

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. OGIE ALIAMADA Y IDSIN, ACCUSED-APPELLANT.

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This is an appeal from the decision[1] of the Regional Trial Court (RTC) of Pasig City, Branch 70 dated October 26, 2010 finding accused-appellant Ogie Aliamada y Idsin guilty beyond reasonable doubt of illegal possession of 0.02 gram Methamphetamine Hydrochloride or shabu in Criminal Case No. 16400-D in violation of Section 11, Article II of RA 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

Accused-appellant was charged in an information,[2] which reads:

CRIMINAL CASE NO. 16400-D

“That on or about the 10[th] day of September, 2008 in the City of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, to possess any dangerous drug, did, then and there willfully, unlawfully and, and knowingly have in his possession, custody and control of two (2) heat-sealed transparent plastic sachet of white crystalline substance which has a total weight of zero point zero two (0.02) grams, which was found to be positive to the test for Methylamphetamine Hydrochloride, commonly known as SHABU, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.”[3]

During his arraignment on October 27, 2008, accused-appellant pleaded not guilty to the charge.

During pre-trial, the parties entered into stipulation of facts, to wit:

- The jurisdiction of the court over the person of the accused, nature of the case and subject matter of the case;
- The qualification of the Forensic Chemist II Leveriza F. Arenas;
- The existence and due execution of Chemistry Report No. D-298-08;
- The existence of the specimens and documents marked as exhibits;
- The due execution and genuineness of the findings on the Qualitative Examination of the specimens which yielded positive result of Methylamphetamine hydrochloride.[4]

The prosecution's version of the facts is as follows:

The prosecution witness PO2 Ruchyl Gasid (PO2 Gasid) testified that on September 10, 2008, the police conducted an “Oplan Sita” by setting up a checkpoint in Bernardo Street, Signal Village, Taguig City as a result of the reported robbery-snatching incident that occurred in the area;[5] that on the same date, at around 1:30 in the afternoon, PO2 Gasid and PO1 Melvin Bergonia (PO1 Bergonia), who was manning the checkpoint, saw a man who suddenly jumped from the backseat of a nearby tricycle; that they chased the man, caught him and asked him

why he jumped from the tricycle but they got no reply; that PO2 Gasid asked for his identification card which showed him to be accused-appellant Ogie Aliamada y Idsin; that when accused-appellant took out his wallet, the same fell and a fan knife protruded from the wallet; that PO2 Gasid told accused-appellant that it was illegal to bring along a bladed weapon and he confiscated the fan knife;[6] the latter frisked accused-appellant and discovered in the latter's possession a plastic container; that when PO2 Gasid opened the plastic container, there were two (2) plastic sachets containing white crystalline substance; that PO2 Gasid arrested accused-appellant, informed him of his constitutional rights and brought accused-appellant to the precinct where the items confiscated from the accused were marked.[7]

PO1 Bergonia corroborated the testimony of PO2 Gasid. The former was with the latter when accused-appellant was apprehended.[8]

The defense, on the other hand, presented the facts as follows:

Accused-appellant Ogie Aliamada y Idsin averred that on September 9, 2008, at around 3:00 in the afternoon he was at the FTI Terminal selling cigarettes; that two (2) male persons approached him at that time who did not identify themselves; that they suddenly grabbed his hand and told him to go with them and they will just ask some questions from him; that he resisted them but they held him and brought him to the Police Community Precinct in Block 4; that they asked his address and learned that he is living in PNR; that they told him that many persons are trading shabu at his address and asked him to pinpoint some of them; that he told them that he did not know those persons so they hit his hands; that on the next day, they brought him to the City Hall; and that he denied there was contraband recovered from his person.[9]

On October 26, 2010, the RTC rendered a decision,¹⁰ the dispositive portion of which reads:

“WHEREFORE, premises considered, accused OGIE ALIAMADA y IDSIN is hereby found GUILTY of violating Sec. 11, 2nd paragraph No. 3, Art. 11 of Republic Act 9165, otherwise known as the Comprehensive Dangerous Drugs Act and is hereby sentenced to suffer twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and a fine of Three Hundred Thousand Pesos (P300,000.00). The period for which accused has been incarcerated during the duration of the trial shall be considered as time served.

SO ORDERED.”

Accused-appellant filed this appeal, assigning the following errors to the RTC:

“I

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE WARRANTLESS ARREST AND SEARCH OF THE ACCUSED-APPELLANT WAS LEGAL.

II

THE LOWER COURT ERRED IN FINDING THAT THE ACCUSED-APPELLANT WAS CAUGHT IN FLAGRANTE DELICTO, IN POSSESSION OF THE ALLEGED ILLEGAL DRUG.”[11]

Accused-appellant contends that he was a victim of frame-up; the the trial court's finding that he was caught in flagrante delicto at the time of his arrest was erroneous because his act of jumping from the back seat of the tricycle cannot be considered as an illegal act; and that because his warrantless arrest was illegal, the search made upon his person was also unlawful.

The appeal is meritorious.

