

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO JUATAN Y CAPSA, ACCUSED-APPELLANT.

G.R. No. 104378. August 20, 1996

Ponente: VITUG, J.

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VITUG, J.:

In its decision,[1] dated 03 February 1992, in Criminal Case No. 91-96313, the Regional Trial Court of Manila, Branch 45, pronounced the accused, DANILO JUATAN Y CAPSA, "guilty beyond reasonable doubt" of violating Section 15 of Republic Act No. 6425, as amended by Presidential Decree 1683, and sentenced him to suffer the penalty of life imprisonment and to pay a fine of P20,000.00.

Juatan was charged, on 09 July 1991, with the commission of the above offense in an information that read:

"That on or about July 5, 1991, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there wilfully, unlawfully and feloniously sell or offer for sale white crystalline substance known as 'Shabu' containing methamphetamine hydrochloride, which is a regulated drug.

"Contrary to law." [2]

The accused entered a plea of not guilty; [3] forthwith, the trial proceeded.

The prosecution made the following rendition of what it submitted to be the facts.

The Western Police District Command, based in the City of Manila, received word from a confidential informant and some barangay officials that Danilo Juatan had been dealing in prohibited drugs. On orders of P/Maj. Cipriano Herrera, Jr., of the Narcotics Section, a police team, led by Lt. Enrique Sy, was organized to conduct a one-week surveillance on Juatan. When its surveillance showed positive results, the police team decided to conduct a buy-bust operation.

On 05 July 1991, at around one o'clock in the morning, the 8-member police team [4] proceeded to Instrucción Street, Sampaloc, Manila. Pat. Ernesto Yamson was designated to be the poseur-buyer, while Pat. Eduardo Sison and the others were assigned to secure the area. Pat. Amelito Lopez placed himself around seven meters away from the house of the accused. [5]

The actual operation started with the informant calling the accused and telling him that Yamson wanted to buy "drugs." Juatan met Yamson and the informant at the corner of an alley, near Maceda and Instrucción streets, around ten meters away from Juatan's house. Yamson gave Juatan a P500-bill marked with his initials on the upper right hand portion of the bill; [6] in turn, Juatan handed over to Yamson a plastic container measuring 2" x 2 1/2." [7] At that precise moment, Yamson raised his right hand to signal his companions that the deal had been made. Sensing that something was amiss, Juatan fled. He was about to get into his house when the police apprehended him. Upon being searched, Juatan's right side pocket yielded the marked P500-bill. [8] Juatan was accompanied by his wife to the police headquarters. [9] The booking and information sheet bearing Juatan's

signature[10] described him to be a 5'6" tall taxi driver, with tattoo marks of the "Sigue-Sigue" commando.[11]

At around nine o'clock that same morning, the members of police team executed a joint affidavit of arrest.[12] Sgt. Antonio T. Taca, signing for Maj. Cipriano Herrera, Jr., sent a letter-request to the Chemistry Section of the Criminal Investigation Laboratory for the laboratory examination of the contents of the plastic bag taken from Juatan.[13] The request, along with the specimen, was received in the late afternoon of 05 July 1991.[14] On 08 July 1991,[15] the item was turned over to the forensic chemist, Renee Eric Checa, of the Chemistry Section. Measuring the specimen, Checa found it to weigh 0.395 gram.[16] Using the thin-layer chromatography, Checa specifically identified the article to be shabu or methamphetamine hydrochloride.[17]

At the police headquarters, Juatan admitted that he was a drug user but, after being apprised of his constitutional rights to counsel and to remain silent, appellant decided not to make any further statement.[18] On 08 July 1991, Sgt. Taca referred the case to the inquest fiscal[19] who suggested that the accused be detained.[20]

In his testimony, Juatan said that he was arrested by policemen Edwin Sison, Ernesto Yamson and Amelito Lopez. Surprised by the arrest, Juatan asked the police officers what the problem was. He was told to produce a certain Boy Chua whom he did not know at all, thus prompting him to remark, "Edwin (referring to Pat. Sison), personal na yata ang ginagawa mo sa akin." [21] When Juatan asked to be shown either a search warrant or a warrant of arrest, he, instead, got a punch on the face from Sison. The other police officers stopped Sison from doing any possible further harm on the accused. The group made a search. Finding nothing, they dragged Juatan out of his house and brought him, along with his wife, to the police headquarters.[22]

Juatan's wife, 38-year-old Aurora, declared that she was doing her laundry, at about one o'clock in the morning of 05 July 1991, when armed men forcibly entered their house. When she started to complain, the men simply told her to keep quiet. She followed the group upstairs; she was told that they were looking for her husband and a certain Boy Chua. When she told them that her husband was asleep in the room, the men went in and immediately handcuffed him. It only angered the policemen when she demanded to be shown a warrant. At the police headquarters, she recognized one of the apprehending police officers to be Pat. Sison.[23]

The defense presented three other witnesses. Jesus Lingat, a 32-year-old driver who resided just a house away from the Juatan residence, testified that at around 1:30 a.m. of 05 July 1991, he and his brother saw around nine armed men entering Juatan's house and later taking appellant with them. The witness did not see Juatan's wife.[24] Ludovico Munsayac, a 35-year old merchant and member of the barangay council, said that he personally knew Juatan to be just a taxi driver. Nonilon Reyes, barangay captain of Barangay 524, Zone 52, Sampaloc, Manila, stated that Juatan used to be a neighbor, and that, in connection with the latter's application with the "Operation Tulong of DZRH," he had issued a certification to the effect that Juatan was a taxi driver "ready to lend a helping hand to his neighbor." [25]

On rebuttal, the prosecution presented Pat. Eduardo Sison who denied the allegations made against him by Juatan and his wife.

