SPECIAL SECOND DIVISION

[G.R. No. 124461. June 26, 2000]

PEOPLE OF THE PHILIPPINES, *petitioner, vs.* JUDGE ESTRELLA T. ESTRADA, Presiding Judge, RTC Br. 83, Quezon City & AIDEN LANUZA, *respondents.*

R E S O L U T I O N

YNARES-SANTIAGO, *J.*: Chiefx

In a decision promulgated on September 25, 1998, this Court denied the petition questioning the trial court's order which quashed the search warrant it issued and ordered the return of the seized goods on the ground that the warrant failed to satisfy the constitutional requirements for issuance of warrants. Petitioner now seeks a partial reconsideration of the said decision arguing that the seized drugs subject of the void warrant can no longer be returned because the same are contraband goods. In its motion for reconsideration, petitioner attached annexes purporting to show that the 52 boxes of medicines seized under the void warrant, upon laboratory examinations, were found genuine but were illegally imported.

Even if the medicines or drugs seized were genuine and even if they contain the proper chemicals or ingredients for their production or manufacture, if the producer, manufacturer or seller has no permit or authority from the appropriate government agency, the drugs or medicines cannot be returned although the search warrants were declared illegal. It might be the burden of the party seeking issuance of a warrant to convince the issuing magistrate that probable cause exists, and to procure the proper admissible evidence to show that the party against whom the warrant is directed is not duly authorized by the Bureau of Foods and Drugs (BFAD). However, if there is an allegation that the possession of the goods or things seized were illegal for lack of appropriate permit from the duly authorized agencies, the party seeking the return of her seized properties must show the corresponding permits or authority to manufacture, sell or possess the same. The pharmaceutical genuineness of the drugs or medicines is not a sufficient justification to demand its return. There must be compliance with requirements of the law regarding permits and licenses. Knowledge in the production of medicines and drugs can easily be acquired and disseminated but such knowledge is not available to the public who commonly relies on the medical prescription and its availability in the drug stores. Obviously, of course, only those who are fortunate enough to have been thoroughly exposed to the study of the preparation, composition, and nature of this drug in the wider fields of medicine, pharmacology and forensic chemistry have a clear grasp of the effects of a medicine and what it consists of (See *People vs. Angeles, 209 SCRA 799 [1992])*. People do not scrutinize the chemical composition of the medicines or drugs they take or use but simply rely on the drug's name, whether branded or generic, and its conformity to the prescription name given by their physician. A laboratory examination is still necessary to determine the genuineness of medicines. The therapeutic quality of drug products is not evident to the unsuspecting end-users who simply presume the altruistic nature of the product. With the State's obligation to protect and promote the right to health of the people and instill health consciousness among them **(***Article II, Section 15, 1987 Constitution),* in order to develop a healthy and alert citizenry (*Article XIV, Section 19(1)*), it became mandatory for the government to supervise and control the proliferation of drugs in the market. The constitutional mandate that

"the State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all people at affordable cost" **(***Article XIII***,** *Section 11)* cannot be neglected. This is why "the State shall establish and maintain an effective food and drug regulatory system **(***Article XIII, Section 12).* The BFAD is the government agency vested by law to make a mandatory and authoritative determination of the true therapeutic effect of drugs because it involves technical skill which is within its special competence. The health of the citizenry should never be compromised. To the layman, medicine is a cure that may lead to better health.

If the seized 52 boxes of drugs are pharmaceutically correct but not properly documented, they should be promptly disposed of in the manner provided by law in order to ensure that the same do not fall into the wrong hands who might use the drugs underground. Private respondent cannot rely on the statement of the trial court that the applicant "failed to allege in the application for search warrant that the subject drugs for which she was applying for search warrant were either fake, misbranded, adulterated, or unregistered" *(Comment on Partial Motion for Reconsideration, p. 3; Rollo, p. 280; Order of RTC Dated December 7, 1995)* in order to obtain the return of the drugs. The policy of the law enunciated in R.A. No. 8203 is to protect the consumers as well as the licensed businessmen. Foremost among these consumers is the government itself which procures medicines and distributes them to the local communities through direct assistance to the local health centers or through outreach and charity programs. Only with the proper government sanctions can medicines and drugs circulate the market. We cannot afford to take any risk, for the life and health of the citizenry are as precious as the existence of the State. Esmsc

ACCORDINGLY, the Partial Motion for Reconsideration is GRANTED. In addition, the Solicitor General shall, within five (5) days from receipt hereof, notify the BFAD to dispose of the seized 52 boxes of drugs and medicines within five (5) days from notice. The Solicitor General shall report the matter to the Court within five (5) days thereafter.

SO ORDERED. Esmmis

Melo, (Chairman), Puno, and *Mendoza, JJ.,* concur.