

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JUANITA MARCELO Y ANDRADE @ BABY TSINA, ACCUSED-APPELLANT.

G.R. No. 105005. June 02, 1993

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

This is an appeal from the decision of Branch 14 of the Regional Trial Court (RTC) of Malolos, Bulacan, finding appellant Juanita Marcelo y Andrade guilty beyond reasonable doubt of the violation of Section 15, Article III of R.A. No. 6425 (the Dangerous Drugs Act of 1972), as amended, in Criminal Case No. 1188-M-91.[1]

The appellant and one Danilo Sarmiento alias Mike were originally charged with the violation of Section 16, Article III of R.A. No. 6425, as amended, in Criminal Case No. 900-M-91 before Branch 14 of the court a quo. On 3 June 1991 and before the arraignment of the accused, M/Sgt. Hernandez, the team leader of the buy-bust operation conducted on 24 April 1991 which led to the apprehension of both accused, filed a motion to defer arraignment and for leave to reinvestigate the case[2] on the ground that "the prosecution witnesses were not able to present fully their evidence during the preliminary investigation." The trial court granted the motion.[3] As a result of the reinvestigation, Assistant Provincial Prosecutor Afable Cajigal rendered on 19 June 1991 a resolution wherein he recommended the filing of an information for the violation of Section 15, Article III of R.A. No. 6425, as amended, against appellant Juanita Marcelo. The charge against Danilo Sarmiento was maintained.[4]

On 27 June 1991, Assistant Provincial Prosecutor Cajigal filed an Information,[5] charging the appellant with the violation of Section 15, Article III of R.A. No. 6425, as amended, allegedly committed as follows:

"That on or about the 24th day of April, 1991, in the municipality of Marilao, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there wilfully, unlawfully and feloniously sell, deliver, dispatch in transit and transport the following, to wit:

One (1) plastic bag of metamphetamine hydrochloride (shabu)

Four (4) grams, more or less of metamphetamine hydrochloride (shabu)

which is a regulated drug.

Contrary to law."

The case was docketed as Criminal Case No. 1188-M-91 and raffled off to Branch 14 of the court a quo. The appellant entered a plea of not guilty upon arraignment on 12 July 1991.[6]

The witnesses presented by the prosecution were C1C Buenaventura Lopez, M/Sgt. Lamberto Hernandez -- both members of the buy-bust team -- and Lt. Daisy Babor, Forensic Chemist at Camp Olivas, Pampanga. The appellant was the sole witness for the defense.

On 12 February 1991, the trial court promulgated its decision[7] the dispositive portion of which reads:

"WHEREFORE, judgment is rendered, finding the accused Juanita Marcelo Y Andrade alias Baby Tsina, guilty beyond reasonable doubt of the crime of Violation of Sec. 15 Art. III of Republic Act 6425, the Dangerous Drugs Act of 1972 as amended, the court hereby imposed (sic) upon the accused the penalty of Reclusion Perpetua or Life Imprisonment and a fine of Twenty Thousand (P20,000.00) pesos. With costs."

The facts as established by the prosecution are summarized in the decision as follows:

"The evidence in the record shows that prior to April 24, 1991, the NARCOM Agents assigned at Meycauayan, Bulacan detachment received reports from their confidential agents and concerned citizens of Nagbalon, Marilao, Bulacan, that the accused Juanita Marcelo Y Andrade alias Baby Tsina, is engaged in selling Metamphetamine Hydrochloride known as shabu. Operation casing and surveillance was conducted by the Agents on the activities of the accused and their surveillance gave positive results.

A team was organized by the Commander of the Unit composed of CIC Buenaventura Lopez, M/Sgt. Lamberto Hernandez, Staff Sgt. Maong and CIC Efren Labios, to conduct a buy-bust operation at Nagbalon, Marilao, Bulacan where the accused resides to entrap and arrest her. That CIC Lopez was to act (sic) as the poseur-buyer to whom M/Sgt. Hernandez gave the One Hundred (P100.00) peso marked money to buy the stuff.

