

Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

ROMEO ILAO y ARGENTE,  
Petitioner,

G.R. No. 256649

Present:

LEONEN, J., Chairperson,  
LAZARO-JAVIER,  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JR., JJ.

-versus-

PEOPLE OF THE PHILIPPINES,  
Respondent.

Promulgated:  
NOV 26 2024

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DECISION

LEONEN, J.:

Search warrants must state with particularity the places to be searched, and only those places stated in the search warrant may be subjected to a search.

This resolves a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court, assailing the Decision<sup>2</sup> and the Resolution<sup>3</sup> of the Court of Appeals. The Court of Appeals and the Regional Trial Court affirmed the

<sup>1</sup> Rollo, pp. 3-22.  
<sup>2</sup> *Id.* at 24-38. The August 25, 2020 Decision in CA-G.R. CR No. 40443 was penned by Associate Justice Carlito B. Calpatura and concurred in by Associate Justice Ramon M. Bato, Jr. and Associate Justice Maria Elisa Sempio Diy.  
<sup>3</sup> *Id.* at 41-44. The May 27, 2021 Resolution in CA-G.R. CR No. 40443 was penned by Associate Justice Carlito B. Calpatura and concurred in by Associate Justices Ramon M. Bato, Jr. and Maria Elisa Sempio Diy.

Judgment<sup>4</sup> of the Municipal Circuit Trial Court of Bagac-Morong, Bataan, which found Romeo Ilao y Argente (Ilao) guilty beyond reasonable doubt of illegal possession of firearms.<sup>5</sup> Ilao was penalized with imprisonment for two years, four months; and one day of *prision correccional* medium, as minimum, to five years, four months, and 20 days of *prision correccional* maximum, as maximum. He is also ordered to pay a PHP 15,000.00 fine.

Ilao was charged with illegal possession of firearms, in violation of Section 1 of Republic Act No. 8294, in an Information that states:

That on or about April 12, 2007, in Bagac, Bataan, Philippines and within the jurisdiction of this Honorable Court, the said accused, not being authorized by law, did then and there, willfully have in his possession, custody and control (1) Caliber 22 Rifle with Serial No. 53177, fourteen (14) pcs. of ammunition for M-16 Rifle (5.56), seven (7) pcs. of ammunition for Caliber 30, one (1) pc. of ammunition for Caliber 22, forty one (41) pcs. of ammunition for Caliber 9MM, seven (7) pieces of short magazine of M-16, four (4) pcs. of long magazine for M-16, two (2) pcs. of magazine for Caliber 30, one (1) pc. of magazine for Caliber 45 and three (3) pcs. of part of firearm without any license or authority from the government agency concerned having been obtained by him.

CONTRARY TO LAW.<sup>6</sup>

During the trial, the prosecution stated that Ilao, the punong barangay of Brgy. Binuwagan, Bagac, Bataan, was arrested pursuant to a search warrant. According to Senior Police Officer I Danilo Nazareno (SPO1 Nazareno), a member of the team that implemented the search warrant:

... Upon arriving at a house described in the search warrant, Nazareno saw Ilao naked as he walked going inside the house as if to dress up. Moments later, Ilao went out of the house and approached Nazareno, who showed him the search warrant and told him that they would search. Before entering the house, Ilao promptly and voluntarily surrendered a Caliber .22 rifle to Nazareno. At that instance, SPO1 Dante Sabite arrived, informing the team that the punong barangay of Brgy. Binukawan, whom they sought assistance from, had declined to assist them. Upon hearing it, Ilao told the policemen that he himself is a barangay official and he gave permission to search the house. Thereupon, the policemen entered the house and started the search. As a result, they found several live ammunition and magazines for various firearms inside the cabinets they opened, aside from those found

<sup>4</sup> *Id.* at 71–82. The August 3, 2016 Judgment in Criminal Case No. 3612 was penned by Acting Presiding Judge Rolando S. Tungol.

<sup>5</sup> Republic Act No. 8294, sec. 1 states:

Sec. 1. Unlawful Manufacture, Sale Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition. — The penalty of *prision correccional* in its maximum period and a fine of not less than Fifteen thousand pesos (P15,000) shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any low powered firearm, such as rimfire handgun, .380 or .32 and other firearm of similar firepower, part of firearm, ammunition, or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition. *Provided, That no other crime was committed.* . . .

