

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO SALAMAT Y DE GUZMAN, ACCUSED-APPELLANT.

G.R. No. 103295. August 20, 1993

Ponente: REGALADO, J.

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REGALADO, J.:

Accused-appellant Rolando Salamat, alias "Tolits," alias "Mr. T," was charged in three separate informations with the following offenses: (1) illegal possession of methamphetamine hydrochloride, a regulated drug commonly known as shabu, in violation of Section 16, Article III of Republic Act No. 6425, docketed as Criminal Case No. 10528-MN; (2) engaging in the unlawful sale of shabu in violation of Section 15, Article III of the same law, and docketed as Criminal Case No. 10529-MN; and (3) illegal possession of firearms and ammunition under Criminal Case No. 10530-MN.

On August 22, 1991, appellant moved to quash the information in Criminal Case No. 10528-MN on the ground that the offense charge therein, that of illegal possession of a regulated drug, is absorbed in and is necessarily included as an element of the offense of unlawful sale of such regulated drug for which accused likewise stands charged. The resolution of the motion was deferred by the trial court until such time when all the evidence for the three cases shall have been adduced.

During the arraignment, appellant pleaded not guilty to all the charges against him, after which the three cases were tried jointly by the court.

In a joint decision dated November 29, 1991, the court a quo rendered judgment[1] with this decretal portion:

"WHEREFORE, premises considered, judgment is hereby rendered finding accused Rolando Salamat y De Guzman alias Tolits alias Mr. T:

1. Not guilty in Crim. Case No. 10528-MN for a Violation of Sec. 16, Art. III, R.A. 6425 for (sic) which he is hereby accordingly acquitted. This disposes of the motion to quash filed by the accused in this particular case ruling on which was reserved by the Court until such time as all the evidence in these cases shall have been adduced;
2. Guilty beyond reasonable doubt in Crim. Case No. 10529-MN for (sic) a Violation of Sec. 15, Art. III, R.A. 6425. Said accused is hereby accordingly sentenced to life imprisonment, or reclusion perpetua, together with all the accessory penalties thereof and to pay a fine of P20,000.00;
3. Not guilty of the accusation against him in Crim. Case No. 10530-MN for Illegal Possession of Firearm and Ammunitions.

Costs against the accused in Crim. Case No. 10529-MN only.

SO ORDERED."

The evidence for the prosecution shows that on July 18, 1991, Cpl. Eddie Regalado of the Anti-Narcotics Unit of the Malabon Police Station received information from their confidential informant that there was shabu in the house of a certain Rolando Salamat. On the basis thereof, Cpl. Regalado, together with Pat. Alberto Nepomuceno, applied for and was subsequently issued a search warrant by Judge Amanda Valera-Cabigao on the same day.[2]

On July 22, 1991, at around 7:00 A.M., a police team composed of Cpl. Eddie Regalado, Pats. Nepomuceno, Guevarra, Galang, Sales and Olog, accompanied by the confidential informant, proceeded to the house of the suspect, herein appellant Rolando Salamat, at No. 127 Interior Sanciango Street, Catmon, Malabon in order to effect service of the search warrant.[3]

A buy-bust operation was first conducted with Pat. Nepomuceno acting as poseur-buyer in the company of the confidential informant. While the two were walking towards the house, they were met by appellant who was then coming out of the house. Pat. Nepomuceno testified that appellant already knew him because he had on two occasions previously bought shabu from the latter as part of the surveillance being then conducted on appellant's illegal activities. When the accused approached them, Pat. Nepomuceno told him "tatlong piso lang pare," which means that he was buying P300.00 worth of shabu. Appellant went inside the house and came back a few minutes thereafter and handed over the shabu to Pat. Nepomuceno who paid appellant with the P300.00 marked bills. After examining the suspected shabu, Pat. Nepomuceno lighted his cigarette as a pre-arranged signal to his companions, then around ten meters away, to move in.[4]

However, appellant resisted arrest and was able to run inside the house and lock himself inside. The raiding team introduced themselves as policemen but were instead met with gunshots coming from the house. At about the same time, the policemen saw several men coming from the back of the house and running towards a place called Palmario. Thereafter, when the policemen gave an order for him to surrender, appellant came out of the house and threw a gun on the ground. Sgt. Guevarra immediately took the gun while Pat. Nepomuceno handcuffed appellant. The policemen showed the search warrant to appellant who merely kept silent.[5]

There were two houses searched by the policemen, the first of which is located at 127 Sanciango Street where appellant was apprehended and another located at 139 Interior Sanciango Street which is around twenty meters away from the first house. As a result of the search made, the police were able to confiscate ten packets of shabu contained in an eyeglass container and several paraphernalia from the first house, and three packets of shabu and additional paraphernalia from the second house,[6] as well as a copy of a search warrant issued against one Susana Ignacio and a receipt for the items seized from her.