At 4:30 in the afternoon on April 24, 1991, the team riding in a jeep proceeded to Nagbalon, upon arriving at the place CIC Lopez was dropped by his companions at the corner of Zulueta Street where Lopez saw the accused and one alias Mike in front of the residence of the former. Then Lopez walked casually towards the accused and Mike, while the other team members positioned themselves in strategic places. When Lopez had approached the two he asked the accused if she have (sic) the stuff and the accused asked him how much he would buy and he replied, One Hundred (P100.00) pesos then the accused gave the stuff to Mike who in turn gave it to Lopez then he gave the One Hundred (P100.00) pesos, marked money, to the accused. (Mike is the alias of Danilo Sarmiento). Then Lopez gave the pre-arranged signal to his companions by scratching his head and they came out of their places and introduced themselves to the accused as NARCOM Agents then they arrested the suspects. According to Hernandez he talked to the accused after her arrest and she admitted that she still, have (sic) in her possession shabu which he confiscated weighing 4 grams contained in a plastic bag (Exhibit K). The shabu which Lopez bought from the accused is also contained in a plastic bag (Exhibit J).

After the accused and Mike were arrested, they were brought to the NARCOM Headquarter at Camp Alejo Santos, Malolos, Bulacan, where they were investigated inside the Office of the NARCOM in the presence of Sgt. Hernandez, CIC Lopez, Sgt. Paras and Capt. Huevos. During the investigation, the accused were not assisted by a counsel, this fact was admitted by CIC Lopez and Sgt. Hernandez, the investigating officer. In the course of the investigation, Sgt. Hernandez prepared Exhibit C, the list of the property seized and confiscated from the accused, the document was signed by the accused without the assistance of a counsel. The list mentions one small plastic bag of metamphetamine hydroc(h)loride (shabu) buy-bust, more or less 4 grams and metamphetamine hydroc[h]loride (shabu) confiscated. One Hundred (P100.00) pesos marked money bearing Serial No. CT751335 Exhibit D.

The specimen[s] were submitted to Camp Olivas for laboratory examination to determine whether the specimen[s] are positive for shabu. As per report of Lt. Alma G. Dumalaog Technical Report No. NB-235-91 dated April 30, 1991, Exhibit H, the One (1) small plastic bag containing another one (1) small bag with white crystalline substance 0.35 gram and the one (1) small plastic bag containing white crystalline substance weighing 2.4 grams are positive and contained metamphetamine hydrochloride (shabu) a regulated drug.

During the trial Lt. Dumalaog failed to appear in Court to testify and identify Exhibit H because she was attending a seminar, upon motion of the prosecution the Court ordered the re-examination of the specimen by Lt. Daisy P. Babor, a forensic chemist at Camp Olivas. The results of the examinations of Lt. Babor appears on the Technical Report No. NB-235-91 she submitted in Court marked Exhibit L which confirms that the specimen, one small plastic bag with white crystalline substance weighing 0.30 grams and one plastic bag

containing white crystalline substance weighing 2.35 grams are positive for metamphetamine hydrochloride (shabu) a regulated drug."[8]

The defense's version of the incident is condensed by the trial court in this wise:

"DEFENSE EVIDENCE:

JUANITA MARCELO Y ANDRADE -- an unwed mother, beautician, operator-owner of a Carinderia and residing at Poblacion, Zulueta St., Marilao, Bulacan -- testified: that she is the accused Juanita Marcelo Y Andrade but not Baby Tsina and she does not know why she was given the alias 'Baby Tsina'; that it was Capt. Huevos who gave her the alias 'Baby Tsina' because Capt. Huevos would want to use that alias in his intended film depicting his life story where she would be represented by another woman as an extra in the said intended film; that Capt. Huevos is the Commanding Officer of the NARCOM in Bulacan whose office is at Camp Alejo Santos, Malolos, Bulacan. That her house is located at Zulueta St., Marilao, Bulacan her mother has also a house located in the same place.

