



Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

JAYLORD DIMAL and ALLAN CASTILLO, G.R. No. 216922

Petitioners,

Present:

- versus

CARPIO,* J., Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

18 APR 2018

X-----*[Signature]*-----X

DECISION

PERALTA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court, seeking to reverse and set aside the Court of Appeals (CA) Decision¹ dated August 27, 2014 and Resolution² dated February 4, 2015 in CA-G.R. SP No. 128355. The CA dismissed the petition for *certiorari* under Rule 65, assailing the Order³ of the Regional Trial Court (RTC) of Quezon City, Branch 87, which denied the Omnibus Motion (Motion to Quash Search Warrant No. 10-11, to Declare the Seized Items as Inadmissible in Evidence) in Criminal Cases Nos. Q-12-175369 to Q-12-175371.

The Facts

At around 6:00 p.m. of September 6, 2010, Lucio Pua, Rosemarie Pua and Gemma Eugenio were scheduled to visit the compound of petitioner

* Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.
¹ Penned by Associate Justice Socorro B. Inting, with Associate Justices Jose C. Reyes, Jr. and Mario V. Lopez concurring; *rollo*, pp. 44-50.
² *Id.* at 52-53.
³ Presided by Judge Aurora A. Hernandez-Calledo; *id.* at 94-102.

Jaylord A. Dimal in Echague, Isabela, to negotiate for the sale of *palay*. At around 7:30 p.m., Lucio's nephew, Edison Pua, went to Dimal's compound, asking for information as to the whereabouts of Lucio, Rosemarie and Gemma. Dimal informed Edison that they had left an hour ago. Unable to locate his relatives, Edison went to the police station in Alicia, Isabela, to report that they were missing, then proceeded to seek assistance from the police station in Echague.

Thereafter, Edison was escorted by two policemen to Dimal's compound, where they allegedly stayed and observed the premises in the absence of Dimal until September 7, 2010. On even date at around 5:30 a.m., Edison and the two policemen supposedly searched without a warrant Dimal's compound, but found no evidence linking him to the disappearances.

On September 24, 2010, petitioner Allan Castillo was accosted by the Echague Police, and allegedly tortured to implicate Dimal in the killing of Lucio, Rosemarie and Gemma. On September 25, 2010, a certain Eduardo Sapipi was arrested due to the supposed statement made by Castillo. Sapipi purportedly made an uncounseled confession that Dimal shot the three victims, and ordered him, Castillo and one Michael Miranda to cover up the crime by throwing the bodies in a river.

On September 26, 2010, Dimal was arrested by the Echague Police. On September 27, 2010, the Echague Police filed with the Office of the Provincial Prosecutor of Ilagan, Isabela, a criminal complaint for Kidnapping for Ransom and Multiple Murder against Dimal, Castillo, Sapipi, Miranda, Marvin Guiao and Robert Baccay.

On October 8, 2010, Police Inspector (*P/Insp.*) Roy Michael S. Malixi, a commissioned officer of the Philippine National Police assigned with the Police Anti-Crime and Emergency Response in Camp Crame Quezon City, filed an Application for the Issuance of a Search Warrant⁴ before the RTC Ilagan, Isabela, Branch 17, in connection with the kidnapping and multiple murder of Lucio, Rosemarie and Gemma.

In his application for search warrant, P/Insp. Malixi stated that "he was informed, and verily believed that JAYLORD ARIZABAL DIMAL @ JAY, 28 years old, a resident of Felix Gumpal Compound, Ipil Junction, Isabela and CMJ Building Dubinan East, Santiago City, has in control of the following items" in the said address, to wit:



⁴ Rollo, pp. 54-55.

- a. Personal belongings such as:
 1. Driver's License of Lucio Pua;
 2. Alien Certificate of Registration Identification cards of Lucio Pua and Rosemarie Pua;
 3. ATM Cards such as BDO under Lucio Pua's accounts;
 4. Deposit Slips in BDO accounts of Lucio Pua;
 5. Receipts of the *palay* delivered;
 6. Blood-stained clothes of the victims:
 - 6.1 Rosemarie Pua's green inner garment with black blazer and brownish pedal pants;
 - 6.2 Lucio Pua's black short and pink polo shirt;
 - 6.3 Gemma Eugenio y Estrada's maong pants, faded pink long sleeves jacket, black striped t-shirt and a shoulder bag;
 - 6.4 Polo t-shirt and faded pink jacket seen beside the comfort room inside the compound of the warehouse of Jayson Dimal.
 7. Picture of Shaira Mae Eugenio's youngest sister (Queen Sean Eugenio) seen inside the shoulder bag of the victim, Gemma Eugenio.
- b. 1,600 sacks of palay inside a warehouse found in the Felix Gumpal Compound, Ipil Junction, Echague, Isabela;
- c. Long bolo approximately 16 inches in length; and
- d. Glock 9mm caliber pistol.⁵

P/Insp. Malixi stressed that he has personally verified and ascertained the veracity of the information and found the same to be true and correct, as narrated and sworn to by Ernesto Villador, a long-time employee of Dimal, Edison Uy Pua, the nephew of the victims Lucio and Rosemarie Pua, and Shaira Mae Eugenio, daughter of the victim Gemma Eugenio. P/Insp. Malixi claimed that the application was founded on his personal knowledge and that of his witnesses, acquired after conducting surveillance and investigation. P/Insp. Malixi attached to the application as Annexes "A", "B", "C" and "D" the Vicinity/Location and Floor Map.

After the hearing of the application on October 8, 2010, Judge Bonifacio T. Ong of the RTC of Ilagan, Isabela, Branch 17, issued a Search Warrant, which reads:

The undersigned Presiding Judge personally examined in the form of questions and answers in writing and [under oath], the applicant Police Senior Inspector Roy Michael S. Malixi and the witnesses, namely: Edison Pua, Shaira Mae Eugenio, and Ernesto Villador, who all collaborated to the fact of death of Lucio Pua, Rosemarie Pua and Gemma Eugenio in Echague, Isabela. That witness Edison Pua went to the house of Jaylord Dimal after the commission of the crime and was able to see the blood-stained clothes of the victims:

⁵ *Id.*



- 1) Lucio Pua's clothes; and
- 2) [Rosemarie] Pua's clothes;

On the part of Shaira Mae Eugenio, she testified that before her mother Gemma Eugenio left her house, she wore faded pink long sleeves jacket and black T-shirt, and brought with her a shoulder bag and two (2) cellphones which probably are in the house of Jaylord Dimal. In the case of Ernesto Villador, he testified that he saw Jaylord Dimal holding a 9mm caliber pistol and testified that he usually keep said firearm under the computer table or drawers. He likewise testify (sic) that there were 1,600 sacks of palay sold by the victims and brought to the Felix Gumpal Compound.

With the testimony of said witnesses and their Sinumpaang Salaysay and deposition of witness, it would readily show that there is probable cause to believe that in the house, particularly the Felix Gumpal Compound of Jaylord Dimal located at Ipil Junction, Echague, Isabela, said items, to wit: blood-stained clothes of the victims, 1,600 sacks of palay inside the warehouse in the Felix Gumpal Compound and 9mm cal. pistol are found.

The said Application for Search Warrant was filed before this Court due to compelling reasons for security and confidentiality purposes, considering that possibility of leakages of information once the application for search warrant is filed with the court within the area having territorial jurisdiction over it.

