

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BRANDO PUNSALAN Y ANTONIO, ACCUSED-APPELLANT.

Ponente: DIMAAMPAO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/e18c0709cc6b/>

DIMAAMPAO, J.:

On Appeal before this Court is the Decision¹ dated 3 November 2004 of the Regional Trial Court, National Capital Judicial Region, Branch 127, Caloocan City, in Criminal Case No. C-67411 for Violation of Section 11, Article II, R.A. 9165, the dispositive portion of which reads:

“WHEREFORE, premises considered and the prosecution having established to a moral certainty the guilt of accused BRANDO PUNSALAN y ANTONIO of the crime charged for Violation of Sec. 11, Art. II, R. A. 9165, this Court in the absence of any aggravating circumstances hereby sentences said Accused to a prison term of fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months and to pay the fine of three hundred thousand pesos (P300,000.00), with subsidiary imprisonment in case of insolvency.

Subject drug is hereby declared confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED.”^[2]

In an Information dated 11 February 2003, Assistant City Prosecutor Oscar Yu charged Brando Punsalan y Antonio (“PUNSALAN”) with Violation of Section 11, Article II, R.A. 9165, allegedly committed as follows:

“That on or about the 8th day of February, 2003 in Caloocan City, Metro-Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control one (1) transparent plastic sachet containing 0.06 gram of Methamphetamine Hydrochloride (shabu), knowing the same to be a dangerous drug.

“CONTRARY TO LAW.”^[3]

Arraigned on 6 March 2003, PUNSALAN pleaded not guilty.^[4] Pre-trial conference was terminated on 12 May 2003.^[5] Thereafter, trial forthwith ensued.

The testimony of the prosecution’s witnesses is summarized as follows:

On the evening of 8 February 2003 at around 6:30 o'clock, while PO3 Joselito Balagtas (“Balagtas”) and PO3 Dennis Lanot (“Lanot”) were at their office at Sub-station 5, PCP, Pangarap Village, Caloocan City, their desk officer received a telephone call from a concerned citizen alleging the rampant use and selling of drugs near the boundary of Barracks and Malaria Road, Caloocan City. The report was relayed immediately to P/Sr. Insp. Danilo Cajipe, Chief of Office, who directed them to proceed to the aforesaid area to conduct surveillance and thereafter arrest those found violating the Dangerous Drugs Law. While the two officers were monitoring along Malaria Road, Balagtas, who was two (2) meters away from PUNSALAN, spotted the latter looking at a small plastic

sachet. Balagtas informed his companion Lanot of what he saw and they approached PUNSALAN. Then, Balagtas ordered PUNSALAN to open his right hand and found him holding one transparent heat-sealed plastic sachet containing white crystalline substance. Upon seeing it, Balagtas seized the substance from PUNSALAN and informed him of his constitutional rights. Then he was brought to Sub-station 5 where the incident was recorded in the police blotter. Thereafter, PUNSALAN was turned over to the Station Drug Enforcement Unit (SDEU) while the seized item was delivered for laboratory examination to the forensic chemical officer of the Northern Police District Crime Laboratory, also in Caloocan City.[6] The examination yielded a positive result for methamphetamine hydrochloride or shabu.[7]

On the other hand, the version of the defense, as testified to by PUNSALAN, is as follows:

