

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RANIEL MARTINEZ Y OCAMPO, ACCUSED-APPELLANT.*G.R. No. 104708. August 30, 1994*

Ponente: BELLOSILLO, J.

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RANIEL MARTINEZ Y OCAMPO appeals from the Decision[1] of the court a quo declaring him guilty of unauthorized sale of methamphetamine hydrochloride or shabu, a derivative of a regulated drug (amphetamine), in violation of Sec. 15, Art. III, of R. A. 6425.

The evidence for the prosecution: On 14 December 1989, in response to complaints by residents of Palanan, Makati, that a certain Raniel Martinez was engaged in the rampant selling of shabu in the area, Capt. Reynaldo H. Jaylo, Chief of the Narcotics Section, Investigation Division, Western Police District, organized a buy-bust team composed of Pfc. Antonio Habalo, Jr., as poseur-buyer, and Pfc. Marlon Masangya and Pfc. Paterno Banawel, as backup, to catch Martinez red-handed.

Accompanied by a confidential informant, the team proceeded to an alley along Julio de la Cruz St. in Palanan, Makati where Raniel Martinez was reportedly selling his prohibited wares. Pfc. Masangya and Pfc. Banawel positioned themselves some ten (10) meters away from where Martinez stood while Pfc. Habalo, Jr., and the confidential informant approached the suspect. The informant introduced Pfc. Habalo, Jr., as someone interested in buying shabu. In response, however, the suspect pulled the informant to one side and whispered to the latter, "Mukhang pulis yata 'yan." The informant answered "Hindi, bagong user lang." Apparently assured, Martinez faced Pfc. Habalo, Jr., and asked the latter if he was really serious in buying drugs. Habalo responded by handing the marked P100-bill¹ to Martinez who accepted it. In exchange, Martinez pulled out an aluminum foil from his pocket and gave it to Habalo who thereupon revealed his true identity. Raniel Martinez put up a futile struggle to escape but was subdued with the help of Pfc. Banawel. Besides the marked money, six (6) more aluminum foils were recovered from Martinez³ which, together with the one sold to Pfc. Habalo, Jr.,⁴ yielded positive results for methamphetamine hydrochloride or shabu upon examination by the Forensic Chemistry Section of the National Bureau of Investigation.⁵

On his part, the accused denied selling shabu to the poseur-buyer and claimed he was framed-up by the police to avenge the death of a civilian NARCOM agent whom accused and his brother Danny were suspected of killing. Martinez contended that he was resting in his room in their house at No. 4012 Julio de la Cruz St., in Palanan, Makati, at about six o'clock in the evening of 14 December 1989 when he heard the sound of the front door being "destroyed." Some twelve (12) policemen barged into the room, aimed their guns at him, and ordered him to go downstairs where he was then mauled in front of his parents. His mother's pleas for the police to stop were unheeded. Finally, he was forced to board a police vehicle and brought to the WPD Police Station where he was detained. To lend support to his story, accused-appellant's parents, Edgardo and Priscilla Martinez, testified that their son was indeed at home when the police barged in, not selling drugs in some alley as the arresting team claimed.

The court a quo rejected the defense and labeled the contradictions in the testimonies of the defense witnesses as veritable badges of perjury.⁶

Martinez claimed that the intruders, numbering about twelve,⁷ barged into their house by destroying the front door, all in five minutes;⁸ that they entered his room saying, "Ikaw si Brandy, Ikaw ang pumatay sa NARCOM agent;" and, that he was beaten up in front of his parents whose pleas for the police to stop were ignored.⁹

However, according to appellant's father, Edgardo Martinez (who claimed to be resting in the sala when the incident occurred), only four persons (three policemen and a photographer)¹⁰ entered the house by merely opening the front door which was unlocked,¹¹ and that they brought with them a big box containing a weighing scale and aluminum foils which they passed off as those of his son.¹² Moreover, he denied hearing the intruders accuse his son of killing a NARCOM agent.¹³

Presented to corroborate the version of appellant and his father, Priscilla Martinez (appellant's mother) actually made matters worse for the defense when she denied her husband's presence at the time of the intrusion (which, according to her, happened between eight and nine in the evening) claiming that the latter was at the market when the police barged in and not resting in the sala as he claimed, and that he came in only when the policemen were already in their son's room.¹⁴ More significantly, she denied seeing them beat up her son.¹⁵

Ester Halang and Gerardo Santos tried to corroborate the story of the accused. However, we agree with the court a quo that their rather belated appearance casts serious doubt on their credibility.

