

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GAUDENCIO BAUTISTA, DEFENDANT-APPELLANT.***G.R. No. 102618. October 12, 1993*

Ponente: BIDIN, J.

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From the decision of the Regional Trial Court of Cavite, Branch XVIII, Tagaytay City, in Criminal Case No. TG-1715-91, finding the accused-appellant guilty beyond reasonable doubt for violation of Sec. 15, Art. III of R.A. 6425, otherwise known as "The Dangerous Drugs Act of 1972" and sentencing him to suffer "the supreme penalty of reclusion perpetua or life sentence together with all its accessory penalties and fines" and also to pay a fine of P25,000.00 in favor of the government (p. 38, Rollo), the accused-appellant interposes this appeal.

The antecedent facts as found by the lower court reveal that on April 2, 1991, the Tagaytay City police apprehended a certain Renato Litada and received a tip from him that some-body at Barangay Mendez Crossing, Tagaytay City was selling "shabu", the popular name for the prohibited drug methamphetamines hydrochloride (p. 13, Rollo). Pat. Rolando Gatpandan with his companions conducted surveillance at the area. The policeman further learned from Renato Litada that Gaudencio Bautista, herein accused-appellant, was selling shabu in that area and that he was then in the house of Rosalina Gatpandan at Barangay Mendez Crossing (p. 18, Rollo).

Upon being so informed, Lt. Col. Dalmacio Cortez, the police station commander, advised his men to form a team to conduct a buy-bust operation at Mendez Crossing (p. 22, Rollo). The assembled group had five (5) members, namely, Cpl. Mario Villanueva, Pat. Rolando (Rolly) Gatpandan, Pat. Rafael Aceron, Pat. Tirso Petil, and the station commander (p. 13, Rollo).

Pursuant to the station commander's instructions, the group prepared marked money and thereafter proceeded on board a motor vehicle to the house of Rosalina Gatpandan which was located at Mendez Crossing.

Cpl. Villanueva selected Tirso Petil and Rolly Gatpandan to act as poseur-buyers because they were familiar with the place, being former residents thereof. At that time, Cpl. Villanueva was unaware that Pat. Rolly Gatpandan was related to the woman Rosalina Gatpandan (p. 25, Rollo). The pair, with two P100.00 bills of marked money in their possession, walked towards the house while the rest of the group remained a short distance away. The two were in civilian clothes and carried short firearms underneath their shirts (pp. 13 & 15, Rollo).

Rolly Gatpandan with his companion walked to the house of Rosalina Gatpandan, who happened to be his second cousin (p. 95, Rollo). Rosalina opened the door and allowed them to enter. She did not ask them anything because, he surmised, she recognized him as a relative. After letting them in, she then went inside the bathroom (p. 21, Rollo).

Tirso Petil remained standing by the door while Rolly Gatpandan entered the house by himself (p. 16, Rollo). Rolly proceeded to the receiving sala where appellant Gaudencio Bautista was. He approached the said accused-appellant and asked the latter if he has shabu. Appellant said "yes" and the price is P200.00 per foil.

Rolly then purchased one foil of the drug for P200.00 from appellant (p. 21, Rollo). From Tirso's vantage point, he saw Rolly hand over to Bautista the marked money. Thereafter, the accused-appellant got the shabu wrapped in foil from the waist of his red short pants and handed it to Rolly (p. 16, Rollo).

After the transaction, the two policemen went out of the house and met with the rest of the group who were just outside waiting. Tirso informed the station commander that he was able to buy the shabu from appellant (pp. 27-28, Rollo). The group then immediately entered the same house and arrest-ed the accused-appellant (p. 16, Rollo). The station com-mander searched the body of appellant Bautista and retrieved from him the marked money, seven (7) other pieces of aluminum foil and a film box both containing shabu (p. 16, pp. 23-24, and p. 28, Rollo). When tested, the material obtained from appellant were verified and identified by the NBI as shabu (p. 17, Rollo).

An Information dated April 5, 1991 was filed against appellant Gaudencio Bautista setting out the charge against him, as follows:

"That on or about April 2, 1991 in the City of Tagaytay and within the jurisdiction of this Hon-orable Court, the above-named Accused not being authorized by law, did, then and there, willfully, unlawfully and feloniously sell and deliver to Pat. Tirso Petil and Pat. Rolando Gatpandan, who acted as poseur buyer, P200.00 worth of Methamphetamine Hydrochloride, commonly known as 'shabu', a regu-lated drug and is considered prohibited by law, to the damage and prejudice of the government.