That on April 24, 1991 at around 4:00 o'clock in the afternoon she was in the house of her mother sleeping; that she was awakened by one of her children who informed her that their Kuya Mike (referring to Danilo Sarmiento) arrived looking for her; that she woke up and asked Mike Sarmiento what he needed and Sarmiento asked her to loan him P5,000.00 but she told Sarmiento she does not have that amount; that while they were talking to each other, five (5) persons whom she does not know arrived and begun to search the house of her mother, so she told the intruders that is not her house and the said persons identified themselves as NARCOM Agents whom she identified as Dondon Lopez or CIC Lopez, one alias Dabo, Efren and Joel; that the agents tried to bring her along to their detachment at Meycauayan, Bulacan but she refused because the agents were not armed with a warrant of arrest so the agents handcuffed her hands and when she resisted CIC Lopez boxed her on the stomach; that she stayed at the NARCOM Detachment at Meycauayan the whole night on April 24, 1991 until the following day April 25, 1991 then she was brought to the NARCOM Office at Camp Alejo Santos, Malolos, Bulacan, together with Mike Sarmiento; that inside the Office of the NARCOM Agents she was made to sign Exhibit "C" -- in the presence of M/Sgt. Lamberto Hernandez, Capt. Huevos and CIC Lopez; that she signed Exhibit "C" because Sgt. Hernandez promised that she will be released if she signs the documents; that at the time she signed Exhibit C she was not assisted by a counsel neither was she informed of her constitutional rights; that she can not see her signature on Exhibit D the marked P100.00 peso bill; that she denied one (1) plastic bag containing shabu was confiscated from her; that Lopez and Hernandez did not seize Exhibits J and K from her but they recovered something from Mike; that she was detained at Camp Alejo Santos for less than one (1) month; that she was examined by Dr. Emilia Sacdalan at the Bulacan Provincial Hospital on May 29 to 31, 1991 for the injuries she suffered when she was boxed by CIC Lopez at Marilao on April 24, 1991; that the findings of Dr. Sacdalan is shown on Exhibit I-B -- 'findings Abortion Completed by DNC'; that perhaps her abortion was due to the punch inflicted upon her by CIC Lopez; that her live-in-partner or common-law husband told her he will file a complaint with the Commission on Human Rights for the injuries she sustained, against the military but she prevented him from filing the complaint because her case might get worse as it is hard to go against the military; that before the incident she did not have any untoward incident with the military (tsn p. 26 Oct. 21, 1991) that she was accused of the instant criminal case a serious crime, perhaps, because the military came to know that her husband would file a complaint before the Commission on Human Rights, against Capt. Huevos; that she signed Exhibits J and K because she was intimidated by CIC Lopez."[9]

Immediately after the promulgation of the sentence, the accused filed a notice of appeal.[10] This Court accepted the appeal on 13 July 1991.

In this appeal, the appellant raises the following assignment of errors:

- "1. THE HONORABLE TRIAL COURT GRAVELY ERRED IN CONCLUDING THAT THERE IS EVIDENCE OF ILLEGAL DRUG TRANSACTION AGAINST THE ACCUSED-APPELLANT.
2. THE HONORABLE TRIAL COURT SERIOUSLY ERRED IN NOT FINDING THAT THERE WAS MATERIAL VARIANCE BETWEEN ALLEGATIONS OF CRIMINAL INFORMATION AND OFFERED TESTIMONIES OF THE PROSECUTION AGAINST THE ACCUSED-APPELLANT.
3. THE HONORABLE COURT A QUO ERRED IN BELIEVING THE ABSENT/UNKNOWN/ALLEGED INFORMER'S HEARSAY INFORMATION ABOUT THE DRUG SALE IN QUESTION.
4. THE HONORABLE LOWER COURT GRIEVOUSLY ERRED IN ADMITTING THE ALLEGED PRE-MARKED P100 PESO BILL IN EVIDENCE AGAINST THE ACCUSED-APPELLANT.
5. THE HONORABLE TRIAL COURT GRIEVOUSLY ERRED IN ADMITTING EVIDENCE OBTAINED IN VIOLATION OF THE CONSTITUTIONAL RIGHTS OF THE ACCUSED-APPELLANT.
6. THE HONORABLE TRIAL COURT SERIOUSLY ERRED IN GRANTING REINVESTIGATION OF THE CASE UPON SOLE (sic) EX PARTE MOTION OF PROSECUTION WITNESS WHO IS NOT A GOVERNMENT PROSECUTOR.
7. THE HONORABLE TRIAL COURT GRAVELY ERRED IN NOT HOLDING THAT THE PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT. "[11]

