

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.TAN YIN CHO AND MIU MAN KA, ACCUSED-APPELLANTS.

Ponente: ABDULWAHID, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/be70c07e3129/>

ABDULWAHID, J.:

Before this Court is an appeal interposed by accused-appellants Tan Yin Cho and Miu Man Ka from the decision[1] dated July 24, 2002 of the Regional Trial Court (RTC), Branch 102, Quezon City, in Criminal Case No. Q-96-67221, finding them guilty beyond reasonable doubt of violation of Section 15, Article III, in relation to Section 2(e), (f), (m) and (o), Article I of Republic Act (R.A.) No. 6425, as amended by Presidential Decree (P.D.) No. 1683, and sentencing them to reclusion perpetua.

The amended information[2] filed on October 18, 1996, charging Tan Yin Cho and Miu Man Ka of the aforementioned offense reads, as follows:

That on or about the 3rd day of August, 1996, in Quezon City, Philippines, the said accused conspiring, confederating together and mutually helping each other, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there, wilfully (sic) and unlawfully deliver/transport Ninety two thousand, six hundred seventy seven point eighty grams (92,677.80) white crystalline substance known as “SHABU” containing methamphetamine hydrochloride, which is a regulated drug.

CONTRARY TO LAW.

Upon arraignment, the two (2) accused pleaded not guilty[3] to the offense charged, and thereafter, trial on the merits ensued.

On August 2, 1996, Police Superintendent Raul Castañeda instructed Police Senior Inspector David Noora, SPO4 Manuel Marcelo and SPO2 Arsenio Mangulabnan, members of the Narcotics Intelligence and Suppression Unit (NISU), Narcotics Command of the Philippine National Police (PNP), to monitor the activities of the accused and to confirm the information that they were engaged in the traffic of illegal drugs. Sr. Insp. Noora positioned himself at the lobby of Century Park Sheraton Hotel in Ermita, Manila, while SPO4 Marcelo and SPO2 Mangulabnan stayed in a car, parked outside the hotel fronting the main lobby.[4] At around 4:00 o'clock in the morning of August 3, 1996, Supt. Castañeda alerted Sr. Insp. Noora that the accused were about to leave the hotel.[5] Sr. Insp. Noora, relayed the information to SPO4 Marcelo and SPO2 Mangulabnan, who monitored the accused while boarding a colored green Nissan Sentra with Plate No. TSV-775. SPO4 Marcelo and SPO2 Mangulabnan, using their own car and Sr. Insp. Noora in his own car, discreetly followed the car of the accused traversing the direction of Mabini, Manila going to Quezon City. The cars of Sr. Insp. Noora and SPO4 Marcelo were alternately tailing the car of the accused.[6] Upon reaching Quezon Avenue, in front of Pantranco area, the car of Sr. Insp. Noora was moving ahead or in front of the accused's car. As the car of the accused was about to overtake Sr. Insp. Noora's car, it bumped the left side rear portion of Sr. Insp. Noora's car. Sr. Insp. Noora immediately stopped his car to inspect if there was damage, but the car of the accused sped away. This prompted the policemen to continue the chase of the car of the accused, which went towards Timog Avenue and parked near

Goto King Restaurant. The accused disembarked from their car and proceeded to another car, a white Nissan Sentra, which was parked approximately one hundred meters away from the green Nissan Sentra. SPO4 Marcelo's car blocked the rear of the white Nissan Sentra to prevent it from backing up and speeding away, while Sr. Insp. Noora's car blocked the path of the green Nissan Sentra,[7] also from behind.

SPO4 Marcelo and SPO2 Mangulabnan approached the accused, introduced themselves and confronted the accused about the bumping of the car of Sr. Insp. Noora. Per instruction of Noora, Marcelo conducted a body search on the accused. He found the key of the green Nissan Sentra from the pocket of Miu Man Ka and SPO2 Mangulaban handed it to Noora, who opened the trunk of the green Nissan Sentra and found therein six traveling bags containing plastic packs of white crystalline substance. Then, the policemen brought the accused to Camp Crame.[8] The six traveling bags containing white crystalline substance were brought to the PNP Crime Laboratory together with the request for laboratory examination.[9] The Physical Science Report shows that upon examination, the specimen yielded positive result for the presence of methamphetamine hydrochloride, a regulated drug.[10]