A valid warrantless arrest which justifies a subsequent search is one that is carried out under the parameters of

section 5(a), Rule 113 of the Rules of Court which requires that the apprehending officer must have been spurred by probable cause to arrest a person caught in flagrante delicto. To be sure, the term probable cause has been understood to mean a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person accused is guilty of the offense with which he is charged.[12]

In this case, PO2 Gasid's testimony detailed the surrounding circumstances leading to accused-appellant's warrantless arrest, viz:

“Q: Now, Mr. Witness, you mentioned that when the tricycle was about to leave the checkpoint, a person who eventually turned out to be the accused, suddenly jumped off from the tricycle, is that correct, Mr. Witness?

A: Yes, sir.

Q: And after that, after reporting it to your supervisor, you chased him?

A: Yes, sir.

Q: And you accosted him in an alley?

A: Yes, sir.

Q: Mr. Witness, is the only reason in chasing the accused was that he suddenly jumped off from the tricycle, is that what led you to chase him?

A: Yes, sir.

Q: Prior to that, Mr. Witness, before he jumped off at the back ride, did you see what the accused was doing?

A: No, sir.

Q: So, when he jumped off, you chased him because for you, that is unusual?

A: Yes, sir.”[13]

Clearly, a perusal of the foregoing testimony negates the presence of probable cause when PO2 Gasid conducted his warrantless arrest of accused-appellant. While it is true that the legality of an arrest depends upon the reasonable discretion of the officer or functionary to whom the law at the moment leaves the decision to characterize the nature of the act or deed of the person for the urgent purpose of suspending his liberty, it cannot be arbitrarily or capriciously exercised without unduly compromising a citizen's constitutionally-guaranteed right to liberty.[14]

The prosecution was not able to adequately prove that accused-appellant was committing an offense when he was arrested. Absent any other circumstance upon which to anchor a lawful arrest, no other overt act could be properly attributed to accused-appellant as to rouse suspicion in the mind of PO2 Gasid that accused-appellant had just committed, was committing, or was about to commit a crime, for the act of jumping from the backseat of the tricycle cannot in any way be considered a criminal act. In fact, even if accused-appellant had been exhibiting unusual or strange acts, or at the very least appeared suspicious, the same would not have been sufficient in order for PO2 Gasid to effect a lawful warrantless arrest under paragraph (a) of Section 5, Rule 113.[15]

Moreover, it has not been established that the rigorous conditions set forth in paragraph (b) of Section 5, Rule 113 have been complied with, i.e., that an offense had in fact just been committed and the arresting officer had personal knowledge of facts indicating that the appellant had committed it.[16] The factual circumstances of this case failed to show that PO2 Gasid had personal knowledge that a crime had been indisputably committed by accused-appellant. It is not enough that PO2 Gasid had reasonable ground to believe that accused-appellant had just committed a crime; a crime must in fact have been committed first, which does not obtain in this case.[17] Therefore, accused-appellant's arrest was not lawful as he was not proved to be committing any offense.[18]

Consequently, there being no lawful warrantless arrest, the shabu purportedly seized from accused-appellant is rendered inadmissible in evidence for being the proverbial fruit of the poisonous tree. As the confiscated shabu is the very corpus delicti of the crime charged, accused-appellant must be acquitted and exonerated from all criminal liability.[19]

WHEREFORE, the appeal is GRANTED. The decision of the Regional Trial Court (RTC) of Pasig City, Branch 70 in Criminal Case No. 16400-D is REVERSED and SET ASIDE. Accused-appellant Ogie Aliamada y Idsin is ACQUITTED on reasonable doubt of the offense charged and ordered immediately released from detention, unless his continued confinement is warranted by some other cause or ground.

Let a copy of this decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is directed to report to this court within five (5) days from receipt of this decision the action he has taken. Copies shall also be furnished to the Director General of Philippine National Police and the Director General of Philippine Drugs Enforcement Agency for their information.

The Regional Trial Court is directed to turn over the seized sachet of methamphetamine hydrochloride to the Dangerous Drugs Board for destruction in accordance with law.

SO ORDERED.

Tijam, Noel G., Chairperson and [*]Cruz, Ramon A., JJ., concur.

[*] Vice Justice Mario V. Lopez per Office Order No. 88-15-RSF dated March 20, 2015.

[1] Rollo, pp. 15-17.

[2] Records, pp. 1-2.

[3] Ibid.

[4] Records, p. 22.

[5] TSN dated May 25, 2009, pp. 7-8.

[6] TSN dated July 20, 2009, pp. 4-8.

[7] Ibid.

[8] TSN dated September 14, 2009, pp. 5-7.

[9] TSN dated November 16, 2009, pp. 3-6.

[10] Rollo, pp. 15-17.

[11] Rollo, p. 35.

[12] Ramon Martinez y Goco/Ramon Goco y Martinez vs. People of the Philippines, G.R. No. 198694, February 13, 2013.

[13] TSN dated July 20, 2009, pp. 13-14.

[14] People of the Philippines vs. Nazareno Villareal y Lualhati, G.R. No. 201363, March 18, 2013.

[15] See People of the Philippines vs. Nazareno Villareal y Lualhati, G.R. No. 201363, March 18, 2013.

[16] See *People of the Philippines vs. Nazareno Villareal y Lualhati*, G.R. No. 201363, March 18, 2013.

[17] *Ibid.*

[18] See *People of the Philippines vs. Carlos Dela Cruz*, G.R. No. 182348, November 20, 2008.

[19] *People of the Philippines vs. Nazareno Villareal y Lualhati*, G.R. No. 201363, March 18, 2013.

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