Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

RAFAEL ZAFE III y SANCHEZ a.k.a. "PAIT" and CHERRYL ZAFE y CAMACHO, Petitioners,	**G.R. No. 226993** Present:
-versus-	LEONEN, *Chairperson,* HERNANDO, INTING, DELOS SANTOS and LOPEZ, J., *JJ.*
PEOPLE OF THE PHILIPPINES, Respondent.	**Promulgated:** May 3, 2021 MisOccBatt

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DECISION

LEONEN, *J.*:

The fundamental right against unreasonable search and seizure must remain effective despite the need to protect a confidential informant's identity. While a judge's determination of probable cause in issuing a search warrant will generally be upheld if supported by substantial basis, the existence of such basis requires proof on record that the issuing judge "personally and thoroughly examined the applicant and his witnesses."[1]

This is a Petition for Review on Certiorari[2] assailing the Decision[3] of the Court of Appeals which affirmed the Regional Trial Court Order[4]

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1 *Ogayon v. People*, 768 Phil. 272, 285 (2015) [Per J. Brion, Second Division].

2 *Rollo*, pp. 12–37.

3 Id. at 39–47. The Decision in CA-G.R. SP No. 143148 dated August 31, 2016 was penned by Associate Justice Romeo F. Barza (Acting Chair), and concurred in by Associate Justices Leonicia R. Dimagiba and Agnes Reyes-Carpio of the Special First Division of the Court of Appeals, Manila.

4 Id at. 71–74. The Order in Criminal Case No. 5524-5525 dated September 2, 2015 was penned by Acting Presiding Justice Lelu P. Contreras of the Regional Trial Court of Virac, Cantanduanes, Branch

denying the Motion for Production of Records of Examinations of Applicant and Witnesses in Connection with the Application for Search Warrant of Rafael Zafe III (Rafael) and Cherryl Zafe (Cherryl).

On June 24, 2015, Presiding Judge Lelu P. Contreras (Judge Contreras) of Regional Trial Court Branch 42, Virac, Catanduanes, issued Search Warrant No. 2015-45,[5] for violation of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs of 2002 which provides:

> It appearing to the satisfaction of the undersigned, after examining under oath the applicant, PO1 Domingo Bilaos, Intel Operative of San Andres Municipal Police Station, San Andres, Catanduanes, and one (1) confidential informant, that there are good and sufficient reasons to believe that RAFAEL ZAFE a.k.a. "Pait" has in his possession and control undetermined volume of illegal drugs known as "shabu" being kept inside his residence located at Barangay Sta. Cruz, San Andres, Catanduanes, which is being used as a den.
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> You are, hereby, commanded to make an immediate search at any time of day and night, of the body of said person and his residence at Barangay Sta. Cruz, San Andres, Catanduanes, and its premises, and take possession of said dugs, drug paraphernalia and equipment and bring them to the undersigned to be dealt with as the law directs.
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> . . . .

Officers of the San Andres Municipal Police Station served the warrant on the same day. During the search and seizure, the police operatives were able to recover drugs, drug paraphernalia, and 10 pieces of live ammunition for an M-16 rifle. Rafael and Cherryl were arrested[6] and then brought for an inquest on June 16, 2015.[7] The inquest prosecutor found probable cause to prosecute them for violations of Article II, Section 12 of Republic Act No. 9165,[8] and Section 28(g) of Republic Act No. 10591.[9] The

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42.

5 *Rollo*, p.77.

6 Id. at 40.

7 Id.

8 Republic Act No. 9165 (2002), sec. 12 provides: SECTION 12. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs.* - The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: *Provided*, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the purposes enumerated in the preceding paragraph shall be *prima facie* evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous drug and shall be presumed to have violated Section 15 of this Act.

9 Republic Act No. 10591 (2013), sec. 28(g) provides:
SECTION 28. *Unlawful Acquisition, or Possession of Firearms and Ammunition.* – The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

. . . .

(g) The penalty *of prision mayor* in its minimum period shall be imposed upon any person who shall

Informations read:

> Criminal Case No. 5524
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> "That on or about 05:15 in the morning of June 25, 2015 at Brgy. Sta. Cruz, Municipality of San Andres, Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the above named accused, living together as husband and wife, confederating and mutually helping one another, without authority of the law, did then and there willfully, unlawfully and feloniously, have in their possession, control and custody the following paraphernalia fit or intended or used for smoking or consuming, administering, injecting, ingesting or introducing dangerous drugs into the body, custody and control the following, to wit: improvised tooter, aluminum foils and unsealed plastic sachets with residue to the damage and prejudice of the public welfare."
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> CONTRARY TO LAW.[10]
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> . . . .
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> Criminal Case No. 5525
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> "That on or about 05:15 in the morning of June 25, 2015 at Brgy. Sta. Cruz, [M]unicipality of San Andres, Province of Catanduanes, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating and mutually aiding with each other, without authority of the law, did then and there, willfully, unlawfully and feloniously, have in their possession, custody and control, ten (10) pcs. of M16 live ammunitions, to the damage and prejudice of the public welfare."
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> CONTRARY TO LAW.[11]

When counsels for the accused found that the search warrant's supporting documents were not part of the court records, they filed a Motion for Production of Records of Examinations of Applicant and Witnesses (Motion for Production). They requested records of the issuing judge's examinations of the applicant and their witnesses if any. The Motion recommended that the names and personal circumstances of the examined witnesses be redacted, as may be necessary to protect the witnesses' identities.[12] The prosecution manifested its agreement to the request and the omission of the witnesses' identities.

The trial court denied the Motion in a September 2, 2015 Order,[13] explaining:

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unlawfully acquire or possess ammunition for a small arm or Class-A light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a small arm, the former violation shall be absorbed by the latter.

10 *Rollo*, p. 81–82.

