “confession” allegedly given by Gaspar during custodial interrogation must likewise be rejected for having been extracted without the assistance of counsel or a valid waiver of legal assistance. As a side note, it bears emphasizing that Gaspar did not execute a “confession”. More accurately, what the prosecution elicited from Gaspar was actually an “admission”, the difference being that in a “confession”, an accused acknowledges his guilt. There is no such acknowledgment of guilt in an “admission”.^[55]

^[53] Rollo, p. 104.

^[54] People vs. Pagaura, supra, 24; People vs. De los Santos, supra., citing People vs. Pastores, 227 SCRA 424.

^[55] In People vs. Agustin, 240 SCRA 541, 553-554, the Court, quoting Wharton, distinguished “confession” and “admission” in this wise: “ A confession is an acknowledgment in express terms, by a party in a criminal case, of his guilt of the crime charged, while an admission is a statement by the accused, direct or implied, of facts pertinent to the issue, and tending, in connection with proof of other facts, to prove his guilt. In other words, an admission is something less than a confession, and is but an acknowledgment of some fact or circumstance which in itself is insufficient to authorize a conviction, and which tends only to establish the ultimate fact of guilt.”

Furthermore, the totality of the prosecution evidence before the Court does not measure up to the requisite quantum of proof for conviction. It is a legal truism that an accused in a criminal case is entitled to an acquittal unless the prosecution shows that he is guilty beyond reasonable doubt. It is incumbent upon the State to establish its case with that degree of proof which produces conviction in an unprejudiced mind with evidence which stands or falls on its own merits. The prosecution cannot be allowed to draw strength from the weakness of the defense's evidence for it has the onus probandi in establishing the guilt of the accused - *ei incumbit probatio qui dicit, non qui negat* - he who asserts, not he who denies, must prove.^[56]

Needless to state, the trial court should have exercised due diligence and prudence in deliberating upon appellants' guilt. It should have given more serious consideration to the pros and cons of the evidence offered by both the defense and the State and many loose ends should have been settled by the trial court in determining the merits of the present case. The Court is not unaware that in some instances law enforcers resort to the practice of planting evidence to extract information or even to harass civilians. Consequently, the court must be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses.^[57]

WHEREFORE, the Decision under automatic review is **REVERSED** and **SET ASIDE**, and appellants ADORACION SEVILLA Y JOSON @ BABY and JOEL GASPAR Y CABRAL are hereby **ACQUITTED** of the crime charged. The Director of the Bureau of Corrections is directed to cause the immediate release of appellants unless they are being lawfully held for another cause, and to inform the court of the date of their release, or the ground for their continued confinement, within ten days from notice. Costs de officio.

SO ORDERED.

Bellosillo, Puno, Kapunan, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, and De Leon, Jr., JJ., concur.
Davide, Jr., C.J., Melo, Vitug, and Mendoza, JJ., in the result.
Ynares-Santiago, J., on leave.

Source: Supreme Court E-Library

^[56] People vs. Masalihit, 300 SCRA 147, 159.

^[57] People vs. Pagaura, supra, 24.

