

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTOLIN CUIZON Y ORTEGA, STEVE PUA Y CLOFAS ALIAS “STEPHEN PO Y UY” OR “TOMMY SY” AND PAUL LEE Y WONG ALIAS “PAUL LEUNG,” ACCU...

G.R. No. 109287. April 18, 1996

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-109287/>

PANGANIBAN, J.:

In deciding the case at bench, the Court reiterates doctrines on illegal searches and seizures, and the requirements for a valid warrantless search incident to a valid warrantless arrest. While the Court appreciates and encourages pro-active law enforcement, it nonetheless upholds the sacredness of constitutional rights and repeats the familiar maxim, "the end never justifies the means."

This is an appeal from the Decision[1] dated January 5, 1993 Criminal Case No. 92-0230) of the Regional Trial Court, Branch 116,[2] Pasay City finding appellants guilty of violating Section 15 of R.A. 6425, otherwise known as the Dangerous rugs Act of 1972.

On March 10, 1992, an Information[3] was filed against the appellants charging them as follows:

"That on or about February 21, 1992 in Pasay City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously carry and transport into the country, without lawful authority, 16 kilograms, more or less, of METHAMPHETAMINE HYDROCHLORIDE, also popularly known as ‘SHABU,’ a regulated drug.

CONTRARY TO LAW."

Upon arraignment, appellant Antolin Cuizon, assisted by counsel de parte, pleaded not guilty. During the arraignment of appellants Paul Lee and Steve Pua, the latter translated the Information into Chinese-Cantonese for the understanding of appellant Lee, who does not speak nor understand English, Pilipino or any other Philippine dialect. Both of them, duly assisted by their counsel, also pleaded not guilty.[4] Trial ensued and on January 5, 1993, the court a quo found appellants guilty as charged and rendered the following disposition:[5]

"WHEREFORE, accused Antolin Cuizon y Ortega, Steve Pua y Clofas alias Stephen Po y Uy or Tommy Sy, and Paul Lee y Wong, alias Paul Leung, are found guilty beyond reasonable doubt of transporting, without legal authority, methamphetamine hydrochloride, or ‘shabu,’ a regulated drug, as charged in the aforequoted Information; and they are each sentenced to suffer the penalty of life imprisonment and to pay a fine of P20,000.00.

"The methamphetamine hydrochloride or ‘shabu’ involved in this case is declared forfeited in favor of the government and is ordered turned over to the Dangerous Drug Board for proper disposal."

The Facts

According to the Prosecution

The facts as summarized by the trial court and adopted by the Solicitor General, who added the page references to the transcript of stenographic notes as indicated in brackets, are as follows:[6]

"In January 1992, the Reaction Group of the National Bureau of Investigation (NBI) gathered an information regarding the drug activities of accused Antolin Cuizon y Ortega and his wife, Susan Cuizon. A surveillance was conducted on them. The residence of the spouses was traced to Caloocan City (tsn, May 19, 1992, pp. 17-18, 21).

"In the morning of February 21, 1992, the Reaction Group received a report from its informant in Hong Kong that accused Cuizon, together with his wife, was arriving on the same day at the Ninoy Aquino International Airport (NAIA) in Pasay City, Metro Manila, from the British crown colony, carrying with him a big quantity of 'shabu.' A team was organized to intercept the suspects. Heading the team was Jose Yap, with Ernesto Diño, Marcelino Amurao, Jose Bataller and Alfredo Jacinto, as members. Some belonged to the Narcotics Division and the others to the Reaction Group of the NBI (tsn, May 19, 1992, pp. 4, 18).