11 Id. at 83–84.

12 Id. at 85–86.

13 Id. at 73–74

> The undersigned always personally examines, under oath, the applicant of the search warrant and his/her witnesses, put their testimonies in writing and attaches it in the record of the respective search warrant. Her personal examination is not merely routinary or pro forma but probing and exhaustive.
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> While it is true that an accused, like Rafael Zafe III and Cherryl Zafe, is afforded the right to information on matters of public concern and production of evidence in his/her behalf, it is equally true that the State's inherent police power includes the power of promoting the public welfare by restraining and regulating the use of liberty and property and the promotion of public interest. . .
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> . . . .
>
> The position of the undersigned in not disclosing the identity of the witnesses in the application for search warrant and not attaching the searching questions and answers of the applicant and his witness/es lest it will endanger their life and those of their families, finds support in the draft of the Freedom of Information Bill. . .
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> . . . .
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> WHEREFORE, the Motion for Production of Records of Examinations of Applicant and Witnesses in Connection with the Application for Search Warrant No. 2015-45 is, hereby, DENIED for lack of merit.
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> If, despite the assurance of the undersigned that she conducted searching questions on the applicant and his witness, the accused is not yet convinced, the undersigned can show him the records of Search Warrant No. 2015-45, but at a certain distance so that he could not read the contents of the affidavits and the searching questions and answers of the applicant and his witness.
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> SO ORDERED.[14]

Rafael and Cherryl moved for reconsideration of this Order but were denied.[15] The trial court found "no valid reason for the accused to insist on reading the contents of the affidavits of the applicant and his witness, as well as the searching questions and answers during their examination."[16]

On December 1, 2015, Rafael and Cherryl filed a Petition for Certiorari, Mandamus, and Prohibition (with Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction)[17] before the Court of Appeals. They alleged that the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction when: (1) it failed to perform a ministerial duty specifically enjoined by the Rules; (2) it issued

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[14] Id. at 73–74.
[15] Id. at 75–76.
[16] Id. at 76.
[17] Id. at 48–70

the Order dated September 2, 2015; and (3) it subsequently denied petitioner's motion for reconsideration of the subject Order.[18]

The Court of Appeals denied the Petition,[19] affirming the trial court's denial of the Motion for Production in order to protect the identity of the confidential informants and witnesses presented by the police. The Court of Appeals agreed that merely deleting the names and personal circumstances of the witnesses would not ensure their safety. It was also convinced that Judge Contreras validly issued the search warrant after thoroughly examining the witnesses. It held that Judge Contreras's finding of probable cause was affirmed when drug paraphernalia and live ammunition were found during the search warrant's implementation.[20] In any event, the Court of Appeals reasoned that the motion was denied based on the trial court's own appreciation of facts. As the reviewing court, it was required to defer to the trial court's finding of probable cause when petitioners failed to present substantial evidence to the contrary.[21]

Thus, Rafael and Cherryl filed this Petition for Review on Certiorari,[22] assailing the Court of Appeals' denial of their Petition for Certiorari and praying that criminal proceedings be enjoined.

Petitioners argue that the trial court's refusal to perform its ministerial duties deprived them of their opportunity to examine the prosecution's evidence and violated their right to public information and due process of law. Petitioners argue that the complainant's affidavits and their witnesses are insufficient bases for probable cause. Rather, depositions in writing should be attached to the record for the judge to determine probable cause and to hold the deponents liable for perjury, if warranted. Without these depositions in the record, the search warrant was allegedly defective.[23]

Petitioners also cite prior cases when judges were found to have erred in appreciating probable cause. The records of witness interrogations may reveal that the witnesses do not have personal knowledge of the accused's commission of a crime. The records may also reveal that judges failed to propound sufficiently searching questions. According to petitioners, they must be furnished with the search warrant application's supporting documents in order to determine whether these defects attended the issuance of the search warrant.[24]

Moreover, petitioners assert their right to examine the evidence

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18 Id. at 53.
19 Id. at 39–47.
20 Id. at 43–44.
21 Id. at 45.
22 Id. at 12–37.
23 Id. at 22–23.
24 Id. at 23–24.

against them to intelligently prepare for trial. They allege that the Motion for Production was akin to the modes of discovery in civil procedure, which should impose a duty upon the prosecution to produce and permit inspection of their evidence. Petitioners point out that the prosecution was even willing to provide the documents requested, subject to redacting the personal circumstances of the witnesses involved.[25] Finally, petitioners allege that the denial of their Motion for Production violated their constitutional right to information.[26]

Respondent People of the Philippines, through the Office of the Solicitor General, argues in its Comment[27] that the depositions of witnesses should only form part of search warrant application records and not of court records. Search warrant records are allegedly "not readily available for public scrutiny," and its production is subject to the trial court's discretion. Therefore, it says that the trial court validly denied the Motion for Production.[28]

Respondent argues further that the presumption of regularity in the performance of official duties was never sufficiently controverted. Since the warrant's implementation resulted in the seizure of contraband, respondent argues that Judge Contreras's issuance of the warrant was ultimately proper. Thus, respondent asserts that the Court of Appeals correctly deferred to the trial court's finding of probable cause, there being no substantial argument or evidence to the contrary.[29]

Petitioners filed a Manifestation in lieu of Reply[30] and a subsequent Manifestation requesting that this Court take judicial notice of two Court of Appeals decisions pending the resolution of this case.[31] The decisions were docketed as CA-G.R. SP No. 143120 captioned as *Pedro Urbano, Jr. a.k.a. "TARUC" v. Hon. Leila P. Contreras, and the People of the Philippines,*[32] and CA-GR SP No. 143147 captioned as *Dennis Sarmiento a.k.a. "ONG" v. Hon. Lelu P. Contreras and the People of the Philippines.*[33] Both rulings involved motions for production of supporting records of search warrants issued by Judge Contreras.