Under the first assigned error, the appellant cites several points which the trial court allegedly failed to consider and which, if considered, would not have led it to conclude that the accused had engaged in an illegal drug transaction as contended by the prosecution. First, it was unnatural for her, if she was indeed an illegal drug dealer as the prosecution pictured her to be, to enter into a shady deal with the NARCOM agents using layman's language; the Court may take judicial notice of the fact that genuine drug pushers and true drug buyers, including poseur-buyers, transact with the use of their own "drug language." Second, in the joint affidavit of arrest (Exhibit "A"), prosecution witness Lopez asserted that he dealt with a certain alias Mike and not with the appellant; however, during the trial, he maintained that the appellant was the seller of the regulated drug. Third, the inconsistent testimony of C1C Lopez as to when the sketch illustrating the place of transaction (Exhibit "F") was prepared: he first declared that he prepared it "after the arrest of the appellant (TSN, Aug. 9, 1991, p. 19)," then later on he said that the sketch was made before the team-members proceeded to the target area. Fourth, if it was true that M/Sgt. Hernandez was present when the transaction was going on, he would have testified that he saw the transfer of the shabu and the marked money instead of merely saying that he saw "something" pass from the hands of Baby Tsina to Mike and finally to C1C Lopez and another "something" pass from C1C Lopez to Mike then to Baby Tsina. Finally, according to C1C Lopez, the pre-arranged signal was to scratch his head twice, but in open court, he demonstrated the same by scratching his head several times.

All these points which the trial court allegedly failed to consider are directed at the credibility of the main prosecution witnesses, C1C Lopez and M/Sgt. Hernandez, and the veracity of their claim that the appellant was caught while selling the regulated drug commonly known as "shabu."

When the issue of credibility of witnesses is raised, appellate courts will generally not disturb the findings of the trial court, considering that the latter 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, unless certain facts of substance and value have been plainly overlooked which, if considered, might affect the result of the case.[12] This is the settled rule. We have no reason to depart therefrom in this case, for We do not doubt the findings of the trial court that the members of the NARCOM conducted the buy-bust operation on 24 April 1991 to entrap the

appellant, and that the latter was caught in flagrante selling shabu, a regulated drug. The principal prosecution witnesses are all law enforcers and are presumed to have regularly performed their duty in the absence of proof to the contrary.[13] The appellant failed to show that these NARCOM agents were actuated by any improper motive in testifying against her. Where there is no evidence, and nothing to indicate, that the principal witnesses for the prosecution were actuated by improper motives, the presumption is that they were not and their testimony is entitled to full faith and credit.[14]

In any event, the points raised by the appellant do not impress or convince this Court. Whether the appellant and prosecution witness Lopez used "drug language" or not during the transaction is entirely irrelevant. What is important is that such a transaction took place. This Court cannot take judicial notice of the "drug language" of drug pushers and drug buyers for none has been shown to exist. The suggestion of the appellant that this Court ought to, may only indicate her familiarity with what she claims to be "drug language" or passwords between drug pushers and drug buyers. Moreover, it has not been established that there is a fixed rule among drug dealers, for their security, to deal only with customers who use "drug language."

The appellant's assertion that C1C Lopez and M/Sgt. Hernandez had stated in their Joint Affidavit of Arrest that they dealt only with Mike is misleading. This is what they stated therein:

"x x x The male factor (sic) (Alias Mike) handed to CIC Lopez the one plastic bag of shabu x x x and in turned (sic) he (CIC Lopez) handed to Alias Mike the one Hundred pesos marked buy money (sic) bearing serial number CT751335 to Alias Mike (sic) and the male factor (sic) immediately gave it (marked money of P100.00) to the woman (alias Baby Tsina). x x x"[15]

Although the said affidavit imprecisely pictured the role of the appellant in the said incident, this may be excused since affidavits are almost always incomplete and often inaccurate, sometimes from partial suggestion, or for want of suggestions and inquiries.[16]

What is decisive is the testimony of the said witnesses regarding the participation of the appellant in the transaction. Thus, Lopez declared:

"Q You said that you were dropped at corner Zulueta Street, which leads to the residence of the accused whom according to you was then in front of a residence, what happened when you saw the accused in front of her residence?