The receipts for the items seized from the two houses[7] were signed by Barangay Captain Florentino Cruz who was present during the search. The common-law wife of appellant, Marilou Salamat, also signed the receipt for the items taken from the second house at 139 Interior Sanciango Street.[8] Appellant was duly furnished copies of the receipts by the policemen.

Appellant was then brought to the police station where he was investigated and subsequently detained. The items confiscated as a result of the search and the buy-bust operation were turned over to the NBI Forensic Chemist who subsequently issued a report with the finding that the specimens submitted for examination were positive for methamphetamine hydrochloride, or shabu.[9]

On the other hand, appellant testified that in the morning of July 22, 1991, he was in the house of Rolando Cabangis at 127 Interior Sanciango Street, Catmon, Malabon, where he was examining a ring which Cabangis was selling to him, when he heard gunshots outside. When he went out of the house, he was suddenly grabbed by

Pat Nepomuceno and later brought to the police station together with Cabangis. He was informed of the charges against him only after he was detained at the police station.[10] The following day, only Cabangis was released from jail. It was his wife, Marilou, who told him that the policemen searched their house.

Appellant denies that he sold shabu to Pat. Nepomuceno and claims that maybe the reason why he was so charged was because the father of Pat. Nepomuceno previously filed a case against him for robbery in band but the same was subsequently dismissed.[11] He also denies that the shabu and paraphernalia confiscated by the police from his house belongs to him. He contends that the signature of Marilou Solis Salamat appearing on one of the receipts, marked in evidence as Exhibit C, is not her true signature. While he admits that there are several pushers in their place, appellant denies that he is a pusher. He, however, admits that he knows the house of Cabangis at 127 Interior Sanciango Street is often used for "jamming" or "pot sessions" whenever the latter is not around.[12]

Marilou Salamat testified that no search warrant was presented to her when the police searched the house at 139 Interior Sanciango Street, and denies that she signed a receipt for the items confiscated therefrom. She also denies that the signature over the typewritten name of Marilou Solis Salamat appearing in Exhibit C belongs to her. On rebuttal, however, Cpl. Regalado declared that he was present when the search warrant was presented to Marilou Salamat by Sgt. Guevarra and when she signed Exhibit C in the presence of the barangay captain and the father of appellant.[13]

On appeal before us is only that portion of the judgment of the trial court finding herein appellant guilty beyond reasonable doubt of a violation of Section 16, Article III of Republic Act No. 6425 for unlawful sale of a regulated drug. Since appellant has been acquitted of the offense of illegal possession of a regulated drug and of firearms and ammunitions, we deem it unnecessary to dwell on the issue raised by appellant anent the validity of the search warrant used in this case considering that it was for the charge of illegal possession of prohibited drugs and paraphernalia, of which appellant was acquitted in Criminal Case No. 10528-MN, that the evidence obtained pursuant thereto was offered. We shall nonetheless discuss hereafter the propriety of appellant's acquittal in said case.

The main contention of appellant in the case at bar actually hinges on the credibility of the testimony of Pat. Nepomuceno. If it were true that Pat. Nepomuceno did buy shabu from him on two occasions prior to the incident subject of this case, appellant then contends that (1) it was improbable for Pat. Nepomuceno not to have remembered the exact dates when he previously bought shabu from appellant; (2) the testimony of said witness that he did not know appellant prior to July 22, 1991 is not true; (3) it is highly questionable why the shabu allegedly bought from appellant on those two occasions were not presented before the court; and (4) it is surprising why the witness had a hard time describing and identifying the house subject of the search warrant.

Furthermore, appellant would make capital of the fact that since he has known Pat. Nepomuceno as a policeman for almost five years, it was unlikely and highly improbable for him to sell shabu to the latter. Besides, he adds, the fact that Pat. Nepomuceno is the son of Col. Nepomuceno who filed a case against appellant, but which case was later dismissed, is sufficient basis to cast doubt on the motives of Pat. Nepomuceno in implicating him in the aforestated charges.

Clearly, the issues raised are factual and involve the credibility of the witnesses, a matter addressed to the trial court because it is in a better position to decide such questions, having heard the witnesses and observed their deportment and manner of testifying during the trial. Hence, to once again reiterate an entrenched doctrine, its findings on the credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal in the absence of any clear showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.[14] That absence

is only all too evident in the instant case.