In both cases, the respective accused moved for the production of the documents attached to search warrant applications, raising their right to

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25 Id. at 25–26
26 Id. at 27
27 Id. at 131–141
28 Id. at 134–135.
29 Id. at 135–136.
30 Id. at 142–146
31 Id. at 147–153.
32 Id. at 156–168. The Decision dated April 21, 2017 was penned by Associate Justice Pedro B. Corales, and concurred in by Associate Justices Amy C. Lazaro-Javier ([Chair], now a member of this Court) and Ramon A. Cruz of the Special Eight Division of the Court of Appeals, Manila.
33 Id. at 171–181. The Decision dated April 21, 2017 was penned by Associate Justice Danton Q. Bueser, and concurred in by Associate Justices Apolinario D. Bruselas, Jr. (Chair) and Marie Christine Azcarraga-Jacob of the Thirteenth Division of the Court of Appeals, Manila.

information and to have evidence adduced in their behalf.[34] Their Motions for Production were both denied by Judge Contreras, citing "the promotion of general welfare, maintenance of peace and order, protection of life, liberty and property of the public" as paramount considerations.[35] However, the Court of Appeals reversed the trial court's denial of the Motions for Production, emphasizing the accused's rights to due process and the presumption of innocence.[36] This Court noted the Manifestation in a subsequent Resolution.[37]

We now resolve the following issues:

First, whether or not the Court of Appeals erred in denying due course to the Petition for Certiorari and affirming the Regional Trial Court's refusal to furnish petitioners Zafe and Cherryl with the search warrant's supporting documents. This involves the issue of whether or not the need to protect the identities of confidential informants, if any, would negate the due process rights of the accused;[38] and

Second, whether or not a temporary restraining order should have been issued to enjoin criminal proceedings before the trial court.[39]

We find the Petition meritorious.

The Court of Appeals erred when it denied the Petition for Certiorari. It should have found that the Regional Trial Court committed grave abuse of discretion when it denied the Motion for Production, disregarding judicial precedents.

I

The Constitution guarantees certain rights to a person facing criminal prosecution. The most fundamental of these rights is the presumption of innocence in favor of the accused:

> SECTION 14. (1) No person shall be held to answer for a criminal offense without *due process of law*.
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> (2) *In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved*, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to

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34 Id at 157–158 and 173–174.
35 Id.
36 Id. at 166–167 and 178–179
37 Id. at 182–183.
38 Id. at 18
39 Id.

> meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.[40] (Emphasis supplied)

All criminal prosecutions proceed from this presumption of innocence, which may "only be defeated by proof beyond reasonable doubt."[41] In *People v. Luna*,[42] this Court emphasized that "the overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains reasonable doubt as to [their] guilt."[43] Thus, the prosecution bears the burden of proving the accused's guilt beyond reasonable doubt, and the courts must approach every criminal case with the mindset that the accused is not guilty unless proven otherwise.

These same considerations underscore the right to be secure from unreasonable searches and seizures. In *People v. Aruta*,[44] searches and seizures by State agents were deemed "normally unreasonable" unless done pursuant to a warrant, as provided by Article III, Section 2 of the Constitution.

> 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 supplied)

The right against unreasonable search and seizure is a facet of the right to privacy,[45] which guards against unreasonable State intrusion into its people's private lives.[46] While exceptions for warrantless searches and seizures exist, this case involves a search done pursuant to a warrant. Thus, the warrant's issuance and subsequent implementation must comply with the necessary requirements for its validity. Particularly, the issuing judge must have made a valid determination of probable cause.

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40 CONST., Art. III, Sec. 14.

41 *People v. Segundo*, 814 Phil. 697, 716 (2017) [Per J. Leonen, Third Division] citing *People v. Garcia y Ruiz*, 599 Phil. 416, 426 (2009) [Per J. Brion, Second Division].

42 828 Phil. 671 (2018) [Per J. Caguiao, Second Division].

43 Id. at 696–697.

44 351 Phil. 868 (1998) [Per J. Romero, Second Division].

45 *Veridiano v. People*, 810 Phil. 642, 655 (2017) [Per J. Leonen, Second Division], citing *People v. Cogaed*, 740 Phil. 212, 220 (2014) [Per J. Leonen, Third Division].

46 *Lapi v. People*, G.R. No. 210731, February 13, 2019 < https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64967> [Per J. Leonen, Third Division].

People v. Castillo[47] discusses the two modes of determining probable cause:

> There are two kinds of determination of probable cause: executive and judicial. *The executive determination of probable cause is one made during preliminary investigation. It is a function that properly pertains to the public prosecutor who is given a broad discretion to determine whether probable cause exists and to charge those whom he believes to have committed the crime as defined by law and thus should be held for trial.* Otherwise stated, such official has the quasi-judicial authority to determine whether or not a criminal case must be filed in court. Whether or not that function has been correctly discharged by the public prosecutor, i.e., whether or not he has made a correct ascertainment of the existence of probable cause in a case, is a matter that the trial court itself does not and may not be compelled to pass upon.
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> *The judicial determination of probable cause, on the other hand, is one made by the judge to ascertain whether a warrant of arrest should be issued against the accused.* The judge must satisfy himself that based on the evidence submitted, there is necessity for placing the accused under custody in order not to frustrate the ends of justice. If the judge finds no probable cause, the judge cannot be forced to issue the arrest warrant.[48] (Emphasis supplied, citations omitted)

Securities and Exchange Commission v. Price Richardson Corporation[49] teaches that Article III, Section 2 of the Constitution provides the standard for judicial determination of probable cause:

> *Judicial determination of probable cause is in consonance with Article III, Section 2 of the Constitution*:
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> ARTICLE III
> Bill of Rights
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> . . . .
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> 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.
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> Accordingly, a judge may immediately dismiss the case if he or she finds that there is no probable cause to issue a warrant of arrest based on the records. To protect the accused's right to liberty, the trial court may dismiss an information based on "its own independent finding of lack of

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47 607 Phil. 754 (2009) [Per J. Quisumbing, Second Division].
48 Id. at 764–765.
49 814 Phil. 589 (2017) [Per J. Leonen, Second Division].

