

FIRST DIVISION

[G.R. No. 200396, March 22, 2017]

MARTIN VILLAMOR Y TAYSON, AND VICTOR BONAOBRA Y GIANAN, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

DEL CASTILLO, J.:

The Constitution guarantees 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.^[1] A mere tip from an unnamed informant does not vest police officers with the authority to barge into private homes without first securing a valid warrant of arrest or search warrant. While there are instances where arrests and searches may be made without a warrant, the Court finds that the constitutionally-protected right against unreasonable searches and seizures was violated in the case at bar.

This Petition for Review under Rule 45 of the Rules of Court seeks to set aside the June 13, 2011 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CR No. 30457 which affirmed the October 25, 2006 Judgment^[3] of the Regional Trial Court (RTC), Branch 43 of Virac, Catanduanes in Criminal Case Nos. 3463 and 3464, convicting both petitioners for Violation of Presidential Decree (PD) No. 1602 as amended by Republic Act (RA) No. 9287, otherwise known as "An Act Increasing the Penalties for Illegal Numbers Games Amending Certain Provisions of PD 1602 and for Other Purposes." Petitioner Martin T. Villamor (Villamor) was convicted as a collector of bets in the illegal numbers game of "*lotteng*" under Section 3(c) of RA 9287, while petitioner Victor G. Bonaobra (Bonaobra) was convicted as a coordinator, controller, or supervisor under Section 3(d) of the said law. The RTC sentenced Villamor to suffer the penalty of imprisonment from eight (8) years and one (1) day as minimum to nine (9) years as maximum, while Bonaobra was sentenced to suffer the penalty of imprisonment of ten (10) years and one (1) day as minimum to eleven (11) years as maximum.

Factual Antecedents

Villamor was charged with violation of Section 3(c) of RA 9287 for collecting and soliciting bets for an illegal numbers game locally known as "*lotteng*" and possessing a list of various numbers, a calculator, a cellphone, and cash. The charge stemmed from the following Information:^[4]

That on or about the 17th day of June 2005 in the morning, in barangay Francia, municipality of Virac, province of Catanduanes, Philippines, within the jurisdiction of this Honorable Court the said accused with intent [to] gain thru illegal means did then and there, [willfully],

unlawfully and feloniously engage, collect [and] solicit x x x bets for illegal numbers game locally known as "Lotteng" by having in his possession [a] calculator, cellphone, [list] of various numbers and money and lotteng paraphernalias.

CONTRARY TO LAW.

Another Information^[5] was filed in the same court charging Bonaobra with violation of the same law, committed as follows:

That on or about the 17th day of June 2005 in the morning, in barangay Francia, municipality of Virac, province of Catanduanes, Philippines, within the jurisdiction of this Honorable Court the said accused with intent [to] gain thru illegal means did then and there, [willfully], unlawfully and feloniously maintain and operate illegal numbers game locally known as "lotteng" while in possession of gambling paraphernalias, such as [a] calculator, cellphone, list of various numbers and cash in the amount of P1,500.00 representing collection of bets.

CONTRARY TO LAW.

Petitioners filed their respective Motions for Reinvestigation, which were both granted by the RTC. Subsequently, the Office of the Provincial Prosecutor issued separate Resolutions both dated September 13, 2005 amending the Informations in both cases.

In the Amended Information, the phrase "acting as a collector" was included to charge Villamor as a collector in an illegal numbers game. The Amended Information^[6] provides:

That on or about the 17th day of June 2005 in the morning, in barangay Francia, municipality of Virac, province of Catanduanes, Philippines, within the jurisdiction of this Honorable Court the said accused acting as a collector with intent [to] gain thru illegal means[,] did then and there, willfully, unlawfully and feloniously engage, collect and solicit bets for illegal numbers game locally known as "Lotteng" by having in his possession [a] calculator, cellphone, [list] of various numbers and money and lotteng paraphernalias.

CONTRARY TO LAW.