In view thereof, you are hereby commanded to search at any time of the day or night the premises of Felix Gumpal Compound located at Ipil Junction, Echague, Isabela, and forthwith seize and take possession of the following properties: blood-stained clothes of Rosemarie Pua, Lucio Pua, and Gemma Eugenio, either to take the 1,600 sacks of palay or just to photograph the same, and the 9mm caliber pistol, and to bring the said articles to the custody of the Provincial Director of Isabela at the Provincial Police Office of Isabela under *custodia legis*, to be dealt with according to law.⁶

In the Return on the Search Warrant, P/Insp. Gary Halay-ay Macadangdang, Deputy Chief of Police, Echague Police Station, Echague, Isabela, manifested that (1) Search Warrant No. 10-11 was served at the premises of Dimal at *Barangay* Ipil, Echague, Isabela, on October 9, 2010 at about 9:00 a.m., and (2) the search was conducted in an orderly manner and in the presence of owner/custodian Carlos Dimal, *Barangay* Captain Florencio Miguel, *Barangay Kagawads* Rodolfo Vergara and Mariano Seriban, and BOMBO Radyo reporter Romy Santos. P/Insp. Macadangdang enumerated the items recovered:



⁶ *Id.* at 80-81.

The following articles, subject of the warrant, were found by the said Office during the search:

- a. Extracted suspected Blood stain (Mark as E-24 with JAM markings)
- b. Extracted suspected Blood stain (Mark as E-25 with JAM markings)
- c. One (1) Black T-Shirt with suspected blood stain (Mark as E-26 with JAM markings)
- d. One (1) Black T-Shirt with red lining with suspected blood stain (Mark as E-15 with JAM markings)
- e. One (1) Bra color brown (tiger) (Mark as E-14 with JAM markings)
- f. One (1) cell phone spare part (mark as E-16 with JAM markings)
- g. One (1) cell phone spare part (mark as E-17 with JAM markings)
- h. Palay husk with suspected blood stain (mark as E-28 with JAM markings)
- i. Suspected blood stain (mark as E-25-A with JAM markings)

The articles recovered/seized in plain view during the conduct of search are the following:

- a. One (1) pc torn cloth (Mark as E-1 with JAM markings)
- b. One (1) pc torn cloth (Mark as E-2 with JAM markings)
- c. One (1) pc torn cloth (Mark as E-3 with JAM markings)
- d. One (1) pc spent shell of caliber 22 (Mark as E-4 with JAM markings)
- e. One (1) bag pack color black (Mark as E-5 with JAM markings)
- f. One spent shell of caliber 22 (Mark as E-6 with JAM markings)
- g. One spent shell of caliber 22 (Mark as E-7 with JAM markings)
- h. One spent shell of caliber 22 (Mark as E-8 with JAM markings)
- i. One spent shell of caliber 22 (Mark as E-9 with JAM markings)
- j. One spent shell of caliber 22 (Mark as E-10 with JAM markings)
- k. One spent shell of caliber 22 (Mark as E-11 with JAM markings)
- l. One spent shell of caliber 22 (Mark as E-12 with JAM markings)
- m. One spent shell of caliber 22 (Mark as E-13 with JAM markings)
- n. Two (2) Alien Certificate of Registration of Lucio Pua and Rosemarie Pua, and One (1) BDO Passbook in the name of Lucio Pua (mark as E-15 with JAM markings)
- o. One spent shell of caliber 22 (Mark as E-18 with JAM markings)
- p. One (1) piece gold-plated earring (mark as E-19 with JAM markings)
- q. Suspected human hair (mark as E-20 with JAM markings)
- r. A piece of embroider[ed] cloth (mark as E-22 with JAM markings)
- s. Three (3) burned Tire wires (mark as E-23 with JAM markings)
- t. One (1) empty plastic bottle of Gleam muriatic acid (mark as E-27 with JAM markings)
- u. One (1) live ammo of caliber 22 (mark as E-29 with JAM markings)
- v. One (1) color white t-shirt (mark as E-30 with JAM markings).⁷

⁷ *Id.* at 82-83, 136-138.

On February 20, 2012, petitioners Dimal and Castillo, together with Michael Miranda, filed an Omnibus Motion⁸ to quash Search Warrant No. 10-11 and to declare the seized items as inadmissible in evidence. They argued that the search warrant is invalid because it was issued in connection with, not just one single offense, but two crimes, *i.e.*, kidnapping and multiple murder. They also contended that except for witness Ernesto Villador, applicant P/Insp. Malixi and witnesses Edison and Shaira Mae have no personal knowledge surrounding the two crimes committed; hence, their statements did not provide basis for a finding of probable cause, much less for the issuance of a search warrant. With respect to Villador, petitioners assert that his sworn statement is incredible because he is just an ordinary laborer, who is unfamiliar with the English language, and there is no showing that the contents of his statement were fully explained to him by the Judge who issued the search warrant. Petitioners further posit that the search warrant was invalidly implemented because the raiding team failed to comply with Section 8, Rule 127 of the Rules of Court on the requisite presence of two witnesses during a search of premises, and with Section 10, Rule 126 on the issuance of a receipt of seized properties. Finally, petitioners sought that the items seized which are not covered by the search warrant, should be declared inadmissible in evidence and be ordered returned to the accused.

Meanwhile, on November 22, 2010, three (3) criminal Informations for Kidnapping for Ransom, as defined and penalized under Article 267, paragraph 4 of the Revised Penal Code, as amended by R.A. No. 7659, were filed against petitioners before the RTC of Echague, Isabela, Branch 24, and later re-raffled to the RTC of Ilagan, Isabela, Branch 17. The accusatory portion of the Informations similarly read, save for the names of the 3 victims, as follows:

That on or about the 6th day of September 2010, and for sometime thereafter, in the Municipality of Echague, Province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the accused Jaylord Arizabal Dimas (sic) and Allan Castillo y Marquez, being the principals therein, conspiring, confederating together and helping one another, did then and there, willfully, unlawfully and feloniously, kidnap and detain one **Lucio Uy Pua (Chinese name: Xinyi Pan)**⁹ for the purpose of extorting ransom in the amount of Fifty (50) million pesos, from him and from his relatives.

That during his[/her] detention, the said accused, in pursuance of conspiracy, did then and there, willfully, unlawfully and feloniously, assault, attack and shot with a caliber 9mm pistol the said **Lucio Uy Pua**¹⁰

⁸ *Id.* at 84-93.

⁹ The names of the 2 victims in the other Informations are Rosemarie P. Pua (Chinese name: Juhua Pan) and Gemma Eugenio y Estrada.

¹⁰ *Id.*

which had directly caused his death and, thereafter, chopped his body into several pieces and placed them into big plastic containers and ice box, and burned his head and placed the same into a plastic bag, and threw the same on separate rivers located at Santiago City and at the Province of Quirino.

That the accused Michael Miranda Genova alias Mike Miranda being an accessory, took part in the subsequent commission of the crime by providing the vehicle and a container drum used to dispose the chopped body of said **Lucio Uy Pua**¹¹ and threw the same on the river, in order to conceal the body of the crime, to prevent its discovery.

CONTRARY TO LAW.¹²

Pursuant to Administrative Matter No. 12-1-18-RTC, the criminal cases were re-raffled to Judge Aurora A. Hernandez-Calledo of the RTC of Quezon City, and re-docketed as Criminal Case Nos. Q-12-175369, Q-12-175370 to Q-12-175371.