> probable cause" when an information has already been filed and the court is already set to determine probable cause to issue a warrant of arrest.[50] (Citations omitted; Emphasis supplied)

Thus, a judge's determination of probable cause, while discretionary, must be "determined personally." *Soliven v. Makasiar*[51] deemed this requirement satisfied even if the issuing judge did not "personally examine the complainant and his witnesses."[52] However, the issuing judge must still personally examine the applicant's supporting documents, or require the submission of additional evidence, if necessary. Ultimately, the issuing judge must satisfy themself of the existence of probable cause through their own examination of the facts presented:

> What the Constitution underscores is *the exclusive and personal responsibility of the issuing judge to satisfy himself [of] the existence of probable cause*. In satisfying himself of the existence of probable cause for the issuance of a warrant of arrest, the judge is not required to personally examine the complainant and his witnesses. Following established doctrine and procedure, he shall: (1) *personally evaluate the report and the supporting documents submitted by the fiscal regarding the existence of probable cause* and, on the basis thereof, issue a warrant of arrest; or (2) if on the basis thereof he finds no probable cause, *he may disregard the fiscal's report and require the submission of supporting affidavits* of witnesses to aid him in arriving at a conclusion as to the existence of probable cause.
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> Sound policy dictates this procedure, otherwise judges would be unduly laden with the preliminary examination and investigation of criminal complaints instead of concentrating on hearing and deciding cases filed before their courts.[53] (Citations omitted; Emphasis supplied)

Lim v. Felix[54] applied the ruling in *Soliven* and clarified the extent of the issuing judge's discretion in determining probable cause. In *Lim*, the judge committed a grave error by issuing an arrest warrant based solely on the investigating prosecutor's certification and recommendation on the existence of probable cause. Thus, the judge failed to make "his own personal determination" because he never examined the records used in the certification and recommendation relied upon:

> *The records of the preliminary investigation conducted by the Municipal Court of Masbate and reviewed by the respondent Fiscal were still in Masbate when the respondent Fiscal issued the warrants of arrest against the petitioners. There was no basis for the respondent Judge to make his own personal determination regarding the existence of a probable cause for the issuance of a warrant of arrest as mandated by the Constitution.* He could not possibly have known what transpired in

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50 Id., at 609–610.
51 249 Phil. 394 (1988) [Per Curiam, En Banc].
52 Id at. 399.
53 Id. at 399–400.
54 272 Phil. 122 (1991) [Per J. Gutierrez, Jr. En Banc].

> Masbate as he had nothing but a certification. Significantly, the respondent *Judge denied the petitioners' motion for the transmittal of the records on the ground that the mere certification and recommendation of the respondent Fiscal that a probable cause exists is sufficient for him to issue a warrant of arrest.*
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> *We reiterate the ruling in Soliven v. Makasiar that the Judge does not have to personally examine the complainant and his witnesses.* The Prosecutor can perform the same functions as a commissioner for the taking of the evidence. *However, there should be a report and necessary documents supporting the Fiscal's bare certification. All of these should be before the Judge.*
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> . . . .
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> We reiterate that in making the required personal determination, a Judge is not precluded from relying on the evidence earlier gathered by responsible officers. The extent of the reliance depends on the circumstances of each case and is subject to the Judge's sound discretion. However, *the Judge abuses that discretion when having no evidence before him, he issues a warrant of arrest.*[55] (Citations omitted; Emphasis supplied)

This Court has consistently required adequate evidentiary basis in upholding a judge's finding of probable cause for search warrants or warrants of arrest. In *Allado v. Diokno*,[56] the warrant of arrest was found to have been issued without probable cause because of dubious circumstances surrounding the preliminary investigation and the serious inconsistencies in the documents supporting the arrest warrant's application:

> Clearly, probable cause may not be established simply by showing that a trial judge subjectively believes that he has good grounds for his action. Good faith is not enough. If subjective good faith alone were the test, the constitutional protection would be demeaned and the people would be "secure in their persons, houses, papers and effects" only in the fallible discretion of the judge. *On the contrary, the probable cause test is an objective one, for in order that there be probable cause the facts and circumstances must be such as would warrant a belief by a reasonably discreet and prudent man that the accused is guilty of the crime which has just been committed.* This, as we said, is the standard. Hence, if upon the filing of the information in court the trial judge, after reviewing the information and the documents attached thereto, finds that no probable cause exists must either call for the complainant and the witnesses themselves or simply dismiss the case. There is no reason to hold the accused for trial and further expose him to an open and public accusation of the crime when no probable cause exists.
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> In the case at bench, the undue haste in the filing of the information and the inordinate interest of the government cannot be ignored. From the gathering of evidence until the termination of the

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[55] Id. at 136–137.

[56] 302 Phil. 213 (1994) [Per J. Bellosillo, First Division].

> preliminary investigation, *it appears that the state prosecutors were overly eager to file the case and secure a warrant for the arrest* of the accused without bail and their consequent detention. *Umbal's sworn statement is laden with inconsistencies and improbabilities. Bato's counter-affidavit was considered without giving petitioners the opportunity to refute the same.* The PACC which gathered the evidence appears to have had a hand in the determination of probable cause in the preliminary inquiry as the undated resolution of the panel not only bears the letterhead of PACC but was also recommended for approval by the head of the PACC Task Force. Then petitioners were given the runaround in securing a copy of the resolution and the information against them.[57] (Citations omitted; Emphasis supplied)

Later, *Ho v. People*[58] restated this Court's pronouncement in *Lim* that a judge's sole reliance on an executive determination of probable cause failed to meet their duty to personally determine the same. Rather, the judge must form an independent opinion on the existence of probable cause based on a personal examination of the facts on record:

> In the instant case, *the public respondent relied fully and completely upon the resolution of the graft investigation officer* and the memorandum of the reviewing prosecutor, attached to the information filed before it, *and its conjecture that the Ombudsman would not have approved their recommendation without supporting evidence*. It had no other documents from either the complainant (the Anti-Graft League of the Philippines) or the People from which to sustain its own conclusion that probable cause exists. *Clearly and ineluctably, Respondent Court's findings of "the conduct of a due and proper preliminary investigation" and "the approval by proper officials clothed with statutory authority" are not equivalent to the independent and personal responsibility required by the Constitution and settled jurisprudence. At least some of the documentary evidence mentioned* (Contract of Affreightment between National Steel Corporation and National Marine Corporation, the COA-NSC audit report, and counter-affidavits of Rolando Narciso and NMC officials), *upon which the investigating officials of the Ombudsman reportedly ascertained the existence of probable cause, should have been physically present before the public respondent for its examination*, to enable it to determine on its own whether there is substantial evidence to support the finding of probable cause. But it stubbornly stood pat on its position that it had essentially complied with its responsibility. Indisputably, however, the procedure it undertook contravenes the Constitution and settled jurisprudence. Respondent Court palpably committed *grave abuse of discretion in ipso facto issuing the challenged warrant of arrest* on the sole basis of the prosecutor's findings and recommendation; and *without determining on its own the issue of probable cause based on evidence other than such bare findings and recommendation.*[59] (Citations omitted; Emphasis supplied)

Therefore, the existence of factual basis supporting a judicial determination of probable cause is a crucial requirement. *Ogayon v.*

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57 Id. at 235–236.