A After that, then I already approached the two (2) suspects which is (sic) Alias Baby Tsina and Alias Mike.

Q What happened when you approached these two (2) accused?

A When they were standing in front of the residence, I talked to Alias Baby Tsina, sir.

Q You said you talked to Baby Tsina, what did you tell her?

A I asked Baby Tsina if she has the stuff which is shabu, sir.

Q What was the reply of Baby Tsina?

A She answered yes.

Q By the way, if this Baby Tsina whom you asked for shabu is inside the court room, will you please point her to us?

A There, sir. (WITNESS POINTING TO A WOMAN WHO STOOD UP AND GAVE HER NAME AS JUANITA ANDRADE Y MARCELO)

Q After the accused Juanita Andrade Marcelo replied in the affirmative, what happened next?

A After that, sir after she answered yes, she asked me if (sic) how much I would like to buy the shabu. I answered P100.00 bill (sic), sir.

Q And after you answered that, that you were buying shabu worth P100.00 bill (sic), what happened next?

A After that alias Baby Tsina gave the stuff to alias Mike, sir.

x x x

Q After the accused Juanita Andrade Marcelo handed the stuff to Danilo Sarmiento alias Mike, what happened next?

A After that, alias Mike gave me the stuff coming from alias Baby Tsina, sir.”[17]

On cross-examination, he further clarified that the marked P100.00 bill used to pay for the shabu was, in fact, thereafter seized from the appellant:

"Q Who confiscated this P100.00 bill?

A MSgt. Hernandez, sir.

Q From whom it was (sic) confiscated?

A In the possession of Juanita Andrade, sir.”[18]

Prosecution witness Hernandez also testified on direct examination thus:

"Q How far were you from C1C Lopez and these two persons whom he conversed at the time when you saw C1C Lopez and these two whom you identified to be Juanita Marcelo and Danilo Sarmiento at the time that they were conversed (sic), how far were you from them?

A I was to (sic) the distance of 8 to 10 meters, away, sir.

x x x

Q While C1C Lopez was conversing with Juanita Marcelo and Danilo Sarmiento, what else did you see if you saw anything?

A Baby Tsina was giving something to Mike and Mike was giving something to C1C Lopez.”[19]

Therefore, even if the first joint affidavit was not precise in describing the participation of the appellant in the transaction, the testimonies of the above prosecution witnesses indubitably show her as a seller of the regulated drug. Between the joint affidavit and the testimony given in open court, the latter prevails because affidavits taken ex-parte are generally considered to be inferior to the testimony given in open court.[20]

Appellant deliberately misleads this Court in asserting that on page 19 of the transcript of the stenographic notes of Lopez's testimony taken on 9 August 1991, Lopez declared that he prepared the sketch (Exhibit "F") after the arrest of the appellant. On the contrary, Lopez categorically stated that he prepared the same before they proceeded to the target area:

"Q How many days after the arrest of the accused was affected (sic) did you prepare this sketch?

A I make (sic) that sketch after the Confidential Informant gave me the information, sir.

Q That was before proceeding to the target area at Nagbalon?

A Yes, sir. ”[21]

We find nothing unusual or alarming in the fact that Hernandez did not categorically state in his testimony that what he saw were the shabu and the marked money. He was at a distance of eight (8) to ten (10) meters from where the transaction was actually taking place. From that distance, he could only see the motions of the suspects and the poseur-buyer and could not exactly see that it was shabu and the marked money which changed hands. When he thus testified that what he noticed from that distance was "something" handed to Mike by the appellant and "something" handed by Mike to Lopez, he was just being candid and truthful. These somethings were, however, proven to be the shabu and the marked money. In any event, the testimony of Hernandez merely corroborated that of the principal witness -- the poseur-buyer, C1C Lopez. It was the latter's testimony that established the selling transaction which, coupled with the presentation in court of the corpus delicti, was sufficient proof of the commission of the offense.[22]

The matter of whether the pre-arranged signal consisted of only two (2) or of more scratchings of the head is too trivial to affect the credibility of C1C Lopez.