"CONTRARY TO LAW."

As stated earlier, Bautista was found guilty by the lower court, hence, this appeal with the following assignment of errors:

FIRST ASSIGNMENT OF ERROR

"THE LOWER COURT ERRED IN GIVING FAITH AND CREDENCE TO THE TESTIMONIES OF PAT. TIRSO PETIL AND PAT. ROLANDO GATPANDAN, THE ALLEGED POSEUR-BUYERS NOTWITHSTANDING THAT THEIR TESTIMONIES ARE NOT CLEAR, CONVINCING AND STRAIGHTFORWARD AND ARE FULL OF INCONSISTENCIES AND CONTRADICTIONS.

SECOND ASSIGNMENT OF ERROR

"THE LOWER COURT ERRED IN NOT HOLDING THAT SINCE LT. COL. DALMACIO CORTEZ IS NOT ARMED WITH ANY SEARCH WARRANT NOR ANY WARRANT OF ARREST, IT FOLLOWS THAT THE ARREST OF THE ACCUSED-APPELLANT AND THE ALLEGED SEIZURE AND/OR CONFISCATION OF THE MARKED MONEY AND SHABU ARE ILLEGAL AND UNLAWFUL AND X X X INADMISSIBLE IN EVIDENCE.

THIRD ASSIGNMENT OF ERROR

"THE HONORABLE COURT FINALLY ERRED IN NOT HOLDING THAT THE PROSECUTION MISERABLY FAILED TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT." p. 54, Rollo

The accused-apellant, in his first assignment of error, argues that there were inconsistencies and contradictions in the testimonies of Pat. Rolando Gatpandan and Pat. Tirso Petil regarding the surveillance of the accused, preparation of the marked money, and the immediate antecedent circum-stances that led to the buy-bust operation (p. 73, Rollo).

Assuming, arguendo, that the alleged inconsistencies exist, these are on minor details which do not affect the case of the prosecution. Differences or discrepancies on minor matters do not impair the essential integrity of the prosecution's evidence as a whole or reflect on the witnesses' honesty so long as there exists a basic agreement on the main points of the incident (People vs. Bernardino, 193 SCRA 448, 451 [1991]). These inconsistencies even tend to strengthen rather than weaken the credibility of the pro-secution because they erase any suspicion of rehearsed testimony (People vs. Custodio, 197 SCRA 538, 544 [1991]). What is important is that the testimonies agree on the essential facts and the respective versions narrated sub-stantially coincide with each other to make a consistent and coherent whole (People vs. Gadiana, 195 SCRA 211, 214).

Poseur-buyer, Pat. Rolando Gatpandan, clearly and positively identified appellant Bautista as the shabu pusher in his testimony and that he (Pat. Gatpandan) was able to obtain the drug from the appellant, thus:

"ATTY. BARZAGA:

Q. In what part of the house did you see Gaudencio Bautista?

A. Inside the house, sir.

Q. Was it at the sala?

A. Yes, sir.

Q. How far was he positioned from the door?

A. Approximately three (3) meters.

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Q. And then you talked to the accused after that?

A. Yes, sir.

Q. What did you tell the accused.

A. I asked if he has (sic) a shabu.

Q. And on this, he answered yes?

A. Yes, sir.

ATTY. BARZAGA:

Q. And then you purchased already?

A. Yes, sir.

Q. What exact words did you tell?

A. I asked him if he has (sic) shabu, and he presented it to me.

Q. And did you talk about the price?

A. Yes, sir.

Q. Did you ask the quantity of shabu which you will purchase?

A. I asked him how much is one (1) foil of shabu.

Q. And what was his answer?

"A. He told me P200.00 per foil.

Q. So, you bought one (1) foil of shabu?

A. Yes, sir.

Q. And during this conversation between you and the accused, Pat. Tirso Petil was approximately three (3) meters away from you, will that be correct?

A. Yes, sir. (pp. 161-162, Rollo)

Pat. Tirso Petil, who accompanied Pat. Gatpandan to the house where the buy-bust operation was conducted, fully corroborated the abovequoted testimony of Pat. Rolando Gatpandan, as follows:

Q: Now, you actually saw the accused selling shabu to Rollie Gatpandan?