In the first place, the testimony of appellant consists merely of denials without any other evidence to sustain his claim and defense. We have consistently ruled that denials if unsubstantiated by clear and convincing evidence are negative, self-serving evidence which deserve no weight in law and cannot be given greater evidentiary weight over the testimony of credible witnesses who testify on affirmative matters. As between the positive declarations of the prosecution witness and the negative statements of an accused, the former deserves more credence.[15]

Next, the alleged failure of prosecution witness Pat. Nepomuceno to remember the exact dates when he previously bought shabu from appellant is too trivial an omission as could cast doubt on his credibility. Discrepancies and inconsistencies in the testimonies of witnesses referring to minor details, and not upon the basic aspects of the crime, do not impair their credibility.[16] Contradictions on minor or trivial details are not unnatural and are normally considered as enhancing, rather than debilitating, the testimony of a witness.[17] Moreover, credence is generally accorded to the testimonies of prosecution witnesses who are enforcers of the law as they are presumed to have performed their duties in a regular manner, more so where, as in this case, appellant has opted to invoke the inherently weak and standard defense of denial. It is axiomatic, under the rules of evidence, that said defenses cannot prevail when arrayed against the positive testimonies of prosecution witnesses.[18]

The fact that appellant has known the poseur-buyer as a policeman for almost five years cannot be considered as a strong deterrent which would prevent the former from entering into illegal transactions with the latter. As this Court has noted many times, drug pushers have become increasingly daring in the operation of their illicit trade and have not hesitated to act openly, almost casually and even in scornful violation of the law, in selling prohibited drugs to any and all buyers.[19] In real life, pushers, especially small-quantity or retail pushers, sell their prohibited wares to customers, be they strangers or not, who have the price of the drug, and this fact the Court has recognized.[20] Besides, it will be noted that Pat. Nepomuceno had on two occasions bought shabu from appellant as part of a test-buy operation which was primarily intended to gain appellant's confidence.

Lastly, appellant would like to impute ill motives to Pat. Nepomuceno in testifying against him. Such allegation is nothing more than a desperate effort on the part of appellant to exculpate himself from liability. We have said that motive is important when the identity of an accused is in doubt, but when the perpetrator has been positively identified, as in this case, even discounting such motive there is enough evidence to convict appellant.[21] Furthermore, there is nothing in the record to suggest that the police officers were induced by any motive other than to accomplish their mission to capture a drug pusher in the execution of the crime, the presumption being that police officers perform their duties regularly in the absence of any evidence to the contrary.[22]

We now digress, as earlier indicated, to make our observations on the acquittal of appellant in Criminal Case No. 10528-MN where he was charged with the illegal "possession, custody and control" of thirteen packets of methamphetamine hydrochloride, separately from the sale of said regulated drug worth P300,00 charged in Criminal Case No. 10529-MN. In acquitting appellant in the first case, the court below made the following ratiocination:

"The Court, however, is not inclined to sustain the charge of illegal possession of additional shabu and paraphernalia to facilitate its sale and consumption. A trader, whether he be legal or illegal, is expected to have stocks of his me(r)chandise ready at all times to be sold to prospective buyers. The seller or trader cannot be held liable anymore for the possession of these stock." [23]

We are taken back by this reasoning, not only because we find it absurd and illogical, but because of its total disregard of the holding in *U.S. vs. Look Chaw*, [24] handed down as early as 1911 and which has stood the test of

time with its recent reiterations by this Court;^[25] and we are intrigued how these cases have escaped the attention of the lower court and have been glossed over sub silentio by the Solicitor General. We, therefore, deem it necessary to reproduce the pertinent pronouncements in said case.

"True it is, we assert, that it is one crime to possess opium, punished by section 31 of the Act, and another, to sell opium, penalized by section 5 of the same Act before cited.

"And it is also true that when one single act constitutes two or more crimes, or when one of them is a necessary means for the commission of the other, only the penalty corresponding to the more serious crime shall be imposed in its maximum degree, x x x."

"But the illegal possession of 137 cans of opium and the illegal sale of 30 cans of opium, which are the two acts confessed by the accused, are not one act which constitutes two crimes, nor a crime which is a necessary means for the commission of another. They are two isolated acts, punishable, each of them, in themselves. Only in the event where all the amount of the opium possessed and seized be in its totality the same as that which was possessed with the sole purpose of being delivered as the matter or subject of a sale previously agreed upon, could it be said, in the opinion of this court, that the possession of the opium was a necessary means to effect the delivery by reason of the sale, and that the sale agreed upon was the sole reason for the possession of the opium seized. x x x." (Emphasis supplied.)