In the second assigned error, the appellant submits that there was a material variance between the information and the testimonies of the witnesses in court.

The information states that the appellant "without authority of law, did then and there wilfully, unlawfully and feloniously sell, deliver, dispatch in transit and transport the following, to wit: one (1) plastic bag of metamphetamine hydrochloride (shabu) and Four (4) grams, more or less of metamphetamine hydrochloride (shabu), which is a regulated drug," while the evidence of the prosecution shows that there was only one (1) plastic bag containing shabu (Exhibit "J") which the appellant sold to C1C Lopez. The other four (4) grams of shabu (Exhibit "K") were not part of the "stuff" sold to Lopez but were recovered from the appellant when she was apprehended. This variance, however, did not alter the substance of the charge against her. The appellant, under these circumstances, can still be validly convicted for violation of Section 15, Article III of R.A. No. 6425, as amended, since all the elements of the offense charged in the information were proven in court. As in the offense of illegal sale of marijuana, a prohibited drug, what is required is the consummation of the transaction. The important fact is that the poseur-buyer received the shabu from the appellant and the same was presented in court.[23] The quantity of the regulated drug sold is not material. It may be pointed out that she could have been separately prosecuted for illegal possession of the four (4) grams of shabu found in her possession after her arrest under Section 15, Article III of R.A. No. 6425, as amended.[24]

There is, as well, no unexplained gap in the chain of custody of the drugs (Exhibits "J" and "K") as alleged by the appellant. The same was kept by M/Sgt. Hernandez and delivered by him personally to Sgt. Mones of the PNP Crime Laboratory Service at Camp Olivas, San Fernando, Pampanga on 29 April 1991 for examination. Exhibit "E" of the prosecution, which is the request for examination, shows that the drugs taken from the appellant was received by Sgt. Mones of the PNP Crime Laboratory from M/Sgt. Hernandez himself. The latter explained that it took him five (5) days after the arrest to submit the same for examination because there was no other person who could do it as all their agents were on a mission.[25] Lt. Babor, on the other hand, received the same for examination upon order of the court on 13 September 1991 from Lt. Dumalaog[26] who conducted the examination of the specimen on 30 April 1991 but whose findings had to be re-confirmed by Lt. Babor because Lt. Dumalaog was on schooling and could not be presented in court at the time of the trial.[27]

Under the third assigned error, the appellant contends that trial court erred in (a) believing the claim of the prosecution witnesses that they acted on a tip from an informant who, however, was not presented in court thus raising the presumption that evidence wilfully suppressed would be adverse if produced; and in (b) denying the appellant's right to meet the accuser and to have him examined.

This assigned error is without merit. Informers are never presented in court because of the need to preserve their invaluable service to the police.[28] Moreover, the testimony of the informer is not essential to this case because the said informer was not present during the buy-bust operation and had no participation therein or in the entrapment of the appellant.

Under the fourth assigned error, the appellant claims that the evidence concerning the marking of the P100.00 bill is unsatisfactory, hence, the trial court should not have admitted it in evidence. This is incorrect. Lopez satisfactorily identified this piece of evidence as the buy-bust money. Besides, its presentation in evidence was not even indispensable as the consummation of the sale was sufficiently established by the testimony of Lopez, the poseur-buyer.

The fifth assigned error, which assails the court a quo for admitting evidence in violation of the appellant's constitutional rights, is misplaced. The trial court convicted the appellant on the basis of the testimonies of the prosecution witnesses and the presentation in court of the shabu taken from her during the buy-bust operation. No extrajudicial admission or confession in violation of her constitutional rights was considered by the trial court. As a matter of fact, the trial court even disregarded Exhibit "C," the list of property seized from her, thus:

"The court disregarded Exhibit C and it's (sic) sub-markings because the document, an extra-judicial admission, was signed in violation of the constitutional right of the accused to be assisted by a counsel. However, the disregard and inadmissibility of Exhibit C did not create a gap in the chain of evidence against the accused." [29]