In an Order¹³ dated September 28, 2012, the RTC of Quezon City denied the Motion to Quash Search Warrant No. 10-11 for lack of merit. The RTC ruled that a perusal of the application for search warrant reveals that it was issued by the RTC of Ilagan, Isabela, after conducting searching and probing questions upon the persons of the applicant P/Insp. Malixi, and his witnesses Edison, Shaira Mae and more particularly Villador, and finding probable cause based on their personal knowledge. In rejecting the claim of unreasonableness of the implementation of the search warrant, the RTC noted that the records show that the owner/custodian of the property subject of the warrant by the name of Carlos Dimal, was present, together with the *Barangay Captain*, two *Barangay Kagawads*, and a reporter from *Bombo Radyo*.

Considering that no complaint was filed regarding the implementation of the search warrant, and that a Certification of Orderly Search was issued by the *barangay* officials, the RTC declared that the presumption of regularity in the performance of public duty was not sufficiently contradicted. Anent the claim that the search warrant was not issued in connection with a single offense but with the crimes of Kidnapping and Murder, the RTC said that the nature of the case and the circumstances at the time the search warrant was applied for, justify the issuance of such warrant as the two offenses are allied or closely related to each other because it was reported to the applicant that the victims were kidnapped for ransom and murdered. Finally, the RTC stressed that the claim that no return on the search warrant was submitted must fail because such a return was issued by

¹¹ *Id.*

¹² *Rollo*, pp. 126-129. (Emphasis ours)

¹³ *Id.* at 94-102.

the executing officer, and was marked as Exhibit "4" for the prosecution during the preliminary conference.

With the RTC's denial of their motion for reconsideration, petitioners filed a petition for *certiorari* before the CA.

In a Decision¹⁴ dated August 27, 2014, the CA dismissed the petition and ruled that the subject search warrant was validly issued, thus:

A perusal of the records show that Judge Ong, through searching and probing questions, personally examined the (sic) P/Insp. Malixi and the witnesses, Edison Uy, Ernesto Villador and Shaira Mae Eugenio, on 8 October 2010. The questions that Judge Ong propounded were sufficiently probing, not at all superficial and perfunctory. The facts narrated by the witnesses while under oath, when they were asked by the examining judge, were sufficient justification for the issuance of the subject search warrant.

Furthermore, the subject search warrant specifically designated or described Felix Gumpal Compound, located at Ipil Junction, Echague, Isabela as the place to be searched and enumerated the articles to be seized.

Petitioners['] contention that the subject search warrant which was issued in connection with two (2) separate offenses, Kidnapping and Murder, as indicated therein, cannot stand. However, as aptly pointed out by the People through the Office of the Solicitor General, the crimes of kidnapping and murder are interrelated and points to the commission of a single complex crime known as kidnapping with murder. They cannot be treated as separate crimes.¹⁵

Petitioners filed a motion for reconsideration, which the CA denied in a Resolution dated February 4, 2015. Hence, this petition for review on *certiorari*.

Issues

Petitioners argue that the CA gravely erred in failing to pass upon petitioners' allegations (1) that the search warrant is void and its quashal imperative; and (2) that the items seized on the basis of the void search warrant are inadmissible in evidence. They contend that the search warrant was null and void because it was issued in connection with two unrelated offenses, without a finding of probable cause, and without specifying the place to be searched and the items to be seized.

¹⁴ *Supra* note 1.

¹⁵ *Id.* at 49-50.



Ruling

The petition is partly meritorious. Search Warrant No. 10-11 was validly issued, but most of the items seized pursuant thereto are inadmissible in evidence, as they were neither particularly described in the warrant nor seized under the “plain view doctrine”.

At the outset, there is no merit to petitioners’ contention that the search warrant was applied for in connection with two unrelated offenses, *i.e.*, kidnapping and murder, in violation of Section 4, Rule 126 of the Rules of Court which requires that such warrant must be issued in relation to one offense.

Suffice it to state that where a person kidnapped is killed or dies as a consequence of the detention, there is only one special complex crime for which the last paragraph of Article 267 of the Revised Penal Code provides the maximum penalty that shall be imposed, *i.e.*, death.¹⁶ In *People v. Larrañaga*,¹⁷ the Court explained that this provision gives rise to a special complex crime:

This amendment introduced in our criminal statutes the concept of “special complex crime” of kidnapping with murder or homicide. It effectively eliminated the distinction drawn by the courts between those cases where the killing of the kidnapped victim was purposely sought by the accused, and those where the killing of the victim was not deliberately resorted to but was merely an afterthought. Consequently, the rule now is: **Where the person kidnapped is killed in the course of the detention, regardless of whether the killing was purposely sought or was merely an afterthought, the kidnapping and murder or homicide can no longer be complexed under Art. 48, nor be treated as separate crimes, but shall be punished as a special complex crime** under the last paragraph of Art. 267, as amended by R.A. No. 7659.

x x x x

x x x **Where the law provides a single penalty for two or more component offenses, the resulting crime is called a special complex crime.** Some of the special complex crimes under the Revised Penal Code are (1) robbery with homicide, (2) robbery with rape, (3) kidnapping with serious physical injuries, (4) **kidnapping with murder** or homicide, and (5) rape with homicide. *In a special complex crime, the prosecution must necessarily prove each of the component offenses with the same precision that would be necessary if they were made the subject of separate complaints.* As earlier mentioned, R.A. No. 7659 amended Article 267 of

¹⁶ With the enactment of R.A. No. 9346, entitled “An Act Prohibiting the Imposition of Death Penalty in the Philippines,” which prohibits the imposition of the death penalty, such penalty is reduced to *reclusion perpetua* without eligibility for parole.

¹⁷ 466 Phil. 324, 384-385 (2004), citing *People v. Ramos*, 357 Phil. 559 (1998), and *People v. Mercado*, 400 Phil. 37 (2000).

the Revised Penal Code by adding thereto this provision: “*When the victim is killed or dies as a consequence of the detention, or is raped, or is subjected to torture or dehumanizing acts, the maximum penalty shall be imposed; and that this provision gives rise to a special complex crime.*”¹⁸

There is no dispute that Search Warrant No. 10-11 was applied for and issued in connection with the crime of kidnapping with murder. Asked by Judge Ong during the hearing as to what particular offense was committed, search warrant applicant P/Insp. Malixi testified that Dimal “allegedly committed the crime of kidnapping and multiple murder of Lucio and Rosemarie Pua and one Gemma Eugenio on September 6, 2010.”¹⁹ It is not amiss to add that a search warrant that covers several counts of a certain specific offense does not violate the one-specific-offense rule.²⁰

Neither can petitioners validly claim that the examining judge failed to ask searching questions, and to consider that the testimonies of the applicant and his witnesses were based entirely on hearsay, as they have no personal knowledge of the circumstances relating to the supposed disappearance or murder of the 3 victims.

The Court explained in *Del Castillo v. People*²¹ the concept of probable cause for the issuance of a search warrant:

x x x Probable cause for a search warrant is defined as such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed and that the objects sought in connection with the offense are in the place sought to be searched. A finding of probable cause needs only to rest on evidence showing that, more likely than not, a crime has been committed and that it was committed by the accused. Probable cause demands more than bare suspicion; it requires less than evidence which would justify conviction. The judge, in determining probable cause, is to consider the totality of the circumstances made known to him and not by a fixed and rigid formula, and must employ a flexible totality of the circumstances standard. The existence depends to a large degree upon the finding or opinion of the judge conducting the examination. This Court, therefore, is in no position to disturb the factual findings of the judge which led to the issuance of the search warrant. A magistrate's determination of probable cause for the issuance of a search warrant is paid great deference by a reviewing court, as long as there was substantial basis for that determination. Substantial basis means that the questions of the examining judge brought out such facts and circumstances as would lead a reasonably discreet and prudent man to believe that an offense has been committed, and the objects in connection with the offense sought to be seized are in the place sought to be searched.

