

## THIRD DIVISION

[ G.R. No. 235348, December 10, 2018 ]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. STANLEY  
MADERAZO Y ROMERO, RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

Before this Court is a petition for review on *certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court, assailing the Decision<sup>[2]</sup> dated April 26, 2017 and the Resolution<sup>[3]</sup> dated October 11, 2017 of the Court of Appeals (CA) in CA G.R. SP No. 143187, which granted Stanley Maderazo's (*Maderazo*) petition for *certiorari*, and nullified and set aside Search Warrant Nos. 09-2015 and 10-2015.

The facts are as follows:

On March 31, 2015, before the Regional Trial Court of Calapan City, Branch 40 (*RTC*), Police Superintendent Jaycees De Sagun Tolentino (*Tolentino*) filed two (2) separate applications for search warrants against Maderazo, Nestor Alea (*Alea*), Daren Mabansag (*Mabansag*) and Lovely Joy Alcantara (*Alcantara*). In his search warrant applications, Tolentino alleged that he has been informed by *barangay* officials, Loida Tapere Roco (*Roco*) and Rexcel Lozano Rivera (*Rivera*), that Maderazo, along with Alea, Mabansag and Alcantara, is keeping an undetermined quantity of dangerous drugs, drug paraphernalia, and firearms of unknown caliber and ammunitions inside his residence in *Barangay Lazareto*, Calapan City, Oriental Mindoro.

According to Roco and Rivera, at 6 o'clock in the morning of March 31, 2015, they learned that members of the Calapan City Police Station will be serving a warrant of arrest against Maderazo for attempted murder. When they reached the house which Maderazo is renting, the latter was already arrested. As *barangay* officials, Roco and Rivera decided to talk to Maderazo, who admitted to them that he is keeping inside the subject house approximately 40 grams of illegal drugs, drug paraphernalia, and a firearm. Tolentino allegedly verified said informations through casing and surveillance.

On March 31, 2015, after the preliminary investigation of witnesses Roco and Rivera, under oath, Executive Judge Tomas C. Leynes (*Judge Leynes*) issued Search Warrant No. 09-2015 for violation of Republic Act (R.A.) No. 9165 and Search Warrant No. 10-2015 for violation of R.A. No. 10591. On even date, both search warrants were served in the subject house in *Barangay Lazareto*, Calapan City, Oriental Mindoro. By virtue of the search warrants, police officers recovered heat-sealed transparent plastic sachets which were suspected to be containing *shabu*, various drug paraphernalia, a .38 caliber revolver, live ammunitions, mobile phones, computer laptop, cash, among others, from the premises.

Maderazo, Alea, and Mabansag were, subsequently, charged with illegal possession of dangerous drugs and drug paraphernalia, and illegal possession of firearm respectively docketed as Criminal Case Nos. CR-15-12, 201, CR-15-12, 202, and CR-15-12, 203.

On July 1, 2015, Maderazo filed the Motion to Quash, arguing that Search Warrant Nos. 09-2015 and 10-2015 were issued without probable cause; thus, all items seized by virtue of their enforcement were inadmissible in evidence. He claimed that Tolentino did not have personal knowledge of Maderazo's supposed possession of illegal drugs and an unlicensed firearm, because the police officer merely relied on Roco and Rivera's statements. Maderazo insisted that Tolentino lied when he stated that the Calapan City Police conducted prior surveillance and casing because the same could not have possibly happened, considering that he was already under police custody in the morning of March 31, 2015, and the house subject of the search was cordoned off.

Maderazo further asserted that nothing in the records show how and when Tolentino conducted the casing and surveillance. The statements of Roco and Rivera cannot also be given probative value, since the information that Maderazo has in his custody illegal drugs, drug paraphernalia, and an unlicensed firearm were not derived from their own perception but allegedly from Maderazo's own admission.

Thereafter, Maderazo requested for certified true copy of the transcript of stenographic notes (TSN) of the proceedings conducted on March 31, 2015 regarding the application for Search Warrant Nos. 09-2015 and 10-2015. Subsequently, Maderazo manifested that instead of the TSN, he was only given copies of Roco, Rivera, and Cueto's respective sworn statements which bear exactly the same questions and answers, except for their personal circumstances.