On the other hand, Bonaobra was charged as a manager or operator in the Amended Information,^[7] the incriminatory paragraph of which states:

That on or about the 17th day of June 2005 in the morning, in barangay Francia, municipality of Virac, province of Catanduanes, Philippines, within the jurisdiction of this Honorable Court the said accused acting as manager and operator with intent [to] gain thru illegal means did then and there, [willfully], unlawfully and feloniously maintain and operate illegal numbers game locally known as "lotteng" while in possession of gambling paraphernalia, such as [a] calculator, cellphone, lists of various numbers and cash in the amount of P1,500.00 representing collection of bets.

CONTRARY TO LAW.

When separately arraigned, Villamor, on October 4, 2005 and Bonaobra, on November 29, 2005, both pleaded not guilty to the respective charges filed against them. After the pre-trial conference, a joint trial on the merits followed.

Version of the Prosecution

The prosecution presented four witnesses, namely: Domingo Tejerero (Tejerero), Provincial Director, Police Superintendent Francisco Peñaflor (PD Peñaflor), SPO4 Severino Malasa, Jr., and PO1 David Adrian Saraspi (PO1 Saraspi). Culled from the records were the following facts:

On June 17, 2005, at around 9:00a.m., PD Peñaflor received a call from an informant regarding an ongoing illegal numbers game at Barangay Francia, Virac, Catanduanes, specifically at the residence of Bonaobra. A team composed of PD Peñaflor, Saraspi, PO1 Rolando Ami, a driver, and a civilian asset proceeded to Bonaobra's residence to confirm the report.

Upon arrival at the target area, the team parked their service vehicle outside the compound fenced by bamboo slats installed two inches apart which allowed them to see the goings on inside. According to the police officers, they saw petitioners in the act of counting bets, described by the Bicol term "*revisar*," which means collating and examining numbers placed in "*papelitos*," which are slips of paper containing bet numbers, and counting money bets.

When they entered the gate of the compound, they introduced themselves as police officers and confiscated the items found on the table consisting of cash amounting to P1,500.00 in different denominations, the "*papelitos*," a calculator, a cellular phone, and a pen. Petitioners were then brought to Camp Francisco Camacho where they were investigated for illegal gambling. Subsequently, a case was filed against the petitioners before the Office of the Provincial Prosecutor.

Version of the Defense

The defense presented six witnesses, namely Villamor, Bonaobra, Demetrio Bonaobra, the brother of Bonaobra, Florencio Bonaobra (Florencio), the father of Bonaobra, Juan Vargas, and Jonah Bonaobra (Jonah), the wife of Bonaobra. Their testimonies are summarized below.

On June 17, 2005, at around 8:30a.m., Villamor went to Bonaobra's house to pay a debt he owed to the latter's wife, Jonah. At that time, Bonaobra was having coffee with his father Florencio inside their house. Villamor gave Bonaobra P2,000.00 which the latter placed on top of the table. Bonaobra then went outside the house to answer his cellphone. When Bonaobra was at the door, a man later identified as PD Peñaflor kicked the fence of Bonaobra's house, grabbed Bonaobra's right arm, and said, "*Caught in the act ka!*" Florencio went outside and asked PD Peñaflor if he had a search warrant. Two more men entered the house and took the money from the table. Petitioners were then made to board the service vehicle and brought in for investigation at the police headquarters.

Ruling of the Regional Trial Court

On October 25, 2006, the RTC of Virac, Catanduanes, Branch 43 rendered its Judgment finding petitioners guilty beyond reasonable doubt of committing illegal

numbers game locally known as "*lotteng*," a variant of the game *Last Two*,^[8] respectively as a collector or agent under Section 3(c), and as a coordinator, controller, or supervisor under Section 3(d), of RA 9287.