At around 5:00 o'clock in the afternoon of 8 February 2003, after plying the route of his taxi, he was asked by his sister Princess PUNSALAN to get a pair of earrings from the house of his brother-in-law, Mar Tuazon ("Tuazon") located at Malaria Road. After accomplishing his errand, PUNSALAN boarded a tricycle on his way home and while cruising along the corner of Gumamela and Malaria Streets, a certain Edison Palmario ("Palmario") flagged down the tricycle and asked him to alight. Palmario then brought him to Balagtas and Lanot who were then about three (3) arms length away from him. Palmario told Balagtas and Lanot: "Sir nakita ko po iyan na galing po doon iyan." Balagtas and Lanot confronted PUNSALAN and asked him where he actually came and to which he replied by saying that he came from Tuazon's house. Thereafter, Palmario left, came back later with a small plastic sachet, and told Balagtas: "Sir, heto iyong shabu niya, nakuha ko doon." Balagtas immediately handcuffed PUNSALAN and got his Casio wristwatch, a pair of gold earrings and P10.00 cash. PUNSALAN asked: "Sir, bakit po?" Balagtas, however, dragged him towards the mobile car. Upon reaching the vehicle, PUNSALAN sat at the back beside Palmario while Balagtas and Lanot were seated in front. Then, Balagtas uttered: "Dederechahin na kita, magkano ba ang kaya mo?" PUNSALAN answered back: "Sir, wala po akong pera" and told Balagtas to just contact his sister instead. When the arresting officers agreed, they proceeded to MRH Site I, Malaria, Tala, Caloocan City where Balagtas and Palmario alighted from the car and talked to PUNSALAN's sister. After the conversation, Balagtas informed PUNSALAN that his sister will just follow them at the police station. While at the police precinct Balagtas told PUNSALAN the following: "(A)lam mo yang bayaw mong iyan gago iyan, may atraso sa amin iyan. (B)iruin mo lang hindi ba naman siya gago pinangakuan kami na trabaho tapos kinabukasan ibang pulis na ang kasama niya." [8]

On 3 November 2004, the court a quo rendered the assailed judgment convicting PUNSALAN.

Aggrieved, PUNSALAN (now appellant) appealed to this Court claiming that the court a quo committed the following errors:

I

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCREDIBLE AND INCONSISTENT TESTIMONY OF THE PROSECUTION WITNESSES.

II

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

The Appeal is devoid of merit.

First, appellant avers that it is highly incredible that he would flaunt his alleged illegal activity at the time when the risk of being seen by passersby was high considering that it was the usual time when people would return home from work.

We are not persuaded.

It is precisely the presence of many people which emboldens small-time drug pushers to ply their nefarious trade at any time and at any place as this may even serve to camouflage their illicit operations.[9] The fact that the parties are in a public place and in the presence of other people may not always discourage them from pursuing their illegal trade as these factor may even serve to camouflage the same.[10]

Second, the claim of the appellant that the prosecution failed to prove that (a) the specimen was first weighed by the arresting officers before the same was turned over for laboratory examination, and (b) the specimen examined by the forensic chemist was the one purportedly seized from him by the arresting officers, deserves scant consideration.

The prosecution's evidence sufficiently established the unbroken chain of custody of the seized drugs beginning from the arresting officer, to the investigating officer, to the forensic chemist whose laboratory tests were well-documented.[11] After the seizure, the heat-sealed transparent plastic sachet was immediately brought to the police station and marked by the assigned police investigator.[12] The said plastic sachet upon presentation in court indeed bore the initials of the investigating officer.[13] There was no showing that the plastic sachet seized from the appellant was tampered with or switched before the same was delivered to and chemically examined by the forensic chemist. Thus, all persons who obtained and received the plastic sachet did so in the course of performance of official duties. Such presumption that official duty was regularly performed was not overthrown by appellant.

Likewise untenable is appellant's assertion of irregularity with respect to his arrest. The rule is that an accused may be estopped from assailing the legality of his arrest if he failed to move for the quashing of the Information against him before his arraignment. Any objection involving the arrest or the procedure in the acquisition by the court of jurisdiction over the person of an accused must be made before he enters his plea, otherwise the objection is deemed waived.[14] A perusal of the records reveals that no motion to quash the Information was ever filed by appellant questioning the irregularity of his arrest.

Lastly, appellant faults the absence of proper coordination by the arresting officers with the drug enforcement unit before he was arrested. Such irregularity is merely a collateral matter which does not abate the fact that appellant was arrested in actual possession of an illegal drug. In a prosecution for illegal possession of dangerous drugs, it is enough to show the following essential elements: (a) the accused is found in possession of a regulated drug; (b) the person is not authorized by law or by duly constituted authorities; and, (c) the accused has knowledge that the said drug is a regulated drug. This crime is *mala prohibita*, and, as such, criminal intent is not an essential element.[15]

In the case at bench, all the aforecited elements were sufficiently and adequately established by the prosecution.