¹⁸ *Id.* at 385-387. (Italics in the original; emphasis added; citations omitted)

¹⁹ *Rollo*, p. 59.

²⁰ *Columbia Pictures, Inc. v. Court of Appeals*, 329 Phil. 875, 928 (1996).

²¹ 680 Phil. 447, 457-458 (2012).

Corollarily, the Court said in *Oebanda v. People*²² that 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.”²³

Having in mind the foregoing principles, the Court agrees with the RTC and the CA in both ruling that Judge Ong found probable cause to issue a search warrant after a searching and probing personal examination of applicant P/Insp. Malixi and his witnesses, Edison, Shaira Mae and Villador. Their testimonies jointly and collectively show a reasonable ground to believe that the 3 victims went to Dimal’s compound to sell *palay*, but were probably killed by Dimal, and that they may have left personal belongings within its premises.

During the hearing of his application for search warrant, Judge Ong was able to elicit from P/Insp. Malixi the specific crime allegedly committed by Dimal, the particular place to be searched and items to be seized:

[COURT:]

Q: And in your application for Search Warrant, **what particular place are you going to search in this Search Warrant if ever it will be granted?**

[P/INSP. MALIXI:]

A: According to the Opponent **we are applying to search the Palay Buying Station of Jaylord Dimal located at Felix Gumpal Compound, Ipil, Echague, Isabela, and also to search the back portion of a vacant lot within the Felix Gumpal Compound, Your Honor.**

Q: The particular place is Felix Gumpal Compound, in Echague, Isabela, no more?

A: No more, Your Honor.

Q: And what particular offense have this Jaylord Dimal committed, if any?

A: He allegedly committed the crime of kidnapping and multiple murder of Lucio and Rosemarie Pua and one Gemma Eugenio on September 6, 2010, Your Honor.

²² G.R. No. 208137, June 8, 2016, 792 SCRA 623.

²³ *Id.* at 631-632.

Q: And what particular items are you going to search in that compound of Felix Gumpal?

A: Subject of the offense, the personal belongings of the victims when they went to the Felix Gumpal Compound, where they were reportedly murdered, Your Honor.

Q: What specific items are you going to search from that place?

A: Personal belongings such as Driver's License of Lucio Pua, Alien Certificate of Registration ID of Lucio Pua and Rosemarie Pua, ATM Cards such as BDO under Lucio Pua's account, Deposit slips of BDO accounts of Lucio Pua, receipts of the palay delivered, blood-stained clothes of the victims, such as Rosemarie Pua's green inner garment with black blazer and brownish pedal pants, Lucio Pua's black short and pink polo shirt, Gemma Eugenio's maong pants, faded pink long sleeves jacket, black stripe T-shirt and a shoulder bag of the victim Gemma Eugenio color white, the 1,600 sacks of palay inside the Warehouse of Felix Gumpal Compound, long bolo [which] is approximately 16 inches long, and the 9mm caliber black pistol, your Honor.

Q: Where did you get this information regarding the articles found in the Felix Gumpal Compound?

A: This information was given to me by the Opponents, Your Honor.

Q: And who are they?

A: They are Edison Uy Pua, Ernesto Villador y Yakapin and Shaira Eugenio y Estrada, Your Honor.

Q: How sure are you that these people were able to see these items in Felix Gumpal Compound?

A: Edison Uy Pua and Shaira Mae Eugenio are the relatives of the victims who personally saw the victim's clothes they were wearing right before they went to Jaylord's compound and the victims were seen by Ernesto Villador sprawled lifeless on the floor in the palay buying station of Jaylord Dimal, Your Honor.

Q: You said that there is a gun 9mm pistol, how did they come to know that there was a gun in that place?

A: It was reported to me by Ernesto Villador, Your Honor.²⁴

Judge Ong was also able to draw corroborative testimonies from P/Insp. Malixi's witnesses. Edison testified on the circumstances prior to the disappearance of his uncle Lucio and his aunties Rosemarie and Gemma, while Shaira Mae described the clothes and personal belongings of her mother before the latter disappeared, thus:

[COURT]

Q: On September 6, 2010, where were you?



²⁴ Rollo, pp. 58-61. (Emphasis added)

[EDISON]

A: I was at home, Your Honor.

Q: Where?

A: At Antonino, Alicia, Isabela, Your Honor?

Q: Where is Lucio and Rosemarie Pua on that day?

A: They went to Jaylord to collect the payment of the palay, Your Honor.

Q: And you were left in your house in Alicia when your Uncle Lucio and Auntie Rosemarie when they went to Jaylord to collect payment of palay?

A: Yes, Your Honor, I was.

Q: And do you know what happened to your Uncle Lucio and Auntie Rosemarie when they went to Jaylord's place?

A: I know because when they went to collect payments they did not come back anymore, Your Honor.

Q: And what did you do when you learned that they did not come back anymore?

A: They were already dead and their bodies were chopped into pieces, your Honor.

Q: And what did you do when you learned that they were already dead and chopped into pieces?

A: We went to look for the pieces of the bodies because they said it was thrown to the river, Your Honor.

Q: And what did you do after that?

A: We went to the house of Jaylord, Your Honor.

Q: And what did you do in the house of Jaylord?

A: We saw the T-shirt of my Uncle Lucio Pua and Ate Gemma, Your Honor.

Q: Who is that Gemma?

A: My aunt, the one who canvass palay, your Honor.

Q: What did you see in the house of Jaylord?

A: Polo shirt and Jacket of Auntie Gemma, Your Honor.

Q: What else aside from the Polo shirt and jacket did you see?

A: No more your Honor, we went back to Alicia.

Q: Who were with you when you went to the house of Jaylord?

A: My cousin, Your Honor.

Q: What is the name of your cousin?

A: Harison, Your Honor.

Q: When was that when you went to the house of Dimal?

A: October 5, 2010, Your Honor.²⁵

²⁵ *Id.* at 63-66. (Emphasis added)

x x x x

[COURT]

Q: On September 6, 2010, in the afternoon, at about 4:00 o'clock, do you know where was (sic) your mother then?

[SHAIRA MAE]

A: Yes, sir.

Q: Where?

A: She [Gemma] went to Jaylord Dimal, Your Honor.

Q: Do you remember what was (sic) the clothes of your mother and what did she brought (sic) with her when she went to Jaylord Dimal?

A: Yes, Your Honor, the long sleeves is faded pink, the inner shirt is black, and bag is pink, inside it are two (2) cellphones, the picture of my sister and her Driver's License.²⁶

While it may be noted that applicant P/Insp. Malixi and his witnesses Shaira Mae and Edison have no personal knowledge how the crimes of kidnapping and multiple murder were committed, their testimonies corroborated that of Villador, who petitioners admitted to have known about the incidents surrounding the commission of such crimes.²⁷

Significantly, Judge Ong's inquiry underscored that Villador has a reasonable ground to believe that a crime has been committed at the Felix Gumpal Compound on September 6, 2010. In reply to the queries of Judge Ong, Villador revealed that (1) when Dimal called him inside the house to receive his payment as classifier of *palay*, he saw them [Lucio, Rosemarie and Gemma] talking to each other; and (2) later in the day, Dimal called him to ask for help, but he backed out upon seeing that Dimal was holding a black 0.9 mm pistol amidst people lying bloody on the ground. Thus:

[COURT:]

Q: You said you are a classifier, what is the work of a classifier?