<sup>6</sup> *Rollo*, p. 25

under the bed. In the course of the search, three (3) barangay officials arrived at the place and witnessed the operation.<sup>7</sup>

In his defense, Ilao maintained that a certain "Dodoy Canto," is the owner of the searched house and not him. Although he admitted that he was inside the house when the police officers searched and found firearms and ammunitions, Ilao said he was just allowed to stay there for a meeting called by Punong Barangay Patricio Agrimano at 9:00 a.m. on April 12, 2007.<sup>8</sup>

On August 3, 2016, the Municipal Circuit Trial Court issued a Judgment<sup>9</sup> finding Ilao guilty beyond reasonable doubt of illegal possession of firearms. The dispositive portion of the Judgment reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused guilty beyond reasonable doubt of [v]iolation of Section 1 of R.A. 8294. Applying the Indeterminate Sentence Law, the court hereby sentences the accused to two (2) years, four (4) months, and one (1) day of *prision correccional* medium as minimum, to five (5) years, four (4) months, and twenty (20) days of *prision correccional* maximum as maximum. Accused is likewise ordered to pay a fine of P[HP] 15,000.00 and the costs.


The Clerk of Court is directed to turn over the firearms, ammunition[,] and magazines subject matter of this case to the Provincial Director of PNP at Camp Tolentino, Balanga City upon proper receipt for proper disposition.

SO ORDERED.<sup>10</sup>

Consequently, the Branch 93, Regional Trial Court of Balanga City, Bataan, released a July 7, 2017 Decision<sup>11</sup> affirming the Judgment of the Municipal Circuit Trial Court. The dispositive portion of the Decision states:

WHEREFORE, the appeal is DISMISSED for lack of merit. The Judgment of the lower court is affirmed in toto

Furnish a copy of this Order to Assistant Provincial Prosecutor Jimmy U[,] Cardines, the private complainant, the accused[,] and his counsel.<sup>12</sup>



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<sup>7</sup> *Id.* at 25–26.

<sup>8</sup> *Id.* at 27.

<sup>9</sup> *Id.* at 71–82.

<sup>10</sup> *Id.* at 82.

<sup>11</sup> *Id.* at 6, 24.

<sup>12</sup> *Id.* at 6.

In its August 25, 2020 Decision,<sup>13</sup> the Court of Appeals affirmed the Regional Trial Court's Decision. The dispositive portion of the Court of Appeals' Decision states:

WHEREFORE, premises considered, the instant Petition for Review is hereby DENIED.<sup>14</sup>

The Court of Appeals held that the prosecution had proved the two elements of the offense: (1) the existence of the firearm; and (2) the fact that the accused who owned or possessed it did not have the license or permit to possess the same.<sup>15</sup>

As to the first element, the existence of the seized firearms was established during trial. The police, with Ilao present, had conducted an inventory of the firearms confiscated during the implementation of the search warrant.<sup>16</sup> The reason why the inventory was unsigned was because Ilao and the barangay chairman refused to do so. To the Court of Appeals, this showed that the firearms were legitimately seized and not just planted.<sup>17</sup>

As to the second element, the prosecution presented a certification from the Philippine National Police Firearms and Explosive Office showing that Ilao did not have a license to possess the firearms.<sup>18</sup> The Court of Appeals was not convinced of Ilao's defense that he did not own the house where the firearms were found, especially as the defense failed to convincingly prove that the house belonged to Dodoy Canto.<sup>19</sup> Moreover, the appellate court observed that Ilao did not protest the conduct of the search and his arrest despite having the opportunity to do so.<sup>20</sup> The Court of Appeals also noted the similar case of *Jacaban v. People*,<sup>21</sup> where the conduct of the accused in failing to protest the search and arrest was proof that he owned the house where the firearm was found.<sup>22</sup>

Finally, the Court of Appeals observed that Ilao had filed, then withdrawn, a motion to avail of the benefits of probation. It found this act to be an implied admission of guilt, as an application for probation amounts to an acceptance of the Judgment.<sup>23</sup>

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<sup>13</sup> *Id.* at 24–38.

<sup>14</sup> *Id.* at 38.