A: Yes, sir.

Q: You also actually saw Rollie Gatpandan hand-ing the alleged marked money to the accused?

A: Yes, sir.

Q: Where did the accused get the shabu?

A: On his waist.

Q: Did he get it from his pocket?

A: He was wearing shorts, colored short pants.

Q: And where did he place the two hundred peso bills after receiving the same?

A: He just held them.

Q: After that, what you do, together with Rollie Gatpandan, was to get out of the house of Rosalina, is that correct?

A: Yes, sir." (pp. 86-87, Rollo)

There can be no doubt that the sale of the prohibited drug indeed occurred. There was delivery of the shabu by appellant to the poseur-buyer and receipt of payment of the purchase price by appellant-seller from the poseur-buyer.

As regards the second assignment of error to the effect that the seizure and confiscation of the marked money and shabu was illegal as no search warrant nor warrant of arrest was issued, this case demonstrates a valid warrantless arrest under Section 6(b), Rule 113 of the Revised Rules of Court.

The accused makes much of the fact that the two poseur-buyers did not immediately make the arrest right after the purchase was effected but instead reported the completion of the buy-bust transaction to the station commander who then entered the house with the group and was the one who actually searched and arrested the accused-appellant. Appellant argues that the arresting officer, Lt. Col. Dalmacio Cortez, did not have any warrant nor any personal knowledge of the sale of the shabu.

An early decision of this Court has held that peace officers may pursue and arrest without warrant any person under circumstances reasonably tending to show that such person has committed, or is about to commit any crime or breach of the peace. Probable cause for an arrest without warrant is such a reasonable ground for suspicion supported by circumstances strong in themselves as to warrant a reason-able man in believing the accused to be

guilty (U.S. vs. Santos, 36 Phil. 853, at 854-855 [1917]).

More than sufficient grounds can be found in the present case. The station commander got his information directly from his own men, and he saw for himself the presence of the purchased drug and the culprit from whom the prohibited drug was purchased. To say that he is now re-quired to secure a warrant to arrest the perpetrator of the crime is to unduly limit the power of our police in enforcing the laws of the land. To require search warrants during the on-the-spot apprehensions of drug pushers would make it extremely difficult, if not impossible, to contain the crimes committed by these persons (People vs. Tangliben, 184 SCRA 220, 226 [1990]).

For his defense, the accused-appellant interposed a mere denial of the crime charged, consisting of his lone testimony. No other evidence was offered to corroborate it, despite a string of opportunities offered him (p. 35, Rollo). Appellant did not present his girl friend Rosalina Gatpandan in whose house the offense was committed. Mere denials consti-tute self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters. Moreover, as between a positive and categorical testimony which has the ring of truth on one hand and a bare denial on the other, the former is generally held to prevail (People vs. Abonada, 169 SCRA 530, 538 [1989]).

There is nothing on record which indicates that the police operatives who entrapped accused-appellant were actu-ated by improper motive against appellant Bautista, consider-ing the seriousness of the offense charged (People vs. Olivares, 186 SCRA 536, 546 [1990]). Credence can be given to the narration of the incident by the prosecution witnesses, who as police officers are presumed to have performed their duties in a regular manner in the absence of proof to the contrary. As such, their testimonies should be entitled to full faith and credit (People vs. Boholst, 152 SCRA 263, 270 [1987]). Indeed, the lower court found the prosecution presented its case "with such flawless and indubitable credibility, worthy of the full faith and credence of any impartial arbiter" (p. 37, Rollo).

For these reasons, We find it unnecessary to discuss the third assignment of error.

At this juncture, this Court reiterates the ruling that life imprisonment as penalty for illegal sale of drugs is not synonymous with reclusion perpetua which carries accessory penalties (People vs. Madriaga, 211 SCRA 698, 716 [1992]). The proper penalty that ought to have been imposed by the lower court in its Decision should simple read life imprison-ment without any reference to reclusion perpetua and its accessory penalties.

WHEREFORE, the appealed Decision is AFFIRMED, with modification in the dispositive portion by deleting the term reclusion perpetua and reference to its accessory penalties.

SO ORDERED.

Feliciano, (Chairman), Romero, Melo, and Vitug, JJ., concur.

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