The incident occurred on 14 December 1989. However, while claiming to have witnessed the atrocity committed by the police, Halang and Santos never came forward with their account until they were suddenly presented as the last witnesses for the defense on 7 June and 16 August 1991, respectively, or almost two years after the alleged incident. It is curious to note that Gerardo Santos did not even know that he would testify until two days before his scheduled appearance on 16 August 1991.¹⁶ Although delay in the appearance of witnesses is normally not counted against their credibility, we have so held only in cases where the witnesses have reason to entertain fears of getting involved in the case and of provoking reprisals from the accused.¹⁷ However, in the case at bench, Ester Halang and Gerardo Santos did not even pretend to dread the consequences of appearing in court. In fact, the only reason Santos could offer for the delay was that he was too busy.¹⁸ To this, we can only say that we find it difficult to believe that a witness would dally in coming forward with the truth on the shallow pretext that he was too busy considering the seriousness of the charge and the witness' proximity to the supposed victim, being the latter's next-door neighbor.¹⁹ As it is, the delay only succeeded in similarly engendering doubt in our minds as to the veracity of the testimonies offered. Hence, the court a quo was correct when it gave scant attention to the testimonies of Halang and Santos. Besides, the trial judge is considered the best arbiter of credibility in the absence of any reason for us not to rely on his assessment.

Appellant contends that the trial court erred when it focused unnecessarily on the discrepancies in the testimonies of the defense witnesses which he would have us disregard for being of minor consequence.²⁰ But, we cannot. For although it may seem trivial to accused-appellant, the overall effect of the inconsistencies in the testimonies was to shatter the credibility of the defense. While the yardstick to determine whether an accused is really guilty or not is the strength of the evidence presented by the prosecution, it is still of unquestionable advantage for the defense if it can prod the trial judge into at least considering the possibility that it might be telling the truth. For no matter how strong the evidence for the prosecution is, as long as a reasonable doubt enters the mind of the trial judge as to the guilt of the accused brought about by a credible defense, the judge is duty bound to declare an acquittal. In the case at bench, the defense failed to even project a credible version and, in the process, only served to magnify the credibility of the prosecution. For unlike the witnesses for the defense, those of the prosecution

consisting of the arresting team of Pfc. Habalo, Jr., Pfc. Masangya and Pfc. Banawel, and NBI Forensic Chemist Nicanor Cruz, all testified in a clear and direct manner on the actual occurrence of the sale in an alley along Julio de la Cruz St., in Makati and that the substance delivered was undeniably shabu. For which reason, we affirm.

However, in view of the amendments introduced by R. A. No. 765921 on certain sections of the Dangerous Drugs Act, a complete modification of the penalty imposed upon accused-appellant by the trial court²² is called for.

As it now stands, a violation of Sec. 15, R. A. No. 6425²³ is penalized, in addition to an increased fine ranging from P500,000.00 to P10,000,000.00 with reclusion perpetua to death if the shabu involved is 200 grams or more; otherwise, where the quantity unlawfully sold, delivered or distributed is less, only a reduced penalty ranging from prision correccional to reclusion temporal²⁴ shall be imposed, minus the fine.

In this case, the amount of shabu confiscated per report of the Forensic Chemistry Section of the NBI is less than a gram or only 0.8020.²⁵ Hence, under Sec. 15 of R. A. 6425, in relation to Sec. 20 thereof, as amended, the reduced penalty of prision correccional to reclusion temporal should be imposed considering that it is favorable to the accused.²⁶

In *People v. Simon*,²⁷ the Court categorically declared that the component penalties of prision correccional, prision mayor and reclusion temporal shall each be "considered as a principal imposable penalty x x x of the total complex penalty x x x to be imposed separately as determined by the quantity of the drug involved x x x" and that the modifying circumstances shall be "used to fix the proper period of that component penalty." Thus, the Court directed that the quantities (of the different drugs) enumerated in Sec. 20 of R. A. No. 6425, as amended, be "divided into three, with the resulting quotient, and double or treble the same, to be respectively used as bases for allocating the penalty proportionately among the three x x x periods according to the severity thereof."