In the last assigned error, the appellant faults the trial court for allowing the reinvestigation of the case upon the motion of a mere witness, M/Sgt. Hernandez. Citing *Caes vs. Intermediate Appellate Court*, [30] she contends that the police officer cannot, in behalf of the prosecutor, particularly when the case is already pending in court, move for reinvestigation without the conformity of the prosecutor. While the appellant has a strong point here since the complainant in a criminal case is merely a witness and not a party to the case and cannot, by himself, ask for the dismissal or the reinvestigation of the case after the information had been filed in court -- the proper party for that being the prosecutor who has the control of the prosecution of the case [31] -- the matter is already moot and academic. She is now estopped to question the propriety of the grant of the motion by the trial court. She did not object to the motion, the reinvestigation and the filing of a new information against her. She voluntarily entered a plea of not guilty to and was tried under the new information. Moreover, the appellant has not shown that any of her rights had been prejudiced by the reinvestigation.

The decision appealed from must then be affirmed. However, the term "reclusion perpetua" in the dispositive portion of the decision should be deleted. The penalty should be life imprisonment. We have pronounced in several decisions that reclusion perpetua is not synonymous with life imprisonment. The latter is the penalty prescribed for the violation of Section 15, Article III of the Dangerous Drugs Act of 1972, as amended, and must be the penalty imposed.

WHEREFORE, the challenged decision of Branch 14 of the Regional Trial Court of Bulacan in Criminal Case No. 1188-M-91 is hereby AFFIRMED, subject to the modification abovestated as to the nomenclature of the penalty.

SO ORDERED.

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

[1] Original Records (OR), 151-159; Rollo, 15-23. Per Judge Felipe N. Villajuan, Jr.

[2] Appendix "B," Brief for Accused-Appellant.

[3] Appendix "C," Id.

[4] OR, 4-5.

[5] Id., 1.

[6] OR, 11.

[7] Id., 151-159; Rollo, 15-23.

[8] OR, 157-158; Rollo, 21-22.

[9] OR, 155-156; Rollo, 19-20.

[10] Id., 160.

[11] Brief for the appellant, 1; Rollo, 28, et seq.

[12] *People vs. Garcia*, 89 SCRA 440 [1979]; *People vs. Abejuela*, 92 SCRA 503 [1979]; *People vs. Florida*, G.R. No. 90254, 24 September 1992.

[13] *People vs. De Jesus*, 145 SCRA 521 [1986]; *People vs. Tejada*, 170 SCRA 497 [1989]; *People vs. Macuto* 176 SCRA 762 [1989]; *People vs. Asio*, 177 SCRA 250 [1989]; *People vs. Mariano*, 191 SCRA 136 [1990]; *People vs. Collantes*, 208 SCRA 853 [1992].

[14] *People vs. Araja*, 105 SCRA 133 [1981]; *People vs. Campana*, 124 SCRA 271 [1983]; *People vs. Jutie*, 171 SCRA 586 [1989].

[15] OR, 3.

[16] *People vs. Magdadar*, 197 SCRA 151 [1991].

[17] TSN, 9 August 1991, 9-11.

[18] Id., 37-38.

[19] TSN, 21 September 1991, 8-10.

[20] *People vs. Riego*, 189 SCRA 445 [1990].

[21] TSN, 9 August 1991, 19.

[22] *People vs. Vocente*, 188 SCRA 100 [1990]; *People vs. Mariano*, *supra*.

[23] See *People vs. Dekingco*, 189 SCRA 512 [1990]; *People vs. Catan*, 205 SCRA 235 [1992].

[24] *People vs. Manalansan*, 189 SCRA 619 [1990]; *People vs. Catan*, *supra*.

[25] TSN, 27 September 1991, 42-43.

[26] TSN, 18 September 1991, 11.

[27] Id., 13.

[28] *People vs. Consuelo*, 184 SCRA 402 [1990]; *People vs. Collantes*, *supra*.

[29] OR, 158; Rollo, 22.

[30] 179 SCRA 54 [1989].

[31] Republic vs. Sunga, 162 SCRA 191 [1988]; Caes vs. IAC, *supra*.

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