[VILLADOR]

A: We classify the kinds of palay, Your Honor.

Q: Where are you working as a classifier?

A: Jaylord Dimal, Your Honor.

Q: And where is the place of the business of Jaylord Dimal?

A: Junction Ipil at the former compound of Felix Gumpal, Your Honor.

²⁶ *Id.* at 69. (Emphasis added)

²⁷ *Id.* at 125. Motion for Reconsideration dated October 16, 2012, p. 17

Q: How long have you been a classifier of Jaylord Dimal?

A: It is already two (2) years that every cropping he calls for me to classify, Your Honor.

Q: On September 6, 2010, are (sic) you still a classifier in the business of Jaylord Dimal.

A: Yes, Your Honor.

Q: Where were you on that date?

A: In the compound of Jaylord, Your Honor.

Q: In the afternoon of that date, do you know of any person who went to the place of businessman Dimal?

A: Yes, Your Honor.

Q: Who are they?

A: Lucio, Rosemarie and Gemma, Your Honor.

x x x x

Q: Do you know their purpose of going to the place of Jaylord Dimal?

A: They were supposed to collect payment of the palay that Jaylord asked me to gather, Your Honor?

Q: And where are those palay that Jaylord asked you to gather?

A: I was the one discarding the sacks of palay in the bodega of Jaylord, Your Honor.

Q: Who owns these palay that you are discarding?

A: Owned by Lucio and Rosemarie Pua, Your Honor.

Q: And why were they taken to the place of Jaylord Dimal?

A: They asked me to classify those palay and by agreement of Jaylord and the Pua's I discarded the palay in the bodega of Jaylord, Your Honor.

Q: Do you know how many cavans?

x x x x

A: 1,600 sacks, Your Honor.

Q: And where are they now those sacks of palay?

A: They are in the bodega or warehouse, Your Honor.

Q: Are those sacks of palay still there up to now?

A: Yes, Your Honor, they are still there.

Q: What happened in the afternoon of September 6, 2010 when Lucio and Rosemarie and Gemma was (sic) there in the house or place of Jaylord Dimal?

A: Jaylord Dimal went out from his house and he called for the three and went inside the house, Your Honor.



Q: And do you know what happened when they were inside the house?

A: Jaylord called for me inside the house when I received my payment as classifier and I saw them talking to each other, Your Honor.

Q: What happened next, if any?

A: Jaylord called me up but I was already in our house and I was busy giving wages to my laborers, when he summoned me to go to his house, "Kuya punta ka sandali dito," meaning "Kuya, please come here for a while."

Q: And did you go to the place of Jaylord?

A: Yes, Your Honor, I rode my motorcycle and went to the place.

Q: And what happened next?

A: When I arrived at the gate he asked me to enter the compound with my motorcycle, Your Honor.

Q: What happened next?

A: I asked him, "Bakit Boss?" meaning, "Why, Boss?"

Q: What happened next?

A: He answered, "Kuya yung mga tao patay na baka pwedeng patulong." Meaning "Kuya the people are already dead please help?"

Q: What did you see from Jaylord [Dimal] when he told you the people were already dead?

A: I saw him holding a black .9mm pistol and when I saw the people lying bloody on the ground, I told him "Sir, hindi ko kaya", meaning "I cannot do it."

Q: How many times have you seen that gun which he was holding on that day September 6, 2010?

A: That night when he called for me, Your Honor.

Q: After the September 6, 2010 incident, have you went (sic) back to the place of Dimal.

A: No more, Your Honor.

Q: What are the things did you see (sic) when Dimal called for you and told you that these persons were already dead?

A: I saw these people lying on the ground bloody and they are already dead and I said, "hindi ko kaya", meaning "I cannot do it" and he replied, "Sige sibat ka na," meaning "okay, just go."

Q: So, it is (sic) still possible that the gun held by Dimal is still in his house?

A: I think so that is still in his house because he keep (sic) it in one place, Your Honor.

Q: And you said he keep (sic) it in one place are you familiar where he is keeping it?

A: What I usually see, he placed it under the table where the laptop is and there drawers in it, Your Honor.²⁸

Records clearly show that Judge Ong personally examined under oath applicant P/Insp. Malixi and his witnesses, Edwin, Shaira Mae and Villador, whose collective testimonies would prompt a reasonably discreet person to believe that the crime of kidnapping with murder was committed at the Felix Gumpal Compound on September 6, 2010, and that specific personal properties sought in connection with the crime could be found in the said place sought to be searched.

As to petitioners' claim that the judge did not ask anymore searching questions after statements were made by Villador,²⁹ the Court finds that searching and probing questions were indeed propounded by Judge Ong, and that there is no more necessity to ask Villador to describe the position and state of the lifeless bodies, and the specific place in the compound where the bodies were lying. Villador could not have been expected to take a closer look into the bloody bodies on the ground because Dimal was then holding a pistol, and told him to leave if he cannot help. Petitioners would do well to bear in mind that, absent a showing to the contrary, it is presumed that a judicial function has been regularly performed.³⁰ The judge has the prerogative to give his own judgment on the application of the search warrant by his own evaluation of the evidence presented before him.³¹ The Court cannot substitute its own judgment to that of the judge, unless the latter disregarded facts before him/her or ignored the clear dictates of reason.³²

Petitioners submit that the search warrant is also void for failing to identify with particularity the place to be searched and the items to be seized. They assert that Felix Gumpal Compound consists of a very large area, consisting of two houses, one nipa hut, two external bathrooms, one garage, one warehouse utilized as a *palay* depot, and one warehouse utilized to store a *palay* drying machinery. They likewise claim that all the items actually seized were either not among those listed in the warrant or were seized in violation of the "plain view doctrine". Insisting that the search warrant was procured in violation of the Constitution and the Rules of Court, petitioners posit that all the items seized in Dimal's compound are "fruits of the poisonous tree" and inadmissible for any purpose in any proceeding.

Contrary to petitioners' submission, the search warrant issued by Judge Ong identified with particularity the place to be searched, namely; (1) the house of Jaylord Dimal and (2) the *palay* warehouse in the premises of the Felix Gumpal Compound at Ipil Junction, Echague, Isabela. This is evident from the Search Warrant issued by the judge, which reads:

²⁹ *Rollo*, p. 120. Motion for Reconsideration October 16, 2012, p. 18.

³⁰ Section 3, Rule 131 of the Rules of Court.

³¹ *Oebanda v. People*, *supra* note 22, at 642.

³² *Microsoft Corporation v. Maxicorp, Inc.* 481 Phil. 550, 563 (2004).



