Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

HONESTO OGAYON *y* DIAZ,
Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 188794

Present:

CARPIO, *J., Chairperson,*
BRION,
DEL CASTILLO,
PERLAS-BERNABE,* and
LEONEN, *JJ.*

Promulgated:

02 SEP 2015

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DECISION

BRION, *J.*:

We resolve the petition for review on *certiorari*[1] assailing the Decision[2] dated March 31, 2009, and the Resolution[3] dated July 10, 2009, of the Court of Appeals *(CA)* in CA-G.R. CR No. 31154. The appealed decision affirmed the joint judgment[4] dated September 5, 2007, of the Regional Trial Court *(RTC),* Branch 12, Ligao City, Albay, which convicted petitioner Honesto Ogayon of violating Sections 11 and 12, Article II of Republic Act No. 9165.[5]

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* Designated as Additional Member in lieu of Associate Justice Jose C. Mendoza, per raffle dated July 6, 2015.

1 *Rollo*, pp. 9-34.

2 Id. at 104-125; penned by Associate Justice Portia Aliño-Hormachuelos, and concurred in by Associate Justices Jose Catral Mendoza (now a Member of this Court) and Ramon M. Bato, Jr.

3 Id. at 143-144.

4 Id. at 59-73A; penned by Acting Presiding Judge Edwin C. Ma-alat.

5 The Comprehensive Dangerous Drugs Act of 2002.

The Antecedent Facts

On December 1, 2003, two Informations were filed against Ogayon for the crimes allegedly committed as follows:

I. Criminal Case No. 4738:

> That at about 5:20 o'clock (sic) in the morning of October 2, 2003 at Barangay Iraya, Municipality of Guinobatan, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously have in his possession, custody and control four (4) pcs. of small aluminum foil, four (4) pcs. of disposable lighter in different colors, one (1) blade trademark "Dorco," and one (1) roll aluminum foil, instruments used or intended to be used for smoking or consuming shabu, without authority of law, to the damage and prejudice of the public interest and welfare.[6]

II. Criminal Case No. 4739:

> That at about 5:20 o'clock (sic) in the morning of October 2, 2003 at Barangay Iraya, Municipality of Guinobatan, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to violate the law, and without authority of law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control two (2) heat-sealed transparent plastic sachets containing 0.040 gram of methamphetamine hydrochloride (shabu), with full knowledge that in his possession and control is a dangerous drug, to the damage and prejudice of the public interest and welfare.[7]

During his arraignment in Criminal Case Nos. 4738 and 4739 on January 21, 2004, and March 17, 2004, respectively, Ogayon denied both charges and pleaded "not guilty." The joint pre-trial held on May 5, 2004 yielded only one factual admission on the identity of the accused.[8] A joint trial on the merits ensued.

The Prosecution Version

On October 2, 2003, at around 5:20 a.m., Police Chief Inspector Elmer Ferrera, together with the other members of the Albay Provincial Police Office, proceeded to Ogayon's house in Barangay Iraya, Guinobatan, Albay, to enforce Search Warrant No. AEK 29-2003.[9] The warrant was for the seizure of *shabu* and drug paraphernalia allegedly kept and concealed in the

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6 *Rollo*, p. 60.
7 Id. at 59.
8 Id. at 107.
9 Records II, p. 4.

premises of Ogayon's house. Barangay Tanod Jose Lagana *(Tanod Lagana)* and Kagawad Lauro Tampocao assisted the police team in conducting the search.[10]

Upon reaching Ogayon's house, the police team noticed several persons inside a *nipa* hut located nearby. Suspecting that a pot session was about to be held, the police team restrained two of the five persons and immediately proceeded to Ogayon's house. After introducing themselves as police officers, Senior Police Officer Herminigildo Caritos *(SPO4 Caritos)* informed Ogayon that they had a warrant to search his place. SPO4 Caritos handed a copy of the warrant to Ogayon, who allowed the police team to conduct the search.[11]

Led by SPO4 Caritos, some members of the police team went to the comfort room located about five meters away from Ogayon's house. When they searched the area, they found an object (wrapped in a piece of paper with blue prints) that fell from the wooden braces of the roof. Upon SPO4 Caritos' inspection, the paper contained two (2) small, heat-sealed transparent plastic sachets that the police team suspected to contain *shabu*. The search of the comfort room also uncovered four (4) disposable lighters, one (1) knife measuring six inches long, used aluminum foil, one (1) roll of aluminum foil, and a "Dorco" blade.[12] SPO4 Caritos then placed his initials on the two (2) plastic sachets before joining the rest of the police officers who were conducting a search in Ogayon's house. The police officers who searched Ogayon's house found live ammunition for an M-16 rifle.