On August 14, 2015, the trial court rendered its Order denying the motion to quash. The dispositive portion of its Order reads:

ACCORDINGLY, the Omnibus Motion to Quash Search Warrant(s) and to Suppress Evidence filed by all the accused, through counsel, is hereby DENIED for lack of merit.

Maderazo moved for reconsideration, but the same was denied in its September 21, 2015 Order.<sup>[4]</sup>

Thus, before the appellate court, Maderazo filed a petition for *certiorari* alleging grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the trial court when it denied the motion to quash search warrants.<sup>[5]</sup>

On April 26, 2017, the CA granted the petition for *certiorari*, and nullified and set aside Search Warrant Nos. 09-2015 and 10-2015.<sup>[6]</sup> It, likewise, held that the items allegedly seized in the house being rented by Maderazo by virtue of the said search warrants are inadmissible in evidence against him since the access therein by the police officers used void search warrants.

Aggrieved, petitioner raised the lone issue of *whether or not the Honorable Court of Appeals erred in ruling that Judge Leynes committed grave abuse of discretion*

*amounting to lack or excess of jurisdiction in issuing the assailed Orders dated August 14, 2015 and September 21, 2015 in Criminal Case Nos. CR-15-12-201 to 203, denying respondent's motion to quash the subject search warrants.*

Maderazo asserted that there was no probable cause for the issuance of Search Warrant Nos. 09-2015 and 10-2015. He added that Judge Leynes did not personally examine P/Supt. Tolentino and his witnesses through searching questions and answers. He alleged that there was no TSN of the supposed personal examination of the judge attached to the records of the case. He asserted that the sworn statements of Roco, Rivera, and Cueto were not based on their personal knowledge but on the alleged admission of Maderazo.

The Office of the Solicitor General (OSG), meanwhile, countered that while there may be no actual TSNs of the proceedings, the sworn statements of witnesses Roco, Rivera and Cueto are actual written records of the preliminary examination conducted by Judge Leynes. It insisted that the admission of Maderazo constituted probable cause which was determined by Judge Leynes after personally examining the witnesses.

The petition has no merit.

The rules pertaining to the issuance of search warrants are enshrined in Section 2, Article III of the 1987 Constitution:

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.<sup>[7]</sup>

The purpose of the constitutional provision against unlawful searches and seizures is to prevent violations of private security in person and property, and unlawful invasion of the sanctity of the home, by officers of the law acting under legislative or judicial sanction, and to give remedy against such usurpations when attempted.<sup>[8]</sup>

Corollarily, Sections 4 and 5 of Rule 126 of the 2000 Rules on Criminal Procedure provide for the requisites for the issuance of a search warrant, to wit:

SEC. 4. *Requisites for issuing search warrant.* A search warrant shall not issue except upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainant and the witness he may produce, and particularly describing the place to be searched and the things to be seized which may be anywhere in the Philippines.

SEC. 5. *Examination of complainant; record.* The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he may produce on facts personally known to them and

attach to the record their sworn statements, together with the affidavits submitted.

To paraphrase this rule, a search warrant may be issued only if there is probable cause in connection with a specific offense alleged in an application based on the personal knowledge of the applicant and his witnesses. This is the substantive requirement for the issuance of a search warrant. Procedurally, the determination of probable cause is a personal task of the judge before whom the application for search warrant is filed, as he has to examine the applicant and his or her witnesses in the form of "searching questions and answers" in writing and under oath.<sup>[9]</sup>

Thus, in *Oebanda, et al. v. People*,<sup>[10]</sup> the Court held that, in determining the existence of probable cause in an application for search warrant, the mandate of the judge is for him to conduct a full and searching examination of the complainant and the witnesses he may produce. The searching questions propounded to the applicant and the witnesses must depend on a large extent upon the discretion of the judge. ***Although there is no hard-and-fast rule as to how a judge may conduct his examination, it is axiomatic that the said examination must be probing and exhaustive and not merely routinary, general, peripheral or perfunctory. He must make his own inquiry on the intent and factual and legal justifications for a search warrant. The questions should not merely be repetitious of the averments stated in the affidavits/deposition of the applicant and the witnesses.***

Following the foregoing principles, the Court agrees with the CA in ruling that the trial judge failed to conduct the probing and exhaustive inquiry as mandated by the Constitution. A perusal of the preliminary examination taken on all the witnesses on March 31, 2015 appeared to be coached in identical form of questions and answers. We quote the pertinent portions, to wit:

*Preliminary Examination taken of witness Loida Tapere Roco:*

Q: Maaari mo bang sabihin ang iyong tunay na pangalan at iba pang bagay na pagkakakilanlan sa iyo?