Under the foregoing directive, since the amount of shabu involved in the instant case is only 0.8020 gram, the proper imposable component penalty is prision correccional to be applied in its medium period, in the absence of any mitigating or aggravating circumstance. Applying the Indeterminate Sentence Law,²⁸ the maximum shall be taken from the medium period of prision correccional, which is two (2) years, four (4) months and one (1) day, to four (4) years and two (2) months, while the minimum shall be taken from the penalty next lower in degree, which is arresto mayor, the range of which is one (1) month and one (1) day to six (6) months.

WHEREFORE, the decision appealed from finding accused-appellant RANIEL MARTINEZ Y OCAMPO guilty beyond reasonable doubt of violating Sec. 15, Art. III, of R. A. No. 6425 is AFFIRMED, with the modification that he is sentenced to suffer an indeterminate prison term of six (6) months of arresto mayor maximum as minimum, to four (4) years and two (2) months of prision correccional medium as maximum. Costs against accused-appellant.

SO ORDERED.

Davide, Jr., Quiason, and Kapunan, JJ., concur.
Cruz, (Chairman), J., on leave.

[1] Penned by Judge Manuel M. Cosico, Regional Trial Court of Makati, Br. 136, dated 20 November 1991; Rollo, pp. 19-24; Original Records, pp. 288-294.

2 Exh. "H," Original Records, p. 126.

3 Exhs. "G-1" to "G-4," "G-6" and "G-7."

4 Exh. "G-5."

5 Exh. "F," Original Records, p. 125.

6 See Decision, pp. 5-7; Original Records, pp. 292--294.

7 TSN, 29 January 1991, pp. 27-28.

8 Id., pp. 27-28.

9 Id., pp. 13-14.

10 TSN, 22 February 1991, p. 3.

11 Id., pp. 3, 14.

12 Id., pp. 7-8.

13 Id., p. 14.

14 TSN, 16 April 1991, pp. 4, 6-7.

15 Id., p. 7.

16 TSN, 16 August 1991, p. 6.

17 *People v. Competente*, G. R. No. 96697, 26 March 1992, 207 SCRA 591, 596; *People v. Aguiluz*, G. R. No. 91662, 11 March 1992, 207 SCRA 187, 195; *People v. Pacia*, G. R. No. 69543, 14 June 1990, 186 SCRA 529, 534; *People v. Punzalan*, G. R. No. 54562, 6 August 1987, 153 SCRA 1, 12; *People v. Medrano*, G. R. No. 55831, 31 May 1982, 114 SCRA 335, 340; *People v. Delfin*, Nos. L-15230 and 15979-81, 31 July 1961, 2 SCRA 911, 918--919; *People v. Villamin*, 64 Phil. 880, 885 (1937).

18 TSN, 16 August 1991, p. 6.

19 Id., p. 5.

20 Brief for Appellant, p. 9; Rollo, p. 48.

21 An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, as Amended, Other Special Penal Laws, and for Other Purposes.

22 x x x the Court finds the accused, Raniel Martinez Y Ocampo, guilty beyond reasonable doubt of the offense charged in the information, and hereby sentences him to suffer the penalty of reclusion perpetua or life imprisonment, and to pay a fine of twenty thousand pesos [P20,000.00] (Decision dated 20 November 1991, p. 7; Rollo, p. 24).

23 As amended by Sec. 14, R. A. No. 7659.

24 As amended by Sec. 17, R. A. No. 7659, the second paragraph of Sec. 20, R. A. No. 6425 reads as follows:

Otherwise, if the quantity involved is less than the foregoing quantities, the penalty shall range from prision correccional to reclusion perpetua depending upon the quantity (underscoring ours).

To correct the overlapping error which consists in the imposition of reclusion perpetua both as the maximum of the penalty where the amount of drugs involved is less than the quantities specified and as the minimum where the quantity involved is equal to or more than the amounts specified, the Court in *People v. Simon* categorically stated:

x x x we hereby hold that the penalty to be imposed where the quantity of the drugs involved is less than the quantities stated in the first paragraph shall range from prision correccional to reclusion temporal, and not reclusion perpetua (underscoring ours).

25 Exh. "F," Original Records, p. 125.

26 Sec. 22, The Revised Penal Code.

27 G. R. No. 93028, 29 July 1994.

28 Using the first part of Sec. 1 of the Indeterminate Sentence Law as explained in the majority opinion in *People v. Simon*.

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