Of course, with the acquittal of appellant for his illegal possession of shabu, albeit distinct from that which he sold in the buy-bust operation, he may no longer be proceeded against for the first offense. Propitiously, he was correctly convicted of the crime of selling a small part of the shabu in his possession. It would have been interesting to see how the theory adopted by the trial court would have fared if appellant had also been acquitted of the charge of selling such drug. Hence, we direct our trial courts to take particular note of this clarificatory emphasis on the matter, to avoid another miscarriage of justice with its consequent setback to the operose campaign against dangerous drugs in this country.

One final observation. We are here again confronted with a case where the penalty imposed by the trial court is "life imprisonment, or reclusion perpetua, together with all the accessory penalties thereof." In Administrative Circular No. 6-92 issued by this Court on October 12, 1992, as amended by Administrative Circular No. 6-A-92 dated June 21, 1993, all judges of the regional trial courts, inter alia, were specifically enjoined to be more circumspect in the proper imposition of the penalties of life imprisonment and reclusion perpetua.

In view of the gaffes which continue to reach us on appeal, as in the case at bar, we are constrained to quote this excerpt from said circular for guidance and strict compliance:

"As noted from the dispositive portion of the challenged decision, the trial court imposed the penalty of reclusion perpetua or life imprisonment. Evidently, it considered the latter as the English translation of the former, which is not the case. Both are different and distinct penalties. In the recent case of *People vs. Baguio*, (April 30, 1991, 196 SCRA 459), this Court held:

"The Code (Revised Penal code) does not prescribe the penalty of life imprisonment for any of the felonies therein defined, that penalty being invariably imposed for serious offenses penalized not by the Revised Penal Code but by special law. Reclusion perpetua entails imprisonment for at least thirty (30) years after which the convict becomes eligible for pardon. It also carries with it accessory penalties, namely: perpetual special disqualification, etc. It is not the same as 'life imprisonment' which, for one thing, does not carry with it any accessory penalty, and for another, does not appear to have any definite extent or duration."

"As early as 1948, in *People vs. Mobe*, reiterated in *PP vs. Pilonas* and in the concurring opinion of Justice Ramon Aquino in *People vs. Sumadic*, this Court already made it clear that reclusion perpetua is not the same

as imprisonment for life or life imprisonment. Every judge should take note of the distinction and this Court expects that, henceforth, no trial judge should mistake one for the other."

Considering that a violation of Section 15, Article III of Republic Act No. 6425, of which appellant has been found guilty, carries a penalty of life imprisonment, the decretal portion of the trial court's decision subject of the present appeal should necessarily be, as it is hereby, modified.

WHEREFORE, the assailed judgment of the court a quo in Criminal Case No. 10529-MN is hereby AFFIRMED in toto, subject to the MODIFICATION that the phrase "or reclusion perpetua, together with all the accessory penalties thereof" in paragraph 2 of the decretal portion therein is hereby DELETED.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Nocon, and Puno, JJ., concur.

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- [1] Original Record, 108; per Judge Benjamin M. Aquino, Jr.
- [2] TSN, Sept. 16, 1991, 3-6; Exh. B, Original Record, 61.
- [3] Ibid., Sept. 2, 1991, 5-7.
- [4] Ibid., id., 8-9; Exh. A, Original Record, 60.
- [5] Ibid., id., 10-12.
- [6] Ibid., id., 14-15.
- [7] Exhs. C and D, Original Record, 62-63.
- [8] Ibid., id., 17-19.
- [9] NBI Dangerous Drugs Report No. DD-91-15-15; Exh. I, Original Record, 68.
- [10] Ibid., Sept. 23, 1991, 6-8.
- [11] Ibid., id., 21.
- [12] Ibid., id., 27-28.
- [13] Ibid., Oct. 14, 1991, 2-4.
- [14] People vs. De la Cruz, G.R. No. 102063, Jan. 20, 1993.
- [15] People vs. Guibao, G.R. No. 93517, Jan. 15, 1993.
- [16] People vs. Dulay, G.R. No. 92600, Jan. 18, 1993.
- [17] People vs. Cuyo, et al., 196 SCRA 447 (1991).
- [18] People vs. Pacleb, G.R. No. 90602, Jan. 18, 1993.
- [19] People vs. Pinto, G.R. No. 93407, Jan. 20, 1993.
- [20] People vs. Odicka, et al., 197 SCRA 158 (1991).
- [21] People vs. Custodio, 197 SCRA 538 (1991).

[22] People vs. Sucro, 195 SCRA 388 (1991).

[23] Original Record, 111.

[24] 19 Phil. 343 (1911).

[25] People vs. Catan, 205 SCRA 235 (1992); People vs. Angeles, G.R. Nos. 95761-62, Feb. 2, 1993.

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