58 345 Phil. 597 (1997) [Per J. Panganiban, En Banc].

59 Id. at 613–614.

People,[60] clarifying *People v. Tee*,[61] explained that while the failure to attach the depositions of witnesses to the records of a search warrant application will not necessarily invalidate the search warrant, there must at least be "evidence on record showing what testimony was presented":[62]

> 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, but was elevated as part of the guarantee of the right under the 1935 Constitution. *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 witnesses are insufficient to establish the factual basis for probable cause. *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.*
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> 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*, we declared that —
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> *[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.*
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> 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.*[63] (Citations omitted, emphasis supplied)

There must at least be some record of the facts considered in determining probable cause. As held in *Lim*, "the warrant issues not on the strength of the certification standing alone but because of the records which sustain it."[64] Thus, the validity of a judge's finding of probable cause rests on the adequacy of the factual basis that supports it. *Ogayon* teaches that "the existence of probable cause . . . is central to the guarantee of Section 2,

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60 768 Phil. 272, 285 (2015) [Per J. Brion, Second Division].
61 443 Phil. 521, 539 (2003) [Per J. Quisumbing, En Banc].
62 *Ogayon v. People*, 768 Phil. 272, 285 (2015) [Per J. Brion, Second Division].
63 Id. at 284–285.
64 Id. at 135.

Article III of the Constitution[,]"[65] while *Veridiano v. People*[66] clarifies the acceptable scope of inquiry into the validity of search warrants:

> There is no hard and fast rule in determining when a search and seizure is reasonable. *In any given situation, "[w]hat constitutes a reasonable . . . search . . . is purely a judicial question,"* the resolution of which depends upon the unique and distinct factual circumstances. This *may involve an inquiry into "the purpose of the search or seizure, the presence or absence of probable cause, the manner in which the search and seizure was made, the place or thing searched, and the character of the articles procured."*[67] (Citations omitted; Emphasis supplied)

Questioning a search warrant's validity includes examining the issuing judge's factual basis in finding probable cause. Thus, allowing access to this factual basis is consistent, not only with the guarantee against unreasonable searches and seizures, but also with the accused's right to due process.

II

Here, Judge Contreras refused to furnish petitioners with copies of the search warrant application's supporting documents, claiming regularity in the performance of her functions:

> The undersigned always personally examines, under oath, the applicant of the search warrant and his/her witnesses, put their testimonies in writing and attaches it in the record of the respective search warrant. Her personal examination is not merely routinary or pro forma but probing and exhaustive.[68]

However, *People v. Mendoza*[69] discusses that the presumption of regularity may not be sustained against the rights of the accused.

> We have usually presumed the regularity of performance of their official duties in favor of the members of buy-bust teams enforcing our laws against the illegal sale of dangerous drugs. Such presumption is based on three fundamental reasons, namely: first, innocence, and not wrong-doing, is to be presumed; second, an official oath will not be violated; and, third, a republican form of government cannot survive long unless a limit is placed upon controversies and certain trust and confidence reposed in each governmental department or agent by every other such department or agent, at least to the extent of such presumption. *But the presumption is rebuttable by affirmative evidence of irregularity or of any failure to perform a duty. Judicial reliance on the presumption despite any hint of irregularity in the procedures undertaken by the agents of the*

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[65] Id. at 283.
[66] 810 Phil. 642 (2017) [Per J. Leonen, Second Division].
[67] Id. at 656-657.
[68] *Rollo*, at 128.
[69] 736 Phil. 749, 759–770 (2014) [Per J. Bersamin, First Division].

law will thus be fundamentally unsound because such hint is itself affirmative proof of irregularity.

The presumption of regularity of performance of official duty stands only when no reason exists in the records by which to doubt the regularity of the performance of official duty. And even in that instance the presumption of regularity will not be stronger than the presumption of innocence in favor of the accused. Otherwise, a mere rule of evidence will defeat the constitutionally enshrined right to be presumed innocent.[70] (Citations omitted; Emphasis supplied)

The constitutional guarantee against unreasonable searches and seizures rests upon a valid determination of probable cause, which requires adequate factual basis.[71] While the pursuit of perceived necessities in the battle against dangerous drugs has often compromised the fundamental right against unreasonable search and seizure,[72] the absence of any record of how the issuing judge determined probable cause is inconsistent with the regular performance of her duties and contradicts her assurance of a "probing and exhaustive"[73] examination of the witnesses. Further, her offer to "show petitioners the records, but at a certain distance so that they could not read the contents of the affidavits" casts serious doubt on her findings.

Neither is there merit to the issuing judge's invocation of "the State's inherent police power" as the basis for denying petitioner's request to examine the search warrant's supporting documents:

While it is true that an accused, like Rafael Zafe III and Cherryl Zafe, is afforded the right to information on matters of public concern and production of evidence in his/her behalf, it is equally true that the State's inherent police power includes the power of promoting the public welfare by restraining and regulating the use of liberty and property and the promotion of public interest. . .

. . . .

Between the right of the accused to information and production of evidence in his behalf, on one hand, and the promotion of the general welfare, maintenance of peace and order, protection of life, liberty and property of the public on the other hand, the latter is of paramount importance.[74]

Restrictions on fundamental rights, such as the right against unreasonable search and seizure, should be subject to strict scrutiny.[75] In a

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70 Id. at 769–770.