<sup>15</sup> *Id.* At 24–38.

<sup>16</sup> *Id.* at 29.

<sup>17</sup> *Id.* at 30.

<sup>18</sup> *Id.* at 31.

<sup>19</sup> *Id.* at 32–33.

<sup>20</sup> *Id.* at 33–34.

<sup>21</sup> 756 Phil. 523 (2015) [Per J. Peralta, Third Division].

<sup>22</sup> *Rollo*, pp. 34–35.

<sup>23</sup> *Id.* at 37–38.

Ilao moved for reconsideration but was denied by the Court of Appeals in its May 27, 2021 Resolution.<sup>24</sup> Hence, this Petition for Review.<sup>25</sup>

Ilao claims that the search conducted by the police officers was illegal and invalid. According to him, out of the numerous houses, streets, and residents in the area, the search warrant only stated that the place to be searched was “inside his house at Brgy. Binukawan, Bagac, Bataan.”<sup>26</sup> Ilao said this was contrary to the Constitutional requirement that the place to be searched should be particularly described in the search warrant. He also cites *People v. Court of Appeals*,<sup>27</sup> in which this Court held that what is controlling is the description of the place to be searched as stated by the judge, and not the implementing officers’ personal knowledge of the premises.<sup>28</sup> As the search warrant appears to be a general one, the search conducted pursuant to such a warrant was illegal and invalid, and the evidence obtained be inadmissible as evidence in any proceeding.<sup>29</sup> Moreover, he points out that the items listed in the search warrant were not the ones actually seized from the place searched as shown in the receipt for property seized.<sup>30</sup>

Ilao further argues that he was not the owner, or the person in possession or control, of the house searched. He points to the testimony of the barangay chair of Brgy. Binukawan, Patricio Agrimano, who stated that the house was owned by Dodoy Canto.<sup>31</sup>

On November 10, 2021, this Court ordered the Office of the Solicitor General (OSG) to comment on the Petition for Review.<sup>32</sup> In its Comment, the OSG argues that: (1) the Petition for Review raised questions of fact not reviewable under Rule 45 of the Rules of Court;<sup>33</sup> and (2) the Court of Appeals correctly affirmed Ilao’s conviction for illegal possession of firearms.<sup>34</sup> Particularly, the OSG underscores the Court of Appeals’ finding that Ilao had control over the house at the time it was searched by law enforcement.<sup>35</sup>

The issues to be resolved in this case are: (1) whether the Petition for Review raised questions of fact not cognizable under Rule 45 of the Rules of Court; and (2) whether petitioner Romeo Ilao y Argente is guilty beyond reasonable doubt of illegal possession of firearms.

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<sup>24</sup> *Id.* at 41–44.

<sup>25</sup> *Id.* at 3–22.

<sup>26</sup> *Id.* at 9–10.

<sup>27</sup> 353 Phil. 604 (1998) [Per C.J. Narvasa, Third Division].

<sup>28</sup> *Id.* at 10–11.

<sup>29</sup> *Id.* at 12–13.

<sup>30</sup> *Id.* at 13–14.

<sup>31</sup> *Id.* at 14–16.

<sup>32</sup> *Id.* at 86.

<sup>33</sup> *Id.* at 97–99.

<sup>34</sup> *Id.* at 100–101.

<sup>35</sup> *Id.* at 101–103.

Concededly, the question of whether petitioner was in possession of a firearm without legal authority to do so in a question of fact.<sup>36</sup> However, the legality of a search warrant, the fruits of which are the basis for conviction in a criminal case, may be resolved by this Court.<sup>37</sup>

Article III, Section 2 of the Constitution states:

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.