"Arriving at the NAIA shortly before 12:00 noon of February 21, 1992, Diño positioned himself at the Arrival Area, while Yap and the other members of the team posted themselves at the parking area of the airport. At about 12:45 in the afternoon of the same date, accused Cuizon and his wife, who had just returned from Hong Kong, after passing through the Immigration and Customs Areas at the NAIA, proceeded to the Arrival Area of the airport preparatory to their boarding a car. While there, accused Cuizon, together with his wife, handed four (4) travelling bags to accused Steve Pua y Clofas and accused Paul Lee y Wong, who were at the vicinity of the Arrival Area. Accused Pua and Lee loaded the bags in a taxicab which they boarded in leaving the airport. Accused Cuizon and his wife took another vehicle (tsn, May 19, 1992, pp. 4-5, 8-9).

"At this juncture, Diño, who was observing the activities of the accused, radioed the group of Yap at the parking area, describing the vehicle boarded by accused Pua and Lee so that Yap and his companions could apprehend the two. However, the message of Diño was not completely received by his teammates as the radio he was using ran short of battery power (tsn, May 19, 1992, pp. 25-26).

"Immediately after the vehicle boarded by Pua and Lee had left, Diño proceeded to the place where his companions were stationed for the purpose of giving assistance to them, believing that they were already in the process of apprehending accused Pua and Lee. When he realized that the two accused were not apprehended, Diño told the group of Yap to follow him as he was following the vehicle taken by Pua and Lee which, according to an earlier tip he learned, was proceeding to the Manila Peninsula Hotel in Makati, Metro Manila (tsn, May 19, 1992 pp. 25-26; tsn, May 21, 1992 pp. 6, 15).

"Upon arriving at about 2:00 p.m. of the same date of February 21, 1992, in the Manila Peninsula Hotel, in whose premises the taxicab boarded by accused Pua and Lee entered, Diño and the other members of the team coordinated with Cot. Regino Arellano, Chief Security Officer of the hotel, for the purpose of apprehending the two accused. A verification made by the Chief Security Officer showed that accused Pua and Lee occupied Room 340 of the hotel. The two accused allowed Diño and Yap, together with Col. Arellano, to enter their room. Found inside Room 340 were four (4) travelling bags, which were similar to the ones handed by accused Cuizon to accused Pua and Lee at the Arrival Area of the NAIA. After having introduced themselves as NBI agents, Diño and Yap were permitted by accused Pua and Lee to search their bags in the presence of Col. Arellano. The permission was made in writing.(Exh. I). Three (3) of the four (4) bags each yielded a plastic package containing a considerable quantity of white crystalline substance suspected to be methamphetamine hydrochloride or 'shabu.' Each package was sandwiched between two (2) pieces of board which appear to be 'lawanit' placed at the bottom of each of the three (3) bags. The suspected 'shabu' contained in one bag weighed 2.571 kilos, that found in the other had a weight of 2.768 kilos, and the suspected 'shabu' retrieved from the third bag weighed 2.970 kilos. Pua and Lee were then apprehended by Diño and his companions (tsn,

May 20, 1992, pp. 9-13; tsn, May 7, 1992, p. 9, Exh. "F-2", p. 75, Records).

"Immediately thereafter, Diño and the other members of the team proceeded to the house of accused Cuizon in Caloocan City, taking with them accused Pua and Lee and the bags with their contents of suspected dangerous drugs. They reached the place at about 5:50 in the afternoon of the same date of February 21, 1992. Retrieved from accused Cuizon in his residence was another bag also containing a white crystalline substance weighing 2.695 kilos, likewise believed to be methamphetamine hydrochloride or 'shabu.' In addition, a .38 Cal. firearm was taken from accused Cuizon (tsn, May 19, 1992, pp. 10-11).

"Pua, Lee, Cuizon and his wife were then brought by the arresting officers to the NBI headquarters at Taft Avenue, Manila, for further investigation. They were subsequently referred to the Prosecution Division of the Department of Justice for inquest. However, only the present three accused were charged in court (tsn, May 19, 1992, pp. 12-13, 16-17).

"In the meantime, at about 5:30 p.m. of the same date of February 21, 1992, Joselito Soriano, roomboy of the Manila Peninsula Hotel, while cleaning Room 340, observed that a portion of the ceiling was misaligned. While fixing it, he discovered in the ceiling a laundry bag containing suspected 'shabu' of more than five (5) kilos (Exh. 'X', p. 110). Informed of the discovery while they were already in their office in the NBI, Yap and some companions returned to the hotel. The suspected 'shabu' was turned over to them (tsn, May 20, 1992, pp. 19-22).