A. Ako po ay si Loida Tapere Roco, 50 taong gulang, may asawa, barangay konsehal ng barangay Lazareto at naninirahan sa barangay Lazareto, Calapan, Oriental Mindoro.

Q: Bakit ka naririto ngayon sa aming tanggapan?

A. Nais ko pong ipagbigay-alam sa inyo na noong ika-6:00 ng umaga ng 31 March 2015, ako ay nakatanggap ng impormasyon na ang miyembro ng Calapan City Police Station na pinangungunahan ni PSupt. Jaycees DS Tolentino na mayroon silang huhulihin sa aming barangay na may warrant of arrest.

Q: Ano ang iyong nalaman?

A. Napag-alaman ko na ang taong huhulihin sa aming barangay ay naroon sa bahay ni Major Roger Garcia kung saan ito nangungupahan at kung saan ang caretaker ng naturang bahay ay itong si Sally Cueto.

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Q: Ano pa ang iyong napag-alaman?

A. Napag-alaman ko din na ang taong huhulihin ng mga pulis na nangungupahan sa bahay na iyon ay si Stanley Maderazo na may kasong Attempted Murder.

Q: Ano ang sumunod na nangyari?

A. Na pagdating ko sa bahay na inuupahan ni Stanley Maderazo ay nakita ko na siya ay hinuli na ng mga pulis ng Calapan at narinig ko din na siya ay binabasahan ng kanyang mga karapatan tungkol sa kanyang pagkaaresto ni Police Inspector Jude Nicolasora.

Q: Ano pa ang sumunod na nangyari?

A. Bilang kagawad ng aming barangay, ako ay lumapit kay Stanley Maderazo at sa aking pakikipag-usap sa kanya ay umamin siya sa akin na siya ay mayroong baril sa loob ng kanyang inuupahang bahay.

Q: Sa anong kadahilanan mo naman naisipang isalaysay ang mga bagay na ito?

A. Ito po ay sa kadahilanang si Stanley Maderazo ay umamin sa akin na siya ay mayroong baril doon sa bahay na kanyang inuupahan.

Q: Mayroon ka pa bang nais idagdag?

A. Wala na po at kung mayroon man ay sa hukuman ko na lamang sasabihin ang mga iyon.

Q: Ikaw ba ay tinakot, pinilit o pinangakuan ng anumang bagay upang magbigay ng salaysay na ito?

A. Hindi po. <sup>[11]</sup>

In comparison, the preliminary investigation conducted on witness Rexcel Lozano Rivera on the same date contained similar line of questioning and the answers were framed in the same manner, to wit:

*Preliminary Examination taken of witness Rexcel Lozano Rivera:*

Q: Maaari mo bang sabihin ang iyong tunay na pangalan at iba pang bagay na pagkakakilanlan sa iyo?

A. Ako po ay si Rexcel Lozano Rivera, 43 taong gulang, may asawa, barangay konsehal ng barangay Lazareto at naninirahan sa barangay Lazareto, Calapan, Oriental Mindoro.

Q: Bakit ka naririto ngayon sa aming tanggapan?

A. Nais ko pong ipagbigay-alam sa inyo na noong ika-6:00 ng umaga ng 31 March 2015, ako ay nakatanggap ng impormasyon na ang mga miyembro ng Calapan City Police Station na pinangungunahan ni PSupt. Jaycees DS Tolentino na mayroon silang huhulihin sa aming barangay na may warrant of arrest.

Q: Ano ang iyong nalaman?

A. A. Napag-alaman ko na ang taong huhulihin sa aming