After conducting the search, the police team prepared a Receipt of Property Seized.[13] The receipt was signed by the seizing officers, representatives from the Department of Justice and the media, and two (2) barangay officials who were present during the entire operation.[14]

The police team thereafter arrested Ogayon and the two (2) other persons who had earlier been restrained, and brought them to Camp Simeon Ola for booking. The seized items were likewise brought to the camp for laboratory examination. In his Chemistry Report,[15] Police Superintendent Lorlie Arroyo (forensic chemist of the Philippine National Police Regional Crime Laboratory) reported that the two (2) plastic sachets seized from Ogayon's place tested positive for the presence of *methamphetamine hydrochloride* or *shabu*.[16]

The Defense Version

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10 *Rollo*, p. 109.
11 Id. at 110.
12 Id.
13 Records II, p. 5.
14 *Rollo*, p. 110.
15 Records II, p. 6.
16 *Rollo*, p. 111.

The defense presented a different version of the events.

Testifying for himself, Ogayon disavowed any knowledge of the prohibited drugs and claimed that he saw the seized items for the first time only when they were being inventoried. His statements were corroborated by the testimony of his wife, Zenaida Ogayon.

Ogayon asserted that prior to the search, he was asleep in his house. His wife Zenaida woke him up because several policemen and barangay officials came to his house. He claimed that the police team did not present any search warrant before conducting the search, and it was only during trial that he saw a copy of the warrant.

He recounted that the police officers, splitting into two groups, conducted a simultaneous search of his house and the comfort room located nearby. He noticed that SPO4 Caritos, who was part of the group that searched the comfort room, came out and went to the *Barangay* Hall. Shortly after, SPO4 Caritos returned, accompanied by *Tanod* Lagana. SPO4 Caritos again went inside the comfort room, leaving *Tanod* Lagana waiting outside. SPO4 Caritos thereafter came out from the comfort room and ran towards Ogayon's house while shouting "positive, positive."[17]

The RTC Ruling

On September 5, 2007, the RTC rendered a joint judgment convicting Ogayon of the two criminal charges against him. Relying on the presumption of regularity, the RTC rejected Ogayon's frame-up defense. The dispositive portion of the joint judgment reads:

> WHEREFORE, under the above considerations, judgment is hereby rendered as follows:
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> a. In Criminal Case No. 4738, accused, Honesto Ogayon y Diaz is found GUILTY beyond reasonable doubt of Violation of Section 12, Art. II, Republic Act No. 9165, known as the "Comprehensive Dangerous Drugs Act of 2002," for his unlawful possession of drug paraphernalia, namely: four (4) pcs. small aluminum foil, one (1) roll aluminum foil, four (4) pcs. disposable lighters, and one (1) pc. blade; thereby sentencing him to suffer the indeterminate penalty of imprisonment of six (6) months and one (1) day to two (2) years and to pay a FINE of ten thousand pesos (₱10,000.00);
> b. In Criminal Case No. 4739, accused, Honesto Ogayon y Diaz is found GUILTY beyond reasonable doubt of

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17 Id. at 112.

> Violation of Section 11, Art. II, Republic Act No. 9165, known as the "Comprehensive Dangerous Drugs Act of 2002," for his unlawful possession of two (2) pcs. small heat-sealed plastic sachets containing methamphetamine hydrochloride or "shabu," with total net weight of 0.0400 gram; thereby, sentencing him to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day to fourteen (14) years and to pay a FINE of three hundred thousand pesos (₱300,000.00).[18]

Ogayon appealed to the CA. This time, he questioned the validity of the search warrant, claiming it was improperly issued. He argued that the search warrant was defective for lack of transcript showing that the issuing judge conducted an examination of the applicant for search warrant and his witnesses.

The CA Ruling

In accordance with Section 5, Rule 126 of the Rules of Court, a judge must examine under oath and in writing an applicant for search warrant and his witnesses. Although the CA found no evidence in the records showing compliance with this requirement, it nevertheless ***upheld the search warrant's validity due to Ogayon's failure to make a timely objection against the warrant during the trial***.