Pursuant to this Constitutional requirement, search warrants must state with particularity the places to be searched, and only those places stated in the search warrant may be subjected to a search. As explained in *Paper Industries Corp. of the Philippines v. Judge Asuncion*:<sup>38</sup>

In view of the manifest objective of the constitutional safeguard against unreasonable search, the Constitution and the Rules limit the place to be searched only to those described in the warrant. Thus, this Court has held that “this constitutional right [i]s the embodiment of a spiritual concept: the belief that to value the privacy of home and person and to afford it constitutional protection against the long reach of government no less than to value human dignity, and that his privacy must not be disturbed except in case of overriding social need, and then only under stringent procedural safeguards.” Additionally, the requisite of particularity is related to the probable cause requirement in that, at least under some circumstances, the lack of a more specific description will make it apparent that there has not been a sufficient showing to the magistrate that the described items are to be found in a particular place.<sup>39</sup> (Citation omitted)

The description of the place to be searched is deemed particular if the implementing officer can “with reasonable effort, ascertain and identify the place intended.”<sup>40</sup> The April 11, 2007 search warrant states in part:

It appears to the satisfaction of the undersigned, upon application of Intelligence PNCO of Bataan PPO and after examining under oath the witnesses presented by the said applicant, that there is probable cause to believe that **Violation of RA 8294 (Illegal Possession of Firearms and Ammunitions)** as amended has been committed and that there are good and sufficient reasons to believe that **ROMEO A ILAO** have in his possession

<sup>36</sup> *Escalante v. People*, 701 Phil. 332 (2013) [Per J. Reyes, First Division].

<sup>37</sup> *Mendoza v. People*, G.R. No. 248350, December 2, 2022 [Per J. Zalameda, First Division].

<sup>38</sup> 366 Phil. 721 (1999) [Per J. Panganiban, Third Division].

<sup>39</sup> *Id.* at 737.

<sup>40</sup> *Prudente v. Hon. Dayrit*, 259 Phil. 541 (1989) [Per J. Padilla, *En Banc*].

or control inside his **house at Brgy. Binukawan, Bagac, Bataan** which should be seized and brought to the undersigned. . .<sup>41</sup> (Emphasis in the original)

Clearly, the warrant stated that the place to be searched is the house of petitioner at “Brgy. Binukawan, Bagac, Bataan.”

As pointed out by petitioner, there is insufficient specificity to the phrase “inside [Ilao’s] house at Brgy. Binukawan, Bagac, Bataan” when, as he alleges, there are many houses and residents in the area:

The Honorable Court will take judicial notice of the fact that there are several houses and streets at **Brgy. Binukawan, Bagac, Bataan** and that there are more than a thousand residents in the said barangay. As such, it was impossible for the officers implementing the search warrant to pinpoint or specify which place, house or residence they would search. The search warrant, therefore, does not **particularly describe the place to be searched**. Consequently, it is in the nature of a general warrant which is proscribed by the Constitution.<sup>42</sup> (Emphasis in the original)

This contrasts with the circumstances in *People v. Tuan*<sup>43</sup> where, even though the address in the search warrant was “house of the accused Estela Tuan at Brgy. Gabriela Silang, Baguio City,” it was proven that there was only one house in that address:

A description of the place to be searched is sufficient if the officer serving the warrant can, with reasonable effort, ascertain and identify the place intended and distinguish it from other places in the community. A designation or description that points out the place to be searched to the exclusion of all others, and on inquiry unerringly leads the peace officers to it, satisfies the constitutional requirement of definiteness. In the case at bar, the address and description of the place to be searched in the Search Warrant was specific enough. There was only one house located at the stated address, which was accused-appellant’s residence, consisting of a structure with two floors and composed of several rooms.<sup>44</sup>

According to the police officers, they applied for a search warrant of the house located in Brgy. Binukawan because even though petitioner was a resident and the punong barangay of Brgy. Binuwagan, they believed that the house was owned by him. They also confirmed this by surveilling the house ahead of the search.

Yet, the correctness of the place searched is belied by petitioner’s claim that he is not the owner of the house that was searched. If petitioner was not

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<sup>41</sup> *Rollo*, p. 45.

<sup>42</sup> *Id.* at 9–10.

<sup>43</sup> 642 Phil. 384 (2010) [Per J. Leonardo-De Castro, First Division].

<sup>44</sup> *Id.* at 406.

the owner of the house searched, then the police officers searched the wrong house as it is not the place specified in the search warrant. A review of the records of the case showed that apart from the testimony of SPO1 Nazareno, no other evidence—whether testimonial or documentary—was presented by the prosecution to prove that the house in Brgy. Binukawan was owned by petitioner. On the other hand, petitioner presented the punong barangay of Brgy. Binukawan, who testified that another person owned and resided in the Brgy. Binukawan house:

Q: Am I correct Mr. Witness that the place where you were brought by the Police Officers and where the subject items were presented to you were in Brgy. Binukawan, Bagac, Bataan?