The RTC gave credence to the testimonies of the arresting officers and held that petitioners were caught in *flagrante delicto* committing an illegal numbers game locally known as "*lotteng*," a variant of *Last Two*. The RTC held that petitioners were seen by the arresting officers in the act of counting bets before the arrest was made inside Bonaobra's compound. The petitioners were also caught holding "*papelitos*," which contained the three rows of two-number combinations. Since the winning combination in "*lotteng*" is taken from the first two numbers of the winning combinations in the daily draw of the lotto in the Philippine Charity Sweepstakes, the RTC held that the number combinations shown in the "*papelitos*" were meant to correspond to the lotto results.

The RTC further held that Villamor's participation in the illegal numbers game was that of a collector since he brought bet money to Bonaobra while the latter was that of a coordinator, controller, or supervisor after it was shown that he received the money from Villamor.

The dispositive part of the Judgment of the RTC reads:

WHEREFORE, applying the Indeterminate Sentence Law, this Court hereby SENTENCES Martin Villamor to suffer a penalty of imprisonment from eight (8) years and one (1) day as minimum to nine (9) years as maximum, and Victor Bonaobra to suffer a penalty of ten (10) years and one (1) day as minimum to eleven (11) years as maximum. Likewise, the money amounting to P1,500.00 and the other personal properties used as gambling paraphernalia, like the calculator, ballpen and cellular phone are confiscated in favor of the state.

SO ORDERED^[9]

Ruling of the Court of Appeals

On June 13, 2011, the CA affirmed the RTC's Decision. The CA brushed aside Bonaobra's argument that his right to due process was violated when he was convicted of a crime different from that with which he was charged. The CA held that the classification of a maintainer, manager, or operator includes a coordinator, controller or supervisor.^[10] The CA ratiocinated that to hold a maintainer guilty of the lesser offense of acting as a coordinator will not be violative of his right to be informed of the nature and cause of his accusation since the graver offense of acting as a maintainer necessarily includes being a coordinator.

With respect to Villamor, the CA gave more weight and credence to the testimonies of the arresting officers who were presumed to have acted regularly in the performance of their official functions. The CA held that Villamor's denials cannot prevail over the positive assertions of the police officers who caught him in the act of revising and counting bets.

The CA disposed the case as follows:

IN VIEW OF THE FOREGOING, the decision appealed from is affirmed.

SO ORDERED.^[11]

Hence, this Petition.

Issue

The main issue in this case is whether the petitioners' conviction for violation of RA 9287 as collector or agent under Section 3(c) for Villamor, and as coordinator, controller, or supervisor under Section 3(d) for Bonaobra, should be upheld.

Our Ruling

We find the Petition meritorious.

In criminal cases, an appeal throws the entire "case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision [based on] x x x grounds other than those that the parties raised as errors."^[12]

The Court finds that the right of the petitioners against unreasonable searches and seizures was violated by the arresting officers when they barged into Bonaobra's compound without a valid warrant of arrest or a search warrant. While there are exceptions to the rule requiring a warrant for a valid search and seizure, none applies in the case at bar. Consequently, the evidence obtained by the police officers is inadmissible against the petitioners, the same having been obtained in violation of the said right.

Section 2, Article III of the 1987 Constitution requires a judicial warrant based on the existence of probable cause before a search and an arrest may be effected by law enforcement agents. Without the said warrant, a search or seizure becomes unreasonable within the context of the Constitution and any evidence obtained on the occasion of such unreasonable search and seizure shall be inadmissible in evidence for any purpose in any proceeding.^[13] "Evidence obtained and confiscated on the occasion of such an unreasonable search and seizure is tainted and should be excluded for being the proverbial fruit of the poisonous tree."^[14]

In this case, the apprehending officers claim that petitioners were caught *in flagrante delicto*, or caught in the act of committing an offense. PD Peñaflor and his team of police officers claim that petitioners were committing the offense of illegal numbers game when they were arrested without a warrant.

We are not persuaded.

Under Section 5 of Rule 113 of the Rules of Court, a lawful arrest may be effected even without a warrant of arrest in the following instances:

Sec. 5. Arrest without warrant; when lawful. - A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has in fact just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and