The undersigned Presiding Judge personally examined in the form of questions and answers in writing and under oath, the applicant Police Senior Inspector Roy Michael S. Malixi and the witnesses, namely: Edison Pua, Shaira Mae Eugenio, and Ernesto Villador, who all collaborated to the fact of death of Lucio Pua, Rosemarie Pua and Gemma Eugenio in Echague, Isabela. That witness Edison Pua went to the **house of Jaylord Dimal** after the commission of the crime and was able to see the blood-stained clothes of the victims:

- 1) Lucio Pua's clothes; and
- 2) [Rosemarie] Pua's clothes;

On the part of Shaira Mae Eugenio, she testified that before her mother Gemma Eugenio left her house, she wore faded pink long sleeves jacket and black T-shirt, and brought with her a shoulder bag and two (2) cellphones which are probably in **the house of Jaylord Dimal**. In the case of Ernesto Villador, he testified that he saw Jaylord Dimal holding a 9mm caliber pistol and testified that he usually keep said firearm under the computer table or drawers. He likewise testify (sic) that there were 1600 sacks of palay sold by the victims and brought to the **Felix Gumpal Compound**.

With the testimony of said witnesses and their Sinumpaang Salaysay and deposition of witness, it would readily show that there is probable cause to believe that **in the house, particularly the Felix Gumpal Compound of Jaylord Dimal located at Ipil Junction, Echague, Isabela**, said items, to wit: blood-stained clothes of the victims, 1600 sacks of palay inside the **warehouse in the Felix Gumpal Compound** and 9mm cal. pistol are found.

The said Application for Search Warrant was filed before this Court due to compelling reasons for security and confidentiality purposes, considering that possibility of leakages of information once the application for search warrant is filed with the court within the area having territorial jurisdiction over it.

In view thereof, you are hereby commanded to search at any time of the day or night the **premises of Felix Gumpal Compound located at Ipil Junction, Echague, Isabela**, and forthwith seize and take possession of the following properties: blood-stained clothes of Rosemarie Pua, Lucio Pua, and Gemma Eugenio, either to take the 1,600 sacks of palay or just photograph the same, and the 9mm caliber pistol, and to bring the said articles to the custody of the Provincial Director of Isabela at the Provincial Police Office of Isabela under *custodia legis*, to be dealt with according to law.³³

³³ *Rollo*, pp. 80-81. (Emphasis and underscoring added on the particular place to be searched and things to seized, respectively)

A description of a place to be searched is sufficient if the officer with the warrant can ascertain and identify with reasonable effort the place intended, and distinguish it from other places in the community.³⁴ A designation 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.³⁵ To the Court's view, the above-quoted search warrant sufficiently describes the place to be searched with manifest intention that the search be confined strictly to the place described. At any rate, petitioners cannot be heard to decry irregularity in the conduct of the search of the premises of the Felix Gumpal Compound because, as aptly ruled by the RTC, a Certification of Orderly Search was issued by the *barangay* officials, and the presumption of regularity in the performance of public duty was not sufficiently contradicted by petitioners.

Moreover, the objection as to the particularity of the place to be searched was belatedly raised in petitioners' motion for reconsideration of the Order denying their Omnibus Motion to quash. The Court has consistently ruled that the omnibus motion rule under Section 8, Rule 15³⁶ is applicable to motion to quash search warrants.³⁷ In *Abuan v. People*,³⁸ it was held that "the motion to quash the search warrant which the accused may file shall be governed by the omnibus motion rule, provided, however, that objections not available, existent or known during the proceedings for the quashal of the warrant may be raised in the hearing of the motion to suppress." Accordingly, the trial court could only take cognizance of an issue that was not raised in a motion to quash if (1) said issue was not available or existent when they filed the motion to quash the search warrant; or (2) the issue was one involving jurisdiction over the subject matter.³⁹ Because petitioners' objection as to the particularity of the place to be searched was available when they filed their omnibus motion to quash, and there being no jurisdictional issue raised, their objection is deemed waived.

Meanwhile, a search warrant may be said to particularly describe the things to be seized (1) when the description therein is as specific as the circumstances will ordinarily allow; or (2) when the description expresses a conclusion of fact – not of law by which the warrant officer may be guided in making the search and seizure; (3) and when the things to be described are limited to those which bear direct relation to the offenses for which the

³⁴ *SPO4 Laud (Ret.) v. People*, 747 Phil. 503, 522-523 (2014).

³⁵ *Del Castillo v. People*, 680 Phil. 447, 458 (2012).

³⁶ Section 8. *Omnibus Motion*.—Subject to the provisions of section 1 of Rule 9, a motion attacking a pleading, order, judgment or proceeding shall include all objections then available, and all objections not so included shall be deemed waived.

³⁷ *Pilipinas Shell Corporation v. Romars International Gases Corporation*, 753 Phil. 707, 716 (2015).

³⁸ 536 Phil. 672, 692 (2006).

³⁹ *Pilipinas Shell Corporation v. Romars International Gases Corporation*, *supra* note 37.

warrant is being issued.⁴⁰ The purpose for this requirement is to limit the articles to be seized only to those particularly described in the search warrant in order to leave the officers of the law with no discretion regarding what items they shall seize, to the end that no unreasonable searches and seizures will be committed.⁴¹

In *Vallejo v. Court of Appeals*,⁴² the Court clarified that technical precision of description is not required. "It is only necessary that there be reasonable particularity and certainty as to the identity of the property to be searched for and seized, so that the warrant shall not be a mere roving commission. Indeed, the law does not require that the things to be seized must be described in precise and minute detail as to leave no room for doubt on the part of the searching authorities. If this were the rule, it would be virtually impossible for the applicants to obtain a warrant as they would not know exactly what kind of things to look for."⁴³

Under American jurisprudence which has persuasive effect in this jurisdiction, the degree of specificity required in a search warrant's description of the items to be searched for and seized is flexible and will vary depending on the crime involved and the types of items sought.⁴⁴ A description is said to be valid if it is as specific as the circumstances and the nature of the activity under investigation will permit. But if the circumstances make an exact description of the property to be seized a virtual impossibility, the searching officer can only be expected to describe the generic class of the items sought. The practical guide to determine whether a specific search warrant meets the particularity requirement is for the court to inquire if the officer reading the description in the warrant would reasonably know what items to be seized.⁴⁵

In Search Warrant No. 10-11, only two things were particularly described and sought to be seized in connection with the special complex crime of kidnapping with murder, namely: (1) blood-stained clothes of Gemma Eugenio consisting of a faded pink long sleeves jacket and a black t-shirt, and (2) a 0.9mm caliber pistol. Having no direct relation to the said crime, the 1,600 sacks of *palay* that were supposedly sold by the victims to Dimal and found in his warehouse, cannot be a proper subject of a search warrant because they do not fall under the personal properties stated under Section 3 of Rule 126, to wit: (a) subject of the offense; (b) stolen or embezzled and other proceeds or fruits of the offense; or (c) those used or

⁴⁰ *SPO4 Laud (Ret.) v. People, supra*, at 525, citing *Bache and Co. (Phil.) Inc. v. Judge Ruiz*, 147 Phil. 794, 811 (1971).

⁴¹ *Microsoft Corporation v. Maxicorp, Inc., supra* note 32, at 568-569.

⁴² 471 Phil. 670 (2004).

⁴³ *Id.* at 687.

⁴⁴ 68 Am Jur 2d, §222 (2000)

⁴⁵ *Id.*

intended to be used as the means of committing an offense, can be the proper subject of a search warrant.