That Ogayon objected to the prosecution's formal offer of exhibits, which included the search warrant, was not sufficient for the CA. Ogayon merely claimed that the chemistry report was not executed under oath, the items were not illegal *per se*, and that he did not sign the Receipt of Property Seized since he was not present when the seized items were confiscated. The CA noted that the objections were not based on constitutional grounds, and for this reason, **concluded that Ogayon is deemed to have waived the right to question the legality of the search warrant**.[19]

Based on the search warrant's validity, the CA affirmed Ogayon's conviction for possession of drugs and drug paraphernalia. Although the comfort room was located outside Ogayon's house, the CA declared that he exercised exclusive control over it and should rightly be held responsible for the prohibited drugs and paraphernalia found there.

As with the RTC, the CA relied on the presumption of regularity of the police team's operation and found Ogayon's claim of frame-up to be unsupported. The CA thus ruled that the prosecution proved beyond reasonable doubt that Ogayon was liable for the crimes charged.

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18 *Supra* note 4, at 73A.

19 *Rollo*, p. 117.

The Issues

In the present petition, Ogayon raises the following assignment of errors:

I.

The CA erred in finding that Ogayon had waived his right to question the legality of the search warrant.

II.

Even granting without admitting that Ogayon had already waived his right to question the legality of the search warrant, the search conducted was still highly irregular, thereby rendering the seized articles as inadmissible in evidence.

Ogayon primarily argues that there was a ***violation of his constitutional right*** to be secure in his person, house, papers, and effects against unreasonable searches and seizures. He denies waiving the right through his supposed failure to assail the search warrant's validity during the trial. On the contrary, he claims to have objected to the prosecution's formal offer of the search warrant.

Even assuming that he questioned the search warrant's validity only during appeal, Ogayon contends that this should not be interpreted as a waiver of his right. Since an appeal in a criminal case throws the whole case open for review, any objection made on appeal, though not raised before the trial court, should still be considered.

Ogayon next argues that the search conducted by the police team on his premises, pursuant to an already defective search warrant, was highly irregular. He and his spouse were in their house when SPO4 Caritos allegedly discovered the *shabu* in the comfort room located outside their house, so they were not able to witness the search. Moreover, he claimed that there were other persons near the premises of his house (and the comfort room) when the search was conducted. Hence, it could not indubitably be concluded that the seized items were under his actual and effective control and possession.

The Court's Ruling

The right against unreasonable searches and seizures is one of the fundamental constitutional rights. Section 2, Article III of the Constitution, reads:

> 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**.** [emphasis ours]

This right has been included in our Constitution since 1899 through the Malolos Constitution[20] and has been incorporated in the various organic laws governing the Philippines during the American colonization,[21] the 1935 Constitution,[22] and the 1973 Constitution.[23]

The protection afforded by the right is reinforced by its recognition as a fundamental human right under the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights,[24] to both of which the Philippines is a signatory.[25] Both the Covenant and the Declaration recognize a person's right against arbitrary or unlawful interference with one's privacy and property.[26]

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[20] Title IV, Article 10. No one shall enter the dwelling house of any Filipino or a foreigner residing in the Philippines without his consent except in urgent cases of fire, inundation, earthquake or similar dangers, or by reason of unlawful aggression from within, or in order to assist a person therein who cries for help. Outside of these cases, the entry into the dwelling house of any Filipino or foreign resident in the Philippines or the search of his papers and effects can only be decreed by a competent court and executed only in the daytime. The search of papers and effects shall be made always in the presence of the person searched or of a member of his family and, in their absence, of two witnesses resident of the same place. However, when a criminal caught in fraganti should take refuge in his dwelling house, the authorities in pursuit may enter into it, only for the purpose of making an arrest. If a criminal should take refuge in the dwelling house of a foreigner, the consent of a latter must first be obtained.

[21] US President W. McKinley's Instructions of April 7, 1900, to the Second Philippine Commission, the Philippine Bill of 1902 and the Philippine Autonomy Act of 1916 or the Jones Law.

[22] Section 1(3), Article III of the 1935 Constitution read:

3. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but 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.

[23] Section 3, Article IV of the 1973 Constitution read:

Section 3. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and whatever purpose shall not be violated, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined by the judge, or such other responsible officer as may be authorized by law, 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.

[24] Section 17(1) of the Covenant states that "no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence." Article 17(2) of the Declaration states that "no one shall be arbitrarily deprived of his property."

[25] 454 Phil. 504, 544-545 (2003).

[26] Section 17(1) of the Covenant states that "no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence." Article 17(2) of the Declaration states that "no one shall be arbitrarily deprived of his property."

Given the significance of this right, the courts must be vigilant in preventing its stealthy encroachment or gradual depreciation and ensure that the safeguards put in place for its protection are observed.