71 *Ogayon v. People*, 768 Phil. 272 (2015) [Per J. Brion, Second Division].

72 *People v. Cogaed*, 740 Phil. 212, 220 (2014) [Per J. Leonen, Third Division].

73 *Rollo*, p.128.

74 Id. at at 72–73.

75 *Samahan ng mga Progresibong Kabataan v. Quezon City*, 815 Phil. 1067, 1113 (2017) [Per J. Perlas-Bernabe, En Banc]; *Kabataan Party-List v. Commission on Elections*, 775 Phil. 523, 551 (2015) [Per J. Perlas-Bernabe, En Banc].

separate concurring opinion, this Court discussed the extent to which the State may restrict fundamental freedoms under a test of strict scrutiny:

> *Strict scrutiny applies when what is at stake are fundamental freedoms or what is involved are suspect classifications. It requires that there be a compelling state interest and that the means employed to effect it are narrowly-tailored, actually-not only conceptually-being the least restrictive means for effecting the invoked interest.* Here, it does not suffice that the government contemplated on the means available to it. Rather, *it must show an active effort at demonstrating the inefficacy of all possible alternatives.* Here, it is required to not only explore all possible avenues but to even debunk the viability of alternatives so as to ensure that its chosen course of action is the sole effective means. To the extent practicable, this must be supported by sound data gathering mechanisms.
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> . . . .
>
> *Cases involving strict scrutiny innately favor the preservation of fundamental rights and the non-discrimination of protected classes.* Thus, in these cases, *the burden falls upon the government to prove that it was impelled by a compelling state interest and that there is actually no other less restrictive mechanism for realizing the interest that it invokes*[.][76] (Citations omitted; Emphasis supplied)

The prosecution failed to prove that denying petitioners access to the search warrant records would be in line with meeting a compelling state interest and would be the least restrictive of petitioners' right against unreasonable search and seizure. The prosecution even agreed to the release of the search warrant records, provided that sensitive information on their confidential informant would be redacted.[77] It was grave error for Judge Contreras to deny petitioners access to records that would have aided the petitioners in asserting their fundamental rights.

In any event, the State's interest in protecting the identities of confidential informants cannot outweigh the constitutional rights of the accused. In *People v. Otico*,[78] while this Court ruled for the prosecution despite the non-presentation of a confidential informant, it reiterated its concerns on the use of confidential informants in narcotics operations:

> Indeed, while the assistance of confidential informants or civilian agents is acknowledged to be invaluable, the Court is nevertheless aware of the pitfalls of the confidential informant system. The Court's observations in *People v. Doria* are reiterated, *viz.*:
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> Though considered essential by the police in enforcing vice legislation, *the confidential informant system breeds abominable abuse.* Frequently, a person who accepts payment from the police in the

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[76] J. Leonen, Separate Concurring Opinion, *Samahan ng mga Progresibong Kabataan v. Quezon City*, 815 Phil. 1067, 1147-1148 (2017) [Per J. Leonen, En Banc].

[77] *Rollo*, p. 87.

[78] 832 Phil. 992 (2018) [Per J. Caguioa, Second Division].

> apprehension of drug peddlers and gamblers also accept payment from these persons who deceive the police. The informant himself may be a drug addict, pickpocket, pimp, or other petty criminal. For whatever noble purpose it serves, the spectacle that government is secretly mated with the underworld and uses underworld characters to help maintain law and order is not an inspiring one. Equally odious is the bitter reality of dealing with unscrupulous, corrupt and exploitative law enforcers. *Like the informant, unscrupulous law enforcers' motivations are legion — harassment, extortion, vengeance, blackmail, or a desire to report an accomplishment to their superiors.* This Court has taken judicial notice of this ugly reality in a number of cases where we observed that it is a common *modus operandi* of corrupt law enforcers to prey on weak and hapless persons, particularly unsuspecting provincial hicks. *The use of shady underworld characters as informants, the relative ease with which illegal drugs may be planted in the hands or property of trusting and ignorant persons, and the imposed secrecy that inevitably shrouds all drug deals have compelled this Court to be extra-vigilant in deciding drug cases.* Criminal activity is such that stealth and strategy, although necessary weapons in the arsenal of the police officer, become as objectionable police methods as the coerced confession and the unlawful search.[79] (Citations omitted; Emphasis in the original)

Courts must be particularly vigilant when tips from a confidential informant form the only basis for the charges against an accused. The prosecution's discretion in relying on confidential informants should always be tempered by the fundamental constitutional rights of the accused:

> Be that as it may, the Court is also cognizant of the fact that the practice of planting evidence for extortion, as a means to compel one to divulge information or merely to harass witnesses is not uncommon. *By the very nature of anti-narcotics operations, with the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great. Hence, courts must be extra vigilant in trying drug charges lest an innocent person be made to suffer the unusually severe penalties for drug offenses.*[80] (Citations omitted; Emphasis supplied)

Here, petitioners should have been given the opportunity to examine the basis for their arrest and subsequent criminal prosecution. This is the essence of due process constitutionally guaranteed to the accused.

III

As regards the petitioners' prayer for injunctive relief, *Bank of the Philippine Islands v. Hontanosas, Jr.*[81] discusses when criminal proceedings may be enjoined, as an exception to the general rule:

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79 Id. at 1003-1004.

80 *People v. Cruz*, 301 Phil. 770, 774–775 (1994) [Per J. Regalado, Second Division].

81 737 Phil 38 (2014) [Per J. Bersamin, First Division].

> *As a general rule, the courts will not issue writs of prohibition or injunction – whether preliminary or final – in order to enjoin or restrain any criminal prosecution.* But there are extreme cases in which exceptions to the general rule have been recognized, including: (1) when the injunction is necessary to afford adequate protection to the constitutional rights of the accused; (2) when it is necessary for the orderly administration of justice or to avoid oppression or multiplicity of actions; (3) when there is a prejudicial question that is sub judice; *(4) when the acts of the officer are without or in excess of authority;* (5) when the prosecution is under an invalid law, ordinance or regulation; (6) when double jeopardy is clearly apparent; (7) when the court has no jurisdiction over the offense; (8) when it is a case of persecution rather than prosecution; (9) when the charges are manifestly false and motivated by the lust for vengeance; and (10) when there is clearly no prima facie case against the accused and a motion to quash on that ground has been denied.[82] (Citations omitted; Emphasis supplied)

While petitioners' rights would generally have been protected by the timely provision of the search warrant records, the glaring defects on the face of Search Warrant No. 2015-45, the evident deprivation of the petitioners' right to due process, and the delay in the resolution of their cases independent of their actions, merit the dismissal of the criminal charges instead of an injunction on the criminal proceedings.