In fine, the CA committed no reversible error in upholding the denial of the Omnibus Motion to quash because all the Constitutional⁴⁶ and procedural⁴⁷ requisites for the issuance of a search warrant are still present, namely: (1) probable cause; (2) such probable cause must be determined personally by the judge; (3) the judge must examine, in writing and under oath or affirmation, the complainant and the witnesses he or she may produce; (4) the applicant and the witnesses testify on the facts personally known to them; and (5) the warrant specifically describes the place to be searched and the things to be seized.⁴⁸

Despite the fact that the issuance of Search Warrant No. 10-11 is valid, petitioners are correct that most items listed in the Return on the Search Warrant are inadmissible in evidence. Since only 2 items were particularly described on the face of the search warrant, namely: (1) the blood-stained clothes of Gemma Eugenio consisting of faded pink long sleeves jacket and black t-shirt; and (2) the 0.9 mm caliber pistol, the Court declares that only two articles under the Return on the Search Warrant are admissible in evidence as they could be the blood-stained clothes of Gemma subject of the warrant:

- c. One (1) Black T-Shirt with suspected blood stain (Mark as E-26 with JAM markings)
- d. One (1) Black T-Shirt with red lining with suspected blood stain (Mark as E-15 with JAM markings)

It bears stressing that the application for search warrant particularly described the victims' blood-stained clothes as follows: (1) Rosemarie Pua's green inner garment with black blazer and brownish pedal pants; (2) Lucio Pua's black shorts and pink polo shirt; and (3) Gemma Eugenio's maong pants, faded pink long sleeves jacket, and black striped t-shirt. Considering

⁴⁶ Section 2, Article III of the 1987 Constitution: 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 such search warrant or warrant of arrest shall issue except upon probable cause to be determined 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.

⁴⁷ Rule 126 of the Revised Rules of Criminal Procedure: 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 witnesses 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.

⁴⁸ *Del Castillo v. People*, supra note 35, at 456; *People v. Castillo, Sr.*, G.R. No. 204419, November 7, 2016, 807 SCRA 77, 87-88.

that only Gemma's clothes were described in Search Warrant No. 10-11 as specific as the circumstances will allow, the Court is constrained to hold as inadequately described the blood-stained clothes of Lucio and Rosemarie. Without the aid of the applicant's witnesses who are familiar with the victims' personal belongings, any other warrant officer, like P/Insp. Macadangdang who served the search warrant, will surely be unable to identify the blood-stained clothes of Lucio and Rosemarie by sheer reliance on the face of such warrant.

The Court could have rendered a favorable ruling if the application for search warrant and supporting affidavits were incorporated by reference in Search Warrant No. 10-11, so as to enable the warrant officer to identify the specific clothes sought to be searched. This is because under American jurisprudence, an otherwise overbroad warrant will comply with the particularity requirement when the affidavit filed in support of the warrant is physically attached to it, and the warrant expressly refers to the affidavit and incorporates it with suitable words of reference. Conversely, a warrant which lacks any description of the items to be seized is defective and is not cured by a description in the warrant application which is not referenced in the warrant and not provided to the subject of the search.⁴⁹

The Court further declares that the following items are inadmissible as they do not bear any direct relation to the 3 items particularly described in Search Warrant No. 10-11:

- a. Extracted suspected Blood stain (Mark as E-24 with JAM markings)
- b. Extracted suspected Blood stain (Mark as E-25 with JAM markings)
- x x x x
- e. One (1) Bra color brown (tiger) (Mark as E-14 with JAM markings)
- f. One (1) cell phone spare part (mark as E-16 with JAM markings)
- g. One (1) cell phone spare part (mark as E-17 with JAM markings)
- h. Palay husk with suspected blood stain (mark as E-28 with JAM markings)
- i. Suspected blood stain (mark as E-25-A with JAM markings)

With respect to the items under Return on the Search Warrant indicated as "articles recovered/seized in plain view during the conduct of the search," it is well settled that objects falling in plain view of an officer who has a right to be in a position to have that view are subject to seizure even without a search warrant and may be introduced in evidence.⁵⁰

⁴⁹ 68 Am Jur 2d §223 Searches and Seizures (2000).

⁵⁰ *Miclat, Jr. v. People*, 672 Phil. 191, 206 (2011).

For the “plain view doctrine” to apply, it is required that the following requisites are present: (a) the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area; (b) the discovery of evidence in plain view is inadvertent; and (c) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband or otherwise subject to seizure.⁵¹ As explained in *People v. Salanguit*:⁵²

What the ‘plain view’ cases have in common is that the police officer in each of them had a prior justification for an intrusion in the course of which he came inadvertently across a piece of evidence incriminating the accused. The doctrine serves to supplement the prior justification—whether it be a warrant for another object, hot pursuit, search incident to a lawful arrest, or some other legitimate reason for being present unconnected with a search directed against the accused—and permits the warrantless seizure. Of course, the extension of the original justification is legitimate only where it is immediately apparent to the police that they have evidence before them; the ‘plain view’ doctrine may not be used to extend a general exploratory search from one object to another until something incriminating at last emerges.

The first requisite of the “plain view doctrine” is present in this case because the seizing officer, P/Insp. Macadangdang, has a prior justification for an intrusion into the premises of the Felix Gumpal Compound, for he had to conduct the search pursuant to a valid warrant. However, the second and third requisites are absent, as there is nothing in the records to prove that the other items not particularly described in the search warrant were open to eye and hand, and that their discovery was unintentional.

In fact, out of the 2 items particularly described in the search warrant, only the 2 black t-shirts with suspected blood stain possibly belonging to Gemma were retrieved, but the 9mm caliber pistol was not found. It is also not clear in this case at what instance were the items supposedly seized in plain view were confiscated in relation to the seizure of Gemma’s blood-stained clothes – whether prior to, contemporaneous with or subsequent to such seizure. Bearing in mind that once the valid portion of the search warrant has been executed, the “plain view doctrine” can no longer provide any basis for admitting the other items subsequently found,⁵³ the Court rules that the recovery of the items seized in plain view, which could have been made after the seizure of Gemma’s clothes, are invalid.

⁵¹ *Id.*

⁵² 408 Phil. 817, 834 (2001), citing *Coolidge v. New Hampshire*, 403 U.S. 433, 29 L. Ed. 2d 564 (1971).

⁵³ *People v. Salanguit, supra.*

It is also not immediately apparent to the officer that, except for the Alien Certificates of Registration of Lucio and Rosemarie, the BDO Passbook in the name of Lucio, and the live ammo of caliber 22 (marked as E-29 with JAM markings), the following items may be evidence of a crime, contraband or otherwise subject to seizure:

- a. One (1) pc torn cloth (Mark as E-1 with JAM markings)
- b. One (1) pc torn cloth (Mark as E-2 with JAM markings)
- c. One (1) pc torn cloth (Mark as E-3 with JAM markings)
- d. One (1) pc spent shell of caliber 22 (Mark as E-4 with JAM markings)
- e. One (1) bag pack color black (Mark as E-5 with JAM markings)
- f. One spent shell of caliber 22 (Mark as E-6 with JAM markings)
- g. One spent shell of caliber 22 (Mark as E-7 with JAM markings)
- h. One spent shell of caliber 22 (Mark as E-8 with JAM markings)
- i. One spent shell of caliber 22 (Mark as E-9 with JAM markings)
- j. One spent shell of caliber 22 (Mark as E-10 with JAM markings)
- k. One spent shell of caliber 22 (Mark as E-11 with JAM markings)
- l. One spent shell of caliber 22 (Mark as E-12 with JAM markings)
- m. One spent shell of caliber 22 (Mark as E-13 with JAM markings)
- x x x x
- o. One spent shell of caliber 22 (Mark as E-18 with JAM markings)
- p. One (1) piece gold-plated earring (mark as E-19 with JAM markings)
- q. Suspected human hair (mark as E-20 with JAM markings)
- r. A piece of embroider[ed] cloth (mark as E-22 with JAM markings)
- s. Three (3) burned Tire wires (mark as E-23 with JAM markings)
- t. One (1) empty plastic bottle of Gleam muriatic acid (mark as E-27 with JAM markings)
- x x x x
- v. One (1) color white t-shirt (mark as E-30 with JAM markings)