Under Section 2, Article III of the Constitution, **the existence of probable cause for the issuance of a warrant is central to the right**, and its existence largely depends on the finding of the judge conducting the examination.[27] To substantiate a finding of probable cause, the Rules of Court specifically require that –

> Rule 126, 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.** [emphasis ours]

Ogayon's appeal of his conviction essentially rests on his claim that the search warrant was defective because "there was no transcript of stenographic notes of the proceedings in which the issuing judge had allegedly propounded the required searching questions and answers in order to determine the existence of probable cause."[28] **We find that the failure to attach to the records the depositions of the complainant and his witnesses and/or the transcript of the judge's examination, though contrary to the Rules, does not by itself nullify the warrant.** The requirement to attach is merely a procedural rule and not a component of the right. Rules of procedure or statutory requirements, however salutary they may be, cannot provide new constitutional requirements.[29]

Instead, **what the Constitution requires is for the judge to conduct an "examination under oath or affirmation of the complainant and the witnesses he may produce," after which he determines the existence of probable cause for the issuance of the warrant.** The examination requirement was originally a procedural rule found in Section 98 of General Order No. 58,[30] but was elevated as part of the guarantee of the right under the 1935 Constitution.[31] The intent was to ensure that a warrant is issued not merely on the basis of the affidavits of the complainant and his witnesses, but only after examination by the judge of the complainant and his witnesses. As the same examination requirement was adopted in the present Constitution, we declared that affidavits of the complainant and his

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27 135 Phil. 329, 339 (1968).

28 *Rollo*, p. 113.

29 *US v. Berkus*, 428 F.2d 1148.

30 The Code of Criminal Procedure, which reads:

SEC. 98. The judge or justice must, before issuing the warrant, examine on oath the [complainant] and any witnesses [he] may produce and take their depositions in writing.

31 See Joaquin G. Bernas, S.J., *A Historical and Juridical Study of the Philippine Bill of Rights*, Ateneo University Press (1971), pp. 168-169.

witnesses are insufficient to establish the factual basis for probable cause.[32] Personal examination by the judge of the applicant and his witnesses is indispensable, and the examination should be *probing* and *exhaustive*, not merely routinary or a rehash of the affidavits.[33]

The Solicitor General argues that the lack of depositions and transcript does not necessarily indicate that no examination was made by the judge who issued the warrant in compliance with the constitutional requirement. True, since in *People v. Tee*,[34] we declared that –

> [T]he purpose of the Rules in requiring depositions to be taken is to satisfy the examining magistrate as to the existence of probable cause. The Bill of Rights does not make it an imperative necessity that depositions be attached to the records of an application for a search warrant. Hence, **said omission is not necessarily fatal, for as long as there is evidence on the record showing what testimony was presented**.[35]

Ideally, compliance with the examination requirement is shown by the depositions and the transcript. In their absence, however, **a warrant may still be upheld if there is evidence in the records that the requisite examination was made and probable cause was based thereon.** There must be, in the records, particular facts and circumstances that were considered by the judge as sufficient to make an independent evaluation of the existence of probable cause to justify the issuance of the search warrant.[36]

The Solicitor General claims that, notwithstanding the absence of depositions and transcripts, the records indicate an examination was conducted. In fact, a statement in the search warrant itself attests to this:

> **Search Warrant**
>
> x x x x
>
> GREETINGS:
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> It appearing to the satisfaction of the undersigned **after examination under oath of the applicant and his witnesses** that there is probable cause to believe that respondent, without authority of law, has under his possession and control the following articles to wit:
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> ---Methamphetamine Hydrochloride "Shabu" and paraphernalia
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> which are kept and concealed in the premises of his house particularly in the kitchen and in the CR outside his house both encircled with a red

32 213 Phil. 348, 352 (1984).
33 230 Phil. 90, 97 (1986).
34 443 Phil. 521 (2003).
35 Id. at 539; citations omitted, emphasis ours.
36 536 Phil. 672, 699-700 (2006).