The prosecution witnesses Balagtas and Lanot were consistent in their testimonies on how appellant was caught in actual possession of shabu. Said testimonies were corro-borated by the physical science report made by the forensic chemist which showed that the specimen seized from the appellant was positively identified as shabu.

The court a quo accorded full credit to the testimonies of the prosecution witnesses and at the same time, dismissed appellant's self-serving theory of denial, frame up and hulidap. We affirm the credence and faith lent by the court a quo to the testimonies of the prosecution's witnesses. It is an oft-repeated rule that this Court will not interfere with the trial court's assessment of the credibility of witnesses except when there appears on record some fact or circumstance of weight and influence which the trial court has overlooked, mis-apprehended, or misinterpreted. The reason for this rule is that the trial court is in a better position to decide the question, having

heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[16]

To rebut the overwhelming evidence for the prosecution, appellant merely raised the defense of denial, frame-up and hulidap. But other than his self-serving assertions, no evidence was adduced to support it; hence, it deserves scant consideration. Courts generally view with disfavor the defense of denial, on account of its aridity and the facility with which the accused can concoct it to suit their defense. Negative and self-serving, it deserves no weight in law when unsubstantiated by clear and convincing evidence. Thus, it cannot be given greater evidentiary weight than that given to the testimonies of credible witnesses who testify on affirmative matters.[17]

Moreover, appellant failed to prove any ill motive or odious intent on the part of the arresting authorities to impute falsely such a serious crime that would put in jeopardy his life and liberty.[18]

As to the propriety of the penalty imposed, We find it proper to modify the same. Since the offense is punishable by Republic Act No. 9165, a special law, the appellant should be sentenced to an indeterminate penalty, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.[19] Section 11, Paragraph 3 of Republic Act No. 9165 imposes an imprisonment of twelve (12) years and one (1) day to twenty (20) years.[20] A fortiori, appellant should be sentenced to an indeterminate penalty of thirteen (13) years as minimum and seventeen (17) years as maximum.

WHEREFORE, the judgment of conviction is hereby **AFFIRMED** with **MODIFICATION** in that accused-appellant BRANDO PUNSALAN y ANTONIO is hereby sentenced to suffer an indeterminate penalty of thirteen (13) years of imprisonment as minimum and seventeen (17) years as maximum.

SO ORDERED.

Buzon, and Maambong, JJ., concur.

[1] Original Record, pp. 167-183.

[2] Original Record, p. 183.

[3] Id., p. 2.

[4] Id., p. 38.

[5] Id., pp. 45-46.

[6] TSN, 8, 15 & 16 July 2003.

[7] Exh. "B"; Folder of Exhibits, p.3; TSN, 19 May 2003, pp. 4-6.

[8] TSN 21 April 2004; TSN 14 July 2004.

[9] *People v. Lucero*, 229 SCRA 1, 7 (1994).

[10] *People v. Ahmad*, 419 SCRA 677, 694 (2004).

[11] Exhs. "A", "B" & "D", Folder of Exhibits, pp. 2-5; TSN, 19 May 2003, pp. 4-5.

[12] TSN 8 July 2003, pp. 7-8; 15 July 2003, pp. 5-6.

[13] TSN, 3 June 2003, pp. 3-4.

[14] *People v. Khor*, 307 SCRA 295, 326-327 (1999).

[15] *People v. Tira*, 430 SCRA 134, 151 (2004).

[16] *People v. Mala*, 411 SCRA 327, 333 (2003).

[17] *People v. Ganenas*, 364 SCRA, 582, 594 (2001).

[18] *People v. Pendatun*, 434 SCRA, 148, 156 (2004).

[19] SECTION 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law; the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

[20] (3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu”, or other dangerous drugs such as, but not limited to, MDMA or “ecstasy”, PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

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.