

SECOND DIVISION

[G.R. No. 125754, December 22, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ZENaida BOLASA Y NAKOBOAN AND ROBERTO DELOS REYES,
ACCUSED-APPELLANTS.**

D E C I S I O N

BELLOSILLO, J.:

An anonymous caller tipped off PO3 Dante Salonga and PO3 Albert Carizon in the early evening of 11 September 1995 that a man and a woman were repacking prohibited drugs at a certain house in Sta. Brigida St., Karuhatan, Valenzuela, Metro Manila. PO3 Salonga and PO3 Carizon together with SPO1 Fernando Arenas immediately proceeded to the house of the suspects and parked their car some three hundred (300) meters away. They walked towards their quarry's lair accompanied this time by their unnamed informer. When they reached the house they "peeped (inside) through a small window and x x x saw one man and a woman repacking suspected marijuana."^[1] They entered the house and introduced themselves as police officers to the occupants and thereupon confiscated the tea bags and some drug paraphernalia. They arrested the two (2) who turned out to be the accused Zenaida Bolasa y Nakoboan and Roberto delos Reyes. Subsequent examination of the tea bags by NBI Forensic Chemist Rubie Calalo confirmed the suspicion that the tea bags contained marijuana.

Zenaida Bolasa and Roberto delos Reyes were thus charged with violation of Sec. 8, Art. II, of RA 6425 otherwise known as *The Dangerous Drugs Act of 1972*. Both however denied on the witness stand ownership over the confiscated tea bags and drug implements.

According to Roberto delos Reyes, he and his wife were merely tenants in the house of Zenaida Bolasa and at the time he was arrested he had just arrived from work. Upon learning that Zenaida was repacking marijuana inside their room, he immediately ordered her to leave. Unfortunately however it was at that precise moment that police authorities entered and announced their presence. He and Zenaida were then brought to the Valenzuela Police Station for questioning and subsequently detained.

On the part of Zenaida Bolasa, she narrated that at 7:30 in the evening of 11 September 1995 she was on her way to 9th Avenue, Caloocan City, where she was working as a waitress. As she was about to leave the house she met a certain "Rico" and conversed with him for some time. She denied knowing PO3 Carizon and the fact that the latter saw her repacking marijuana inside her house.

The trial court upon finding the version of the prosecution to be more plausible convicted both accused Zenaida Bolasa and Roberto delos Reyes of the crime

charged and sentenced each of them not only to *reclusion perpetua* but also to pay a fine of P500,000.00.^[2]

Both accused appealed, although separately, each one represented by a separate counsel.

Maintaining his innocence in this appeal, accused-appellant Roberto delos Reyes insists he had just arrived from work and had, in fact, just entered his room when he was arrested. Assuming he was indeed repacking marijuana when the police officers arrived, he claims it would have been inconceivable for them to know what he was doing inside his room considering the height of his window. Significantly, the police officers had to lean first on the window in order to observe the activities inside the room.

Accused-appellant Zenaida Bolasa meanwhile asserts that the search in her residence was likewise illegal as her arrest preceding it was illegal. Consequently, the marijuana seized from her could not be properly used as evidence against her. She insists that the trial court should not have given credence to the testimony of PO3 Albert Carizon as the same was hearsay. According to her and her co-accused delos Reyes, PO3 Carizon was not among the arresting officers. As such, PO3 Carizon had no personal knowledge regarding the conduct of the arrest and search thus making his testimony hearsay. Since the prosecution did not present the two (2) arresting officers the version of the prosecution cannot stand on its own.

Bolasa likewise impugns the identity of the items confiscated from her person *vis-a-vis* those which were submitted for laboratory examination and charges that the failure of the prosecution to satisfactorily establish the chain of custody over the specimen is damaging to its case.

We sustain the appeal. This case clearly illustrates how constitutional guarantees against illegal arrests and seizures can be violated by overzealous police officers in the arrest of suspected drug offenders. Thus, after a meticulous evaluation of the evidence at hand, this Court finds itself with no other recourse but to strike down the process adopted by the prosecution and acquit accused-appellants for insufficiency of evidence and reasonable doubt.

Section 2, Art. III, of the 1987 Constitution provides -

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.

The State cannot in a cavalier fashion intrude into the persons of its citizens as well as into their houses, papers and effects. The constitutional provision sheathes the