On the other hand, only accused Tan Yin Cho testified for the defense. He denied having any knowledge of the drugs allegedly confiscated from them. He claimed that he and his co-accused Miu Man Ka arrived in the Philippines in July 1996 as tourists. They stayed at the Traders Hotel for about four (4) days. Then, they went to Baguio City using a car rented by Miu Man Ka. From Baguio City, they went to Pampanga using the same car, then went back to Manila and stayed at the Century Park Sheraton Hotel for one (1) week. According to Tan Yin Cho, he came to the Philippines to visit his friend, a certain Roland Tan, in Quezon City. Accused Cho further testified that at the time of their arrest, they were about to go back to the hotel when their car was blocked and they were arrested, blindfolded and brought to Camp Crame.[11]

On July 24, 2002, the court a quo, rendered the assailed decision, finding accused Tan Yin Cho and Miu Man Ka guilty beyond reasonable doubt of violation of Sec. 15 of R.A. No. 6425, and sentenced them, as follows:[12]

ACCORDINGLY, judgment is hereby rendered finding the herein accused TAN YIN CHO and MIU MAN KA, both Chinese nationals of Hongkong of the People's Republic of China, GUILTY beyond reasonable doubt of violating Section 15 of Republic Act No. 6425 by transporting 92,677.80 grams of methamphetamine hydrochloride (or SHABU) as charged, and both accused are sentenced to suffer each a jail term of reclusion perpetua and to pay a fine of P500,000.00.

Their deportation is also ordered after service of the sentence herein imposed. Costs against both accused.

SO ORDERED.

The accused filed a Motion for Reconsideration[13] but the same was denied by the court a quo.[14] Aggrieved by the decision, the accused filed a notice of appeal,[15] and the court a quo ordered the transmittal of the records of the case to the Supreme Court.[16] On April 2, 2003, the Supreme Court received the records and accepted the appeal,[17] and on April 15, 2003, ordered the accused-appellants to file the appellants' brief.[18] However, conformably with the ruling promulgated on July 7, 2004 in *People v. Mateo* (G.R. Nos. 147678-87), the Supreme Court, in a resolution[19] dated October 20, 2004, transferred the case to this Court for intermediate review.

In compliance with the order of the Supreme Court, the accused-appellants filed their appellants' brief, raising the following assignment of errors:[20]

I

THE COURT A QUO ERRED IN NOT HOLDING THAT THE WARRANTLESS ARREST AND SEIZURE TO [sic] THE ACCUSED-APPELLANTS WERE UNREASONABLE AND COVERED BY THE EXCLUSIONARY RULE;

II

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT[S] AND SENTENCING THEM TO SUFFER THE PENALTY OF RECLUSION PERPETUA AND TO PAY A FINE OF P500,000.00 EACH; and

III

THE COURT A QUO ERRED IN HOLDING THAT ACCUSED-APPELLANTS WERE IN POSSESSION OF THE 92,677.80 GRAMS OF SHABU.

The Office of the Solicitor General (OSG), representing the State, filed its appellee's brief, praying that the appealed decision be affirmed as the guilt of the accused-appellants has been duly proven beyond reasonable doubt.[21]

On the first and second assigned errors, the accused-appellants contend that the search of the vehicle was in violation of the plain view doctrine. They further assert that there was no probable cause for the police officers to search the trunk/compartment of their vehicle because at the time of their arrest, they neither had committed nor were they committing any crime in the presence of the police officers, and that, they did not consent to the unlawful arrest and search, hence, the evidence obtained from the accused-appellants is a fruit of the poisonous tree and inadmissible in evidence against them.[22]

We are not persuaded by the contention of the accused-appellants.

We take note that prior to their arrest, the accused-appellants' car bumped the car of Sr. Insp. Noora along Quezon Avenue. It may appear that this is just a minor traffic incident. However, the actuation of the accused-appellants in immediately speeding away, shows their flagrant disregard of traffic law and avoidance of liability for their act. As correctly stated by the OSG,[23] such act is a violation of Sec. 55, R.A. No. 4136,[24] which provides:

Sec. 55. Duty of driver in case of accident. – In the event that any accident should occur as a result of the operation of a motor vehicle upon a highway, the driver shall stop immediately, and, if requested by any person present, shall show his driver's license, give his true name and address and also the true name and address of the owner of the motor vehicle.

No driver of a motor vehicle concerned in a vehicular accident shall leave the scene of the accident without aiding the victim, except under any of the following circumstances:

- If he is in imminent danger of being seriously harmed by any person or persons by reason of the accident;
- If he reports the accident to the nearest officer of the law; or
- If he has to summon a physician or nurse to aid the victim.