Paper Industries Corporation of the Philippines v. Asuncion[83] provides the requirements of a valid search warrant:

> More simply stated, the requisites of a valid search warrant are: (1) probable cause is present; (2) such presence is determined personally by the judge; (3) the complainant and the witnesses he or she may produce are personally examined by the judge, in writing and under oath or affirmation; (4) the applicant and the witnesses testify on facts personally known to them; and (5) the warrant specifically describes the place to be searched and the things to be seized.[84] (Citations omitted)

Microsoft v. Maxicorp, Inc.[85] then provides the degree of specificity required in a search warrant's description of the place to be searched and things to be seized:

> *A search warrant must state particularly the place to searched and the objects to be seized.* The evident purpose for this requirement is to limit the articles to be seized only to those particularly described in the search warrant. This is a protection against potential abuse. *It is necessary to leave the officers of the law with no discretion regarding*

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82 Id. at 59.
83 366 Phil. 717 (1999) [Per J. Panganiban, Third Division].
84 Id at 731.
85 481 Phil. 550 (2004) [Per J. Carpio, First Division].

> *what articles they shall seize, to the end that no unreasonable searches and seizures be committed.*
>
> In addition, under Section 4, Rule 126 of the Rules of Criminal Procedure, *a search warrant shall issue "in connection with one specific offense."* The articles described must bear a direct relation to the offense for which the warrant is issued. Thus, this rule requires that the warrant must state that the articles subject of the search and seizure are used or intended for use in the commission of a specific offense.[86] (Citations omitted; Emphasis supplied)

Vallejo v. Court of Appeals[87] further emphasizes the need to preclude the implementing officers from exercising any form of discretion in executing the search warrant:

> However, the requirement that search warrants shall particularly describe the things to be seized makes general searches under them impossible and prevents the seizure of one thing under a warrant describing another. As to what is to be taken, *nothing is left to the discretion of the officer executing the warrant.* Thus, *the specific property to be searched for should be so particularly described as to preclude any possibility of seizing any other property.*[88] (Citations omitted; Emphasis supplied)

Search Warrant No. 2015-45 failed to meet these standards. While the search warrant refers to petitioner's "residence located at Barangay Sta. Cruz, San Andres, Catanduanes, which is being used as a den,"[89] the actual implementation of the warrant confused the implementing officers as to the scope of the premises to be searched. As noted in the Regional Trial Court Order dated September 30, 2015:

> In the instant Motion, accused, through counsel, insisted that there is a need for him to "read the contents of the affidavits as well as the searching questions and answers of the applicant and his witnesses . . . especially that *when the police officers arrived to implement the search warrant one of them declared in vernacular, to wit: "AH TULO PALAN SO ROOMI" as if the number of rooms they knew is less than three (3) only but they were surprised that it was actually three (3) and that the house searched is not only "his residence"* as mentioned in the search warrant which is allegedly being used as a den, *for spouses Rafael and Cherryl, including their two (2) children are only occupying (1) room of the subject house, the two (2) other rooms are being occupied separately by Rafael's mother and his sibling together with her spouse and three (3) children.*[90] (Emphasis supplied)

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86 Id. at 568-569.
87 471 Phil. 670 (2004) [Per J. Callejo, Sr., Second Division].
88 Id. at 687.
89 *Rollo*, p.77.
90 Id. at 75–76.

While the trial court reasoned that the police officers' surprise did not diminish the probable cause that petitioners were in possession of illegal substances,[91] the constitutional safeguard against unreasonable search and seizure requires the search warrant to describe the place to be searched with particularity:

> In the present case, the assailed search warrant failed to described the place with particularity. *It simply authorizes a search of "the aforementioned premises," but it did not specify such premises. The warrant identifies only one place and that is the "Paper Industries Corporation of the Philippines, located at PICOP Compound, Barangay Tabon, Bislig[,] Surigao del Sur." The PICOP compound, however, is made up of "200 offices/buildings, 15 plants, 84 staff houses, 1 airstrip, 3 piers/wharves, 23 warehouses, 6 POL depots/quick service outlets and some 800 miscellaneous structures, all of which spread out over some one hundred fifty-five hectares."* Obviously, the warrant gives the police officers unbridled and thus illegal authority to search all the structures found inside the PICOP compound.[92] (Citations omitted; Emphasis supplied)

While the size of petitioners' residence is significantly smaller than the compound in *Paper Industries Corporation Philippines v. Asuncion*,[93] the lack of specificity in Search Warrant No. 2015-45 left the scope of the search to the discretion of the implementing officers. That the officers eventually recovered supposed contraband from the premises does not cure this defect. *Paper Industries Corporation* is again instructive:

> Moreover, *the fact that the raiding police team knew which of the buildings or structures in the PICOP Compound housed firearms and ammunitions did not justify the lack of particulars of the place* to be searched. Otherwise, *confusion would arise regarding the subject of the warrant* — the place indicated in the warrant or the place identified by the police. *Such conflict invites uncalled for mischief or abuse of discretion on the part of law enforcers.*[94] (Citations omitted; Emphasis supplied)

Taken together with the noted absence of records, which supposedly led to the judge's finding of "good and sufficient reasons"[95] to issue the search warrant, Search Warrant No. 2015-45 is void as a general warrant and cannot be the source of any evidence by which petitioners may be prosecuted. As held in *People v. Yanson*:[96]

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91 Id.

92 *Paper Industries Corporation of the Philippines v. Asuncion*, 366 Phil. 717, 737–738 (1999) [Per J. Panganiban, Third Division].