It bears emphasis that the “immediately apparent” test does not require an unduly high degree of certainty as to the incriminating character of the evidence, but only that the seizure be presumptively reasonable, assuming that there is a probable cause to associate the property with a criminal activity.⁵⁴ In view thereof, the 10 pieces of spent shell of calibre 0.22 ammo cannot be admitted in evidence because they can hardly be used in a 9mm caliber pistol specified in the search warrant, and possession of such spent shells are not illegal *per se*. Likewise, the following items supposedly seized under plain view cannot be admitted because possession thereof is not inherently unlawful: (a) 3 torn cloths; (b) black bag pack; (c) a piece of gold-plated earring; (d) a suspected human hair; (e) a piece of embroidered cloth; (f) 3 burned tire wires; (g) empty plastic of muriatic acid; and (h) white t-shirt.

⁵⁴

United Laboratories, Inc. v. Isip, 500 Phil. 342, 363 (2005).

Notwithstanding the inadmissibility in evidence of the items listed above, the Court sustains the validity of Search Warrant No. 10-11 and the admissibility of the items seized which were particularly described in the warrant. This is in line with the principles under American jurisprudence: (1) that the seizure of goods not described in the warrant does not render the whole seizure illegal, and the seizure is illegal only as to those things which was unlawful to seize; and (2) the fact that the officers, after making a legal search and seizure under the warrant, illegally made a search and seizure of other property not within the warrant does not invalidate the first search and seizure.⁵⁵ To be sure, a search warrant is not a sweeping authority empowering a raiding party to undertake a fishing expedition to confiscate any and all kinds of evidence or articles relating to a crime.⁵⁶ Objects taken which were not specified in the search warrant should be restored⁵⁷ to the person from whom they were unlawfully seized.

Although the Alien Certificates of Registration of Lucio and Rosemarie and the BDO Passbook in the name of Lucio are inadmissible in evidence, for not having been seized in accordance with the “plain view doctrine,” these personal belongings should be returned to the heirs of the respective victims. Anent the live ammo of caliber 0.22 (marked as E-29 with JAM markings), which could not have been used in a 0.9mm caliber pistol, the same shall remain in *custodia legis* pending the outcome of a criminal case that may be later filed against petitioner Dimal. In *Alih v. Castro*,⁵⁸ it was held that even if the search of petitioners’ premises was violative of the Constitution and the firearms and ammunition taken therefrom are inadmissible in evidence, pending determination of the legality of said articles they can be ordered to remain in *custodia legis* subject to appropriate disposition as the corresponding court may direct in the criminal proceedings that have been or may thereafter be filed against petitioners.

WHEREFORE, premises considered, the petition for review on *certiorari* is **PARTLY GRANTED**. The Court of Appeals Decision dated August 27, 2014 in CA-G.R. SP No. 128355 is **AFFIRMED with MODIFICATION** to declare that the following properties seized under Search Warrant No. 10-11 are inadmissible in evidence for neither having been particularly described in the search warrant nor seized under the “plain view doctrine”:

⁵⁵ 79 C.J.S. Searches and Seizures §83.

⁵⁶ *People v. Nuñez*, 609 Phil. 176, 187 (2009).


⁵⁷ *Id.*

⁵⁸ 235 Phil. 270, 278 (1987).

1. Extracted suspected Blood stain (Marked as E-24 with JAM markings)
2. Extracted suspected Blood stain (Marked as E-25 with JAM markings)
3. One (1) Bra color brown (tiger) (Marked as E-14 with JAM markings)
4. One (1) cell phone spare part (marked as E-16 with JAM markings)
5. One (1) cell phone spare part (marked as E-17 with JAM markings)
6. Palay husk with suspected blood stain (marked as E-28 with JAM markings)
7. Suspected blood stain (marked as E-25-A with JAM markings)
8. One (1) pc torn cloth (Marked as E-1 with JAM markings)
9. One (1) pc torn cloth (Marked as E-2 with JAM markings)
10. One (1) pc torn cloth (Marked as E-3 with JAM markings)
11. One (1) pc spent shell of caliber 22 (Marked as E-4 with JAM markings)
12. One (1) bag pack color black (Marked as E-5 with JAM markings)
13. One spent shell of caliber 22 (Marked as E-6 with JAM markings)
14. One spent shell of caliber 22 (Marked as E-7 with JAM markings)
15. One spent shell of caliber 22 (Marked as E-8 with JAM markings)
16. One spent shell of caliber 22 (Marked as E-9 with JAM markings)
17. One spent shell of caliber 22 (Marked as E-10 with JAM markings)
18. One spent shell of caliber 22 (Marked as E-11 with JAM markings)
19. One spent shell of caliber 22 (Marked as E-12 with JAM markings)
20. One spent shell of caliber 22 (Marked as E-13 with JAM markings)
21. Two (2) Alien Certificate of Registration of Lucio Pua and Rosemarie Pua, and One (1) BDO Passbook in the name of Lucio Pua (mark as E-15 with JAM markings)
22. One spent shell of caliber 22 (Marked as E-18 with JAM markings)
23. One (1) piece gold-plated earring (marked as E-19 with JAM markings)
24. Suspected human hair (marked as E-20 with JAM markings)
25. A piece of embroider[ed] cloth (marked as E-22 with JAM markings)
26. Three (3) burned Tire wires (marked as E-23 with JAM markings)
27. One (1) empty plastic bottle of Gleam muriatic acid (marked as E-27 with JAM markings)
28. One (1) live ammo of caliber 22 (marked as E-29 with JAM markings)
29. One (1) color white t-shirt (marked as E-30 with JAM markings)

Moreover, the two (2) Alien Certificates of Registration of Lucio Pua and Rosemarie Pua, and One (1) BDO Passbook in the name of Lucio Pua are directed to be returned to the respective heirs of said victims, while the live ammo of caliber 0.22 (marked as E-29 with JAM markings) shall remain in *custodia legis* pending the outcome of the criminal case that may be filed against petitioner Jaylord Dimal.

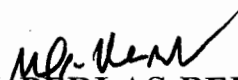
SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

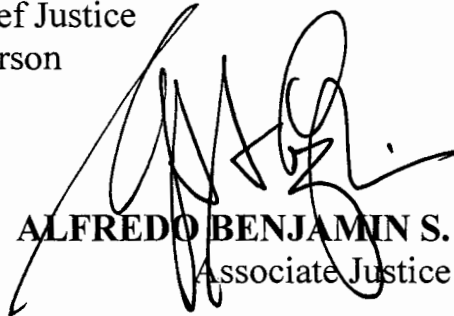
WE CONCUR:



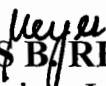
ANTONIO T. CARPIO
Acting Chief Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ANDRES B. REYES, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify 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.



ANTONIO T. CARPIO
Acting Chief Justice