Clearly, the accused-appellants had just violated traffic law and as such, it was incumbent upon the policemen to apprehend them as violators of the law. The sideswiping by the accused-appellants of the car of Sr. Insp. Noora may give rise to a crime of reckless imprudence resulting to damage to property punishable under Article 365 of

the Revised Penal Code, and the accused-appellants' action of speeding away from the scene of the accident, instead of immediately stopping, constitutes a violation of our traffic law. The accused-appellants committed a violation of the law in the presence of the police officers, hence, the latter were justified in chasing the accused-appellants who immediately fled after sideswiping the car of Sr. Insp. Noora. Further, the attempt of the accused-appellants to change car gave rise to a probable cause to believe that they were committing something wrong, hence, the policemen are justified in blocking their path to prevent their escape.

Under the foregoing circumstances, the accused-appellants could be considered to have committed, was actually committing, or about to commit an offense in flagrante, hence, their arrest can be considered as a lawful arrest pursuant to Sec. 5, pars. (a) and (b), Rule 113, of the Revised Rules of Court. As a consequence of the arrest, the frisk on the accused-appellants and the search of the vehicle they used are warranted under Sec. 13, Rule 126, of the Revised Rules of Court.[25] Such being the case, we see no irregularity in the conduct of the police officers in searching the green Nissan Sentra, as incident to the lawful arrest of the accused-appellants. Thus, in the case of *Padilla v. CA*,[26] it was held that:

It is appropriate to state at this juncture that a suspect, like petitioner herein, cannot defeat the arrest which has been set in motion in a public place for want of a warrant as the police was confronted by an urgent need to render aid or take action. The exigent circumstances of — hot pursuit, a fleeing suspect, a moving vehicle, the public place and the raining nighttime — all created a situation in which speed is essential and delay improvident. The Court acknowledges police authority to make the forcible stop since they had more than mere “reasonable and articulable” suspicion that the occupant of the vehicle has been engaged in criminal activity. Moreover, when caught in flagrante delicto with possession of an unlicensed firearm (Smith & Wesson) and ammunition (M-16 magazine), petitioner’s warrantless arrest was proper as he was again actually committing another offense (illegal possession of firearm and ammunitions) and this time in the presence of a peace officer.

Further, there is no considerable lapse of time between the sideswiping and the actual apprehension of the accused-appellants. While it may be correct to say that the police officers had no knowledge that the green Nissan Sentra with Plate No. TSV-775 was being used by the accused-appellants in transporting the illegal drugs, the sideswiping of Sr. Insp. Noora’s car and the accused-appellant’s attempt to flee gave the police officers a probable cause to stop the accused-appellants from fleeing and to search the motor vehicle they used without warrant. It should be stressed that the accused-appellants were under surveillance by the policemen because of the information earlier received by the PNP Narcotics Command, that they were engaged in the illegal drug trade. As fittingly observed by the OSG, the authority to search a motor vehicle is broader than the authority to search a home, store or office for the reason that the motor vehicle could be quickly moved out and the fact that the expectation of privacy with respect to one’s vehicle is significantly less than that relating to one’s home or office. Moreover, by using the public highways, cars are governed by laws and rules which do not apply to homes and offices.[27]

Accordingly, the shabu, having been lawfully recovered from the possession of the accused-appellants in accordance with law, is admissible in evidence against the accused-appellants. Having been caught transporting and in possession of shabu, the accused-appellants cannot escape the harsh penalty provided under Sec. 15 of R.A. No. 6425, as amended by Sec. 5 of P. D. No. 1683, which provides, as follows:

The penalty of life imprisonment to death and a fine ranging from twenty to thirty thousand pesos shall be imposed upon any persons who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug. If the victim of the offense is a minor, or should a regulated drug involved in any offense under this Section be the proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed. (Emphasis ours)

Anent the accused-appellants' defense of the illegality of their arrest, the same is deemed waived after they voluntarily pleaded not guilty to the offense charged. The settled jurisprudence is that any objection, defect or irregularity attending an arrest must be made before the accused enters his plea. In this case, the accused-appellants' belated challenge of the illegality of their arrest, in addition to their failure to quash the information, and their participation in the trial by presenting their evidence, placed them in estoppel to assail the legality of their arrest. Likewise, by filing a petition or application for bail, the accused-appellants patently waived any irregularity and defect as regards their arrest.[28]

On the third assigned error, accused-appellants fault the court a quo in finding that they were in possession of 92,677.80 grams of shabu because the prosecution failed to prove that they intend to possess the illegal drugs.[29]

The contention deserves scant consideration.