A: Yes, ma'am.

Q: And that is the house of Romeo Ilao, am I correct?

A: No, ma'am.<sup>45</sup>

....

Court: Just a few questions from the Court. Brgy. Chairman Agrimao, are you familiar with the house where the raid was conducted?

A: Yes, your honor.

Court: And as far as you know as a Chairman of Barangay, who own[s] that house as you know?

A: As far as I know that was owned by Dodoy Canto, your honor.<sup>46</sup>

The defense also presented certifications from the Office of the Municipal Assessor that petitioner did not own property in Brgy. Binukawan,<sup>47</sup> and from the punong barangay of Brgy. Binukawan that he was not a resident of the barangay.<sup>48</sup>

Given the foregoing, this Court rules that the multiple proofs presented by petitioner negates the alleged ownership of the searched house and shall prevail over the bare testimonies of the police officers.<sup>49</sup>

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<sup>45</sup> *Id.* at 56.

<sup>46</sup> *Id.* at 62.

<sup>47</sup> *Id.* at 71.

<sup>48</sup> *Id.* at 69.

<sup>49</sup> *People v. Del Norte*, 470 Phil. 199 (2004) [Per J. Puno, Second Division].

Moreover, as correctly pointed out by petitioner, the determination of the place to be searched cannot be left to the sole discretion or judgment of the implementing police officer. In *People v. Court of Appeals*:<sup>50</sup>

The place to be searched, as set out in the warrant, cannot be amplified or modified by the officers' own personal knowledge of the premises, or the evidence they adduced in support of their application for the warrant. Such a change is proscribed by the Constitution which requires inter alia the search warrant to particularly describe the place to be searched as well as the persons or things to be seized. It would concede to police officers the power of choosing the place to be searched, even if it not be that delineated in the warrant. It would open wide the door to abuse of the search process, and grant to officers executing a search warrant that discretion which the Constitution has precisely removed from them. The particularization of the description of the place to be searched may properly be done only by the Judge, and only in the warrant itself; it cannot be left to the discretion of the police officers conducting the search.<sup>51</sup>

The party asserting that they had searched the correct house owned or possessed by petitioner as stated in the search warrant has the burden of proving that they had, indeed, searched the house owned or possessed by petitioner described in the search warrant. Here, that burden of proof was not discharged.

Since both the contents of the search warrant and its execution are defective, all items seized during the search are inadmissible in evidence in this proceeding.<sup>52</sup> Without the seized firearms to prove the charge against petitioner, his guilt in this case was not proven beyond reasonable doubt.

**FOR THESE REASONS**, the Petition for Review is **GRANTED**. The August 25, 2020 Decision and May 27, 2021 Resolution of the Court of Appeals in CA-G.R. CR No. 40443 are **REVERSED** and **SET ASIDE**. Petitioner Romeo Ilao y Argente is **ACQUITTED** of the charge of illegal possession of firearms and is **ORDERED IMMEDIATELY RELEASED** unless he is confined for other lawful causes.

Let a copy of this Decision be furnished to the Director General of the Bureau of Corrections for immediate implementation. The Director General is directed to report to this Court, within five days from receipt of this Decision, the action he has taken.

<sup>50</sup> 353 Phil. 609 (1998) [Per C.J. Narvasa, Third Division].

<sup>51</sup> *Id.* at 618.

<sup>52</sup> CONST., art. III, sec. 3 states:

SECTION 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.

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

Let entry of judgment be issued immediately.

**SO ORDERED.**



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice

WE CONCUR:




**AMY C. LAZARO-JAVIER**  
Associate Justice



**MARIO N. LOPEZ**  
Associate Justice




**JHOSEP V. LOPEZ**  
Associate Justice



**ANTONIO T. KHO, JR.**  
Associate Justice

**ATTESTATION**

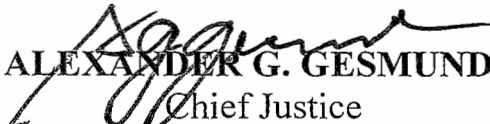
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was as assigned to the writer of the opinion of the Court's Division.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