> ballpen, as described in the sketch attached to the Application for Search Warrant, located at Bgy. Iraya, Guinobatan, Albay.[37] (emphasis and underscore ours)

Generally, a judge's determination of probable cause for the issuance of a search warrant is accorded great deference by a reviewing court, *so long as there was substantial basis for that determination*.[38] "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."[39]

Apart from the statement in the search warrant itself, we find nothing in the records of this case indicating that the issuing judge personally and thoroughly examined the applicant and his witnesses. The absence of depositions and transcripts of the examination was already admitted; the application for the search warrant and the affidavits, although acknowledged by Ogayon himself,[40] could not be found in the records. Unlike in *Tee*, where the testimony given during trial revealed that an extensive examination of the applicant's witness was made by the judge issuing the warrant, the testimonies given during Ogayon's trial made no reference to the application for the search warrant. SPO4 Caritos testified that he was among those who conducted the surveillance before the application for a search warrant was made. However, he was not the one who applied for the warrant; in fact, he testified that he did not know who applied for it.[41]

The records, therefore, bear no evidence from which we can infer that the requisite examination was made, and from which the factual basis for probable cause to issue the search warrant was derived. A search warrant must conform strictly to the constitutional requirements for its issuance; otherwise, it is void. Based on the lack of substantial evidence that the search warrant was issued after the requisite examination of the complainant and his witnesses was made, **the Court declares Search Warrant No. AEK 29-2003 a nullity.**

The nullity of the search warrant prevents the Court from considering Ogayon's belated objections thereto.

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37 Records II, p. 4.

38 *Supra* note 34, at 540, citing *Aguilar v. Texas*, 378 US 108, 12 L. Ed 2d 723, 726 (1964), 84 S. Ct. 1509.

39 Id.

40 *Rollo*, p. 27.

41 Id. at 63-64.

The CA declared that Ogayon had waived the protection of his right against unreasonable searches and seizures due to his failure to make a timely objection against the search warrant's validity before the trial court. It based its ruling on the procedural rule that any objections to the legality of the search warrant should be made during the trial of the case. Section 14, Rule 126 of the Rules of Court provides the manner to quash a search warrant or to suppress evidence obtained thereby:

> Section 14. Motion to quash a search warrant or to suppress evidence; where to file. — **A motion to quash a search warrant and/or to suppress evidence obtained thereby may be filed in and acted upon only by the court where the action has been instituted**. If no criminal action has been instituted, the motion may be filed in and resolved by the court that issued the search warrant. However, if such court failed to resolve the motion and a criminal case is subsequently filed in another court, the motion shall be resolved by the latter court. [emphasis ours]

We find the CA's casual treatment of a fundamental right distressing. It prioritized compliance with a procedural rule over compliance with the safeguards for a constitutional right. Procedural rules can neither diminish nor modify substantial rights;[42] **their non-compliance should therefore not serve to validate a warrant that was issued in disregard of the constitutional requirements.** As mentioned, the existence of probable cause determined after examination by the judge of the complainant and his witnesses is central to the guarantee of Section 2, Article III of the Constitution. The ends of justice are better served if the supremacy of the constitutional right against unreasonable searches and seizures is preserved over technical rules of procedure.

Moreover, **the courts should indulge every reasonable presumption against waiver of fundamental constitutional rights; we should not presume acquiescence in the loss of fundamental rights.**[43] In *People v. Decierdo*,[44] the Court declared that "[w]henever a protection given by the Constitution is waived by the person entitled to that protection, the presumption is always against the waiver." **The relinquishment of a constitutional right has to be laid out convincingly**.

In this case, the only evidence that Ogayon waived his constitutional right was his failure to make a timely motion during the trial to quash the warrant and to suppress the presentation of the seized items as evidence. This failure alone, to our mind, is not a sufficient indication that Ogayon clearly, categorically, knowingly, and intelligently made a waiver.[45] He cannot reasonably be expected to know the warrant's defect for lack of data in the records suggesting that defect existed. It would thus be unfair to

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42 CONSTITUTION, Article VIII, Section 5(5).
43 *Johnson v. Zerbst*, 304 U.S. 458.
44 233 Phil. 515, 526 (1987).
45 456 Phil. 507, 518 (2003).

construe Ogayon's failure to object as a waiver of his constitutional right. In *People v. Bodoso*,[46] the Court noted that "[i]n criminal cases where life, liberty and property are all at stake… The standard of waiver requires that it 'not only must be voluntary, but must be knowing, intelligent, and **done with sufficient awareness of the relevant circumstances and likely consequences.**'"

At this point, we note the purpose for the enactment of Section 14, Rule 126 of the Rules of Court – a relatively new provision incorporated in A.M. No. 00-5-03-SC or the *Revised Rules of Criminal Procedure* (effective December 1, 2000). The provision was derived from the policy guidelines laid down by the Court in *Malaloan v. Court of Appeals*[47] to resolve the main issue of *where* motions to quash search warrants should be filed. In other words, the provision was "intended to resolve what is perceived as conflicting decisions on *where* to file a motion to quash a search warrant or to suppress evidence seized by virtue thereof…."[48] It was certainly not intended to preclude belated objections against the search warrant's validity, especially if the grounds therefor are not immediately apparent. Thus, *Malaloan* instructs that "**all grounds and objections *then available, existent or known* shall be raised in the original or subsequent proceedings for the quashal of the warrant**, otherwise they shall be deemed waived," and that "a motion to quash shall consequently 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**."