The primary issue in this appeal, as so aptly pointed out by appellant's counsel himself, is one of credibility.[26] It has long been the entrenched rule in criminal jurisprudence that appellate courts should defer to the findings of the trial court considering the latter's vantage position in ascertaining that question of credibility.[27] Unless it is fairly evident that the trial court, we consistently have said before, overlooked certain facts of substance and value that, if considered, could affect the outcome of the case, the trial court's own appraisal on the issue should be held to stand.[28] We have examined the areas suggested by appellant but, in sum, they appear to us to be matters peripheral in nature more than of substance. For one, appellant ascribes ulterior motives on the part of the arresting officers; however, he did not give any clear account or details of this charge.

Appellant underscores the absence of a warrant of arrest or search warrant despite the fact that the police has had him subjected, prior to his apprehension, to a week-long surveillance. In fine, he contends that the police could have easily procured a "warrant before proceeding with the buy-bust operation." [29] A buy-bust operation is far variant from an ordinary arrest; it is a form of entrapment which has repeatedly been accepted to be a valid means of arresting violators of the Dangerous Drugs Law. In a buy-bust operation the violator is caught in flagrante delicto and the police officers conducting the operation are not only authorized but duty-bound to apprehend the violator and to search him for anything that may have been part of or used in the commission of the crime. [30]

Appellant has violated Section 15 of the Dangerous Drugs Law, as amended, which prescribes the penalty of reclusion perpetua to death. Pursuant, however, to the Court's ruling in *People vs. Simon*, [31] the penalty, considering that only 0.395 gram of shabu is involved in the prohibited sale, should now be prision correccional conformably with the amendatory law. Applying the Indeterminate Sentence Law, and there being neither an aggravating nor mitigating circumstance, the imposable penalty could be within the range of arresto mayor, as minimum, to prision correccional in its medium period, as maximum.

WHEREFORE, the Decision of the trial court finding appellant Danilo Juatan y Capsa guilty beyond reasonable doubt of violating Section 15 of the Dangerous Drugs Law, as amended, is hereby affirmed subject to the modification that he, instead, is meted the indeterminate sentence of six (6) months of arresto mayor, as minimum penalty, to four (4) years and two (2) months of prision correccional medium, as maximum penalty. Considering that appellant has been imprisoned for more than five (5) years or beyond the maximum penalty herein imposed upon him, his IMMEDIATE RELEASE from confinement is hereby ordered unless his continued detention can be justified by any other valid reason or cause. Costs against appellant.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Penned by Judge Benito C. Se, Jr.

[2] Rollo, p. 15.

[3] Record, pp. 13 & 14.

[4] Composed of Pat. Evia, Pat. Lopez, Pat. Javier, Pat. De la Cruz, Pat. Sison, Pat. Chico, Pat. Amurao and Pat. Yamson (TSN, 01 August 1991, p.2).

[5] TSN, 09 August 1991, p. 4.

[6] Exh. A, Record, p. 7.

[7] Exh. D, Record, p. 38.

[8] TSN, 01 August 1991, p.4; 09 August 1991, p.4.

[9] TSN, 01 August 1991, p. 9.

[10] Exh. C, Record, p. 37.

[11] Appellant admitted having been a member of the Sigue-Sigue gang as a young person and that he was once jailed for a petty quarrel with a barkada (TSN, 25 September 1991, p.18).

[12] Exh. F, Record, p.39; TSN, 01 August 1991, p.10.

[13] Exh. E, Record, p. 40.

[14] TSN, 14 August 1991, p.6.

[15] Ibid., p.5.

[16] Ibid., p.3. On cross-examination, Checa testified that the specimen weighed ".395, more about .04 rounded off to the nearest tenth to the gram" (Ibid., p. 8).

[17] Ibid.

[18] TSN, 15 August 1991, pp.11-12.

[19] Exh. G, Record, p. 42.

[20] TSN, 15 August 1991, p.13.

[21] TSN, 25 September 1991, p. 5.

[22] TSN, 25 September 1991, p.5.

[23] TSN, 18 September 1991, p.3.

[24] TSN, 10 October 1991, pp. 2-4.

[25] TSN, 23 October 1991, pp. 2-4.

[26] Appellant's Brief, p. 8, Rollo, p. 39.

[27] See People vs. Sotto, G.R. Nos. 106083-84, 29 March 1996.

[28] See People vs. Bernal, G.R. No. 101332, 13 March 1996.

[29] Appellant's Brief, p.11, Rollo, p. 42.

[30] People vs. Herrera, 247 SCRA 433.

[31] 234 SCRA 555.

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