93 366 Phil. 717 (1999) [Per J. Panganiban, Third Division].

94 Id. at 738.

95 *Rollo*, p.77.

96 G.R. No. 238453, July 31, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/ showdocs/1/65605> [Per J. Leonen, Third Division].

> Article III, Section 3(2) of the Constitution stipulates that *illegal searches and seizures result in the inadmissibility in evidence of whatever items were seized*:
>
> SECTION 3 ....
>
> (2) Any evidence obtained in violation of [the right against unreasonable searches and seizures] shall be inadmissible for any purpose in any proceeding.
>
> *This exclusionary rule is a protection against erring officers who deliberately or negligently disregard the proper procedure in effecting searches, and would so recklessly trample on one's right to privacy.* By negating the admissibility in evidence of items seized in illegal searches and seizures, the Constitution declines to validate the law enforcers' illicit conduct. "Evidence obtained and confiscated on the occasion of such an unreasonable search and seizure is tainted and should be excluded for being the proverbial fruit of a poisonous tree."[97] (Citations omitted; Emphasis supplied)

In view of the inadmissibility of the evidence seized pursuant to the general search warrant, petitioners must be acquitted of the charges filed:

> In offenses involving illegal drugs, narcotics or related items establish the commission of the crime charged. They are the *corpus delicti* of the offense. The inadmissibility of illegally seized evidence that forms the *corpus delicti* dooms the prosecution's cause. Without proof of *corpus delicti*, no conviction can ensue, and acquittal is inexorable.[98]

Further, more than five years have lapsed from the time the Informations were filed against petitioners, without any resolution on a matter as basic as their right to be furnished a search warrant's supporting records. Consistent with the right to a speedy trial, there is adequate basis to dismiss the criminal charges against petitioners.

Cagang v. Sandiganbayan[99] is instructive on the applicability of the right to a speedy trial in criminal cases:

> *The right to a speedy trial is invoked against the courts in a criminal prosecution.* The right to speedy disposition of cases, however, is invoked even against quasi-judicial or administrative bodies in civil, criminal, or administrative cases before them. As *Abadia v. Court of Appeals* noted:
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> > The Bill of Rights provisions of the 1987 Constitution were precisely crafted to expand substantive fair trial rights and to protect citizens from procedural machinations which

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97 Id.

98 Id.

99 G.R. Nos. 206438 & 206458, July 31, 2018 < https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64581 > [Per J. Leonen, En Banc].

> tend to nullify those rights. Moreover, Section 16, Article III of the Constitution extends the right to a speedy disposition of cases to cases "before all judicial, quasi-judicial and administrative bodies." This protection extends to all citizens, including those in the military and covers the periods before, during and after the trial, affording broader protection than Section 14(2) which guarantees merely the right to a speedy trial.

Both rights, nonetheless, have the same rationale: to prevent delay in the administration of justice. In *Corpuz v. Sandiganbayan*:

> *The right of the accused to a speedy trial and to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time*, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. *Such right to a speedy trial and a speedy disposition of a case is violated only when the proceeding is attended by vexatious, capricious and oppressive delays*. The inquiry as to whether or not an accused has been denied such right is not susceptible by precise qualification. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept.
>
> While justice is administered with dispatch, the essential ingredient is orderly, expeditious and not mere speed. *It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate.* It is consistent with delays and depends upon circumstances. It secures rights to the accused, but it does not preclude the rights of public justice. *Also, it must be borne in mind that the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.*[100]

In *Tatad v. Sandiganbayan*,[101] the criminal case was dismissed when the circumstances of the prosecution indicated that the accused had been "deprived of due process of law or other constitutionally guaranteed rights":

> In a number of cases, this Court has not hesitated to grant the so-called "radical relief" and to spare the accused from undergoing the rigors and expense of a full-blown trial where it is clear that he has been deprived of due process of law or other constitutionally guaranteed rights. Of course, it goes without saying that in the application of the doctrine enunciated in those cases, particular regard must be taken of the facts and circumstances peculiar to each case.[102]

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[100] Id.

[101] 242 Phil. 563, 573 (1988) [Per J. Yap, En Banc].

[102] Id. at 573.

Here, the Regional Trial Court disregarded existing judicial pronouncements on the valid issuance of a search warrant. Its continued refusal to furnish petitioners with any records supporting the issuance of the contested search warrant transgresses upon their constitutionally protected rights. As held in *Ogayon* "the existence of probable cause determined after examination by the judge of the complainant and [their] witnesses is central to the guarantee of Section 2, Article III of the Constitution." Thus, by denying petitioners of access to the search warrant records they had been denied due process and have had their right against unreasonable search and seizure violated for the past five years. The quashal of the search warrant, the declaration of inadmissibility of all evidence gathered, and the dismissal of the criminal charges against petitioners in lieu of injunction, are, therefore, appropriate.

The Regional Trial Court's Orders dated September 2, 2015 and September 30, 2015 were issued with grave abuse of discretion.[103] Concurrently, the Court of Appeals committed reversible error in dismissing the petitioners' Petition for Certiorari and upholding the assailed Orders.

WHEREFORE, the Petition for Review on Certiorari is **GRANTED**. The Court of Appeals' Decision dated August 31, 2016 is **REVERSED** and **SET ASIDE**.

However, in view of Search Warrant No. No. 2015-45's failure to meet the standards of a valid search warrant, it is declared **VOID** for being a general warrant, and all evidence procured by its virtue is deemed inadmissible.

Further, in view of the violation of petitioners' right to due process and the delay in the prosecution of the criminal charges independent of the actions of the accused, the Informations charging petitioners with violations of Republic Act No. 9165 and Republic Act No. 10591, and docketed as Criminal Case Nos. 5524-5525, are **DISMISSED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

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[103] *Fajardo v. Court of Appeals*, 591 Phil. 146, 155 (2008) [Per Acting CJ Carpio, Second Division].

WE CONCUR:

RAMON PAUL L. HERNANDO
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

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

MARVIC M.V.F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 12, 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.

ALEXANDER G. GESMUNDO
Chief Justice