A closer reading of the cases where the Court supposedly brushed aside belated objections would reveal that the objections were disregarded because they had been cured or addressed based on the records.

In *Demaisip v. Court of Appeals*,[49] the accused asserted that the search warrant was never produced in court, thus suggesting its absence. The Court, however, noted that "there were supposed testimonies of its existence."

In *People v. Tee*,[50] the accused claimed that the issuing judge failed to exhaustively examine the complainant and his witnesses, and that the complainant's witness (a National Bureau of Intelligence operative) had no personal knowledge of the facts comprising probable cause, but the Court brushed these claims aside. It found that the witness' knowledge of the facts supporting probable case was not based on hearsay as he himself assisted the

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46 446 Phil. 838 (2003).
47 G.R. No. 104879, May 6, 1994, 232 SCRA 249.
48 Oscar M. Herrera, *Remedial Law*, Volume IV, Rules 110-127 (2007 ed.), p. 1124.
49 G.R. No. 89393, January 25, 1991, 193 SCRA 373, 382.
50 *Supra* note 34, at 421.

accused in handling the contraband, and that the issuing judge extensively questioned this witness.

In *People v. Torres*,[51] the accused assailed the validity of the search conducted pursuant to a search warrant as it was supposedly made without the presence of at least two witnesses, but the Court found otherwise, citing the testimonies taken during the trial contradicting this claim. A similar objection was made by the accused in *People v. Nuñez*,[52] but the Court noted the testimony of the officer conducting the search who stated that it was made in the presence of the accused himself and two *barangay* officials.

The rulings in *Malaloan v. Court of Appeals*,[53] *People v. Court of Appeals*,[54] and *People v. Correa*[55] are without significance to the present case. As mentioned, *Malaloan v. Court of Appeals* involved the question of where motions to quash search warrants should be filed, and the guidelines set therein was applied in *People v. Court of Appeals. People v. Correa*, on the other hand, involved a warrantless search of a moving vehicle.

We reiterate that the requirement to raise objections against search warrants during trial is a procedural rule established by jurisprudence. Compliance or noncompliance with this requirement cannot in any way diminish the constitutional guarantee that a search warrant should be issued upon a finding of probable cause. Ogayon's failure to make a timely objection cannot serve to cure the inherent defect of the warrant. To uphold the validity of the void warrant would be to disregard one of the most fundamental rights guaranteed in our Constitution.

In the light of the nullity of Search Warrant No. AEK 29-2003, the search conducted on its authority is likewise null and void. Under the Constitution, any evidence obtained in violation of a person's right against unreasonable searches and seizures shall be inadmissible for any purpose in any proceeding.[56] With the inadmissibility of the drugs seized

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51 G.R. No. 170837, September 12, 2006, 501 SCRA 591.
52 G.R. No. 177148, June 30, 2009, 591 SCRA 394.
53 *Supra* note 47.
54 G.R. No. 126379, June 26, 1998, 353 Phil. 604-605.
55 G.R. No. 119246, January 30, 1998, 285 SCRA 679.
56 CONSTITUTION, Article III, Section 3(2).

from Ogayon's home, there is no more evidence to support his conviction. Thus, we see no reason to further discuss the other issues raised in this petition.

WHEREFORE, under these premises, the Decision dated March 31, 2009, and the Resolution dated July 10, 2009, of the Court of Appeals in CA-G.R. CR No. 31154 are **REVERSED** and **SET ASIDE**. Accordingly, the judgment of conviction, as stated in the joint judgment dated September 5, 2007, of the Regional Trial Court, Branch 12, Ligao City, Albay, in Criminal Case Nos. 4738 and 4739, is **REVERSED** and **SET ASIDE**, and petitioner **HONESTO OGAYON *y* DIAZ** is **ACQUITTED** of the criminal charges against him for violation of Republic Act No. 9165.

SO ORDERED.

ARTURO D. BRION
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII 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 assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES A. SERENO
Chief Justice