Illegal possession of drugs is classified as *mala prohibita*, hence, criminal intent is not an essential element of the crime. However, the prosecution must prove that the accused had the intent to possess (*animus possidendi*) the drugs. Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found.[30]

In this case, it cannot be denied that the accused-appellants were in actual possession of the green Nissan Sentra which they left along Timog Avenue to transfer to a white Nissan Sentra after bumping the car of Sr. Insp. Noora. Possession of the accused-appellants of the green Nissan Sentra where the shabu was found was sufficiently established by the motion filed by Khalid Rent A Car, for the release of the green Nissan Sentra with Plate No. TSV-775, and the white Nissan Sentra with Plate No. UAG-411, which were leased to accused-appellant Miu Man Ka.[31] The accused-appellants were in immediate control of the car used to transport the shabu and had knowledge of the existence and presence of the said shabu inside the car under their control and dominion.

In fine, the conduct of the search was in order and it substantially satisfied the requirements of the Rules. Accordingly, the shabu seized are admissible in evidence against the accused-appellants, and the trial court did not err in finding the accused-appellants guilty beyond reasonable doubt of the offense charged.

However, considering that R.A. No. 6425, otherwise known as "The Dangerous Drugs Act of 1972," as amended, is a special law, the appropriate penalty to be imposed against the accused-appellants should be life imprisonment, as prescribed under Sec. 5 of P.D. No. 1683, which amended Sec. 15 of R.A. No. 6425. In *People v. Bautista*, the Supreme Court made a distinction between life imprisonment and reclusion perpetua, thus:

While "life imprisonment" may appear to be the English translation of reclusion perpetua, in reality, it goes deeper than that. First, "life imprisonment" is invariably imposed for serious offenses penalized by special laws, while reclusion perpetua is prescribed under The Revised Penal Code. Second, "life imprisonment," unlike reclusion perpetua, does not carry with it any accessory penalty. Third, "life imprisonment" does not appear to have any definite extent or duration, while reclusion perpetua entails imprisonment for at least thirty (30) years after which the convict becomes eligible for pardon, although the maximum period thereof shall in no case exceed forty (40) years.

WHEREFORE, for lack of merit, the appeal is DISMISSED. The assailed decision dated July 24, 2002 of the RTC, Branch 102, Quezon City, in Criminal Case No. Q-96-67221, convicting Tan Yin Cho and Miu Man Ka of violation of Sec. 15, Article III, in relation to Sec. 2(e), (f), (m) and (o) of Article I of R.A. No. 6425, as amended by P.D. No. 1683, is AFFIRMED with the modification that the penalty should be life imprisonment, instead of reclusion perpetua.

The Ninety Two Thousand, Six Hundred Seventy Seven point Eighty (92,677.80) grams of methamphetamine hydrochloride (shabu) seized from the accused-appellants are ordered forfeited in favor of the government and disposed of in accordance with law.

SO ORDERED.

Reyes, Jr., (Chairman) and Punzalan-Castillo, JJ., concur.

[1] Records, pp. 381-387.

[2] Records, p. 57.

[3] Records, p. 60.

[4] TSN, December 6, 1996, pp. 8-22; TSN, January 6, 1997, pp. 8-10.

[5] TSN, January 6, 1997, p. 11.

[6] TSN, January 6, 1997, p. 16.

[7] TSN, January 6, 1997, pp. 16-19; December 6, 1996, pp. 13-21.

[8] December 6, 1996, pp. 22-26; TSN, January 6, 1997, pp. 20-23.

[9] Exhibit "C", Records, p. 140.

[10] Exhibits, "D" and "E", Records, pp. 142-143.

[11] TSN, October 22, 2001, pp. 2-19.

[12] Records, pp. 387.

[13] Records, pp. 389-394.

[14] Records, p. 397.

[15] Records, p. 398.

[16] Records, p. 399.

[17] Rollo, p. 30.

[18] Rollo, p. 32.

[19] Rollo, p. 134.

[20] Rollo, pp. 44-45.

[21] Rollo, p. 124.

[22] Rollo, pp. 46-77.

[23] Rollo, pp. 109-110.

[24] Land Transportation and Traffic Code.

[25] Sec. 13. Search incident to lawful arrest. – A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a

search warrant.

[26] 269 SCRA 402, 415-416 (1997).

[27] Rollo, pp. 112-113.

[28] Padilla v. Court of Appeals, 269 SCRA 402, 417 (1997).

[29] Rollo, pp. 77-80.

[30] People v. Tira, 430 SCRA 134, 151-152 (2004).

[31] Records, pp. 16-23.

[32] 312 SCRA 475, 485 (1999), citing People v. Ballabare, 264 SCRA 350, 372 (1996).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.