"When examined in the Forensic Chemistry Section of the NBI, the white crystalline substance taken from the three (3) travelling bags found in the room of accused Pua and Lee in the Manila Peninsula Hotel, the white crystalline substance retrieved from the bag confiscated from accused Cuizon in his house in Caloocan City, and the white crystalline substance hidden in the ceiling of Room 340 of the hotel were confirmed to be methamphetamine hydrochloride or 'shabu,' a regulated drug. (Board Regulation No. 6, dated December 11, 1972, of the Dangerous Drugs Board) (tsn, May 7, 1992, p. 12)."

The Defense's Version(s)

Appellant Pua, on his part, interposed the defense of alibi. On direct examination, he testified that at the time of the alleged commission of the offense, he and his co-appellant Lee were in their room at the Manila Peninsula Hotel.⁷ His version of what happened on February 21, 1992 can be summarized as follows:

At around 9:30 in the morning, he accompanied appellant Paul Lee to check-in at the Manila Peninsula Hotel for and in behalf of the latter's personal friend named Leong Chong Chong or Paul Leung, who was expected to arrive that evening because of a delayed flight. Appellant Pua was engaged by appellant Lee to act as interpreter as Lee does not know how to speak English and the local language.^[8]

While in Room 340, past 1:00 in the afternoon, they received a call from the lobby informing them of the arrival of Paul Leung's luggage. At Pua's instructions, the said luggage were brought to the room by a bellboy. Thereafter, two persons knocked on their door, accompanied by a "tomboy" and a thin man with curly hair. The two men identified themselves as NBI agents and asked appellant Pua to let them in. He declined since he did not know who they were. However, when Col. Arellano, the Chief Security Officer of the hotel, arrived and identified the two NBI agents, he and Lee relented and permitted them to enter. Thereafter, he and Lee were told by the agents to sign a piece of paper. Made to understand that they were merely giving their consent for the agents to enter their room, Pua and Lee signed the same. Whereupon, the agents told them that they will open Paul Leung's bags. Again appellant Pua refused, saying that the bags did not belong to them. Just the same, the agents, without appellants Pua and Lee's consent, opened the bags and found the shabu. Pua and Lee were then apprehended and brought to the NBI headquarters.^[9]

Appellant Cuizon, on the other hand, flatly rejected the prosecution's version of the incident. While admitting

that on February 21, 1992, he and his wife Susan did arrive from Hong Kong with several pieces of luggage, he denied that he met Pua and Lee at the arrival area of the airport, much less passed to them the four pieces of luggage. According to him, only his two-year old son, accompanied by his cousin, Ronald Allan Ong, met them outside the airport. Ong fetched them from the airport and brought them to their home in Caloocan City. They arrived at their house around 3:00 in the afternoon.[10]

About two hours later, while he was resting together with his wife and son on his bed, two NBI agents suddenly barged in and poked a gun at him. They manhandled him in front of his wife and son. His hands were tied with a necktie and he was forcibly brought out of their house while the NBI agents ransacked the place without any warrant. He, his wife Susan, and his cousin Ronald Allan Ong, were afterwards brought to the NBI Headquarters in Manila and there the NBI agents continued mauling him.[11]

Appellant Cuizon's wife Susan, his cousin Ronald Allan Ong, and his nephew Nestor Dalde, testified in his favor basically reiterating or confirming his testimony.[12]

Unfortunately, appellant Paul Lee, who does not speak or understand a word of English or Pilipino and only knows Chinese-Cantonese, was not able to take the witness stand for lack of an interpreter who would translate his testimony to English. In the hearing set on October 28, 1992, the last trial date allotted to the defense for the reception of Lee's testimony, his counsel, although notified of the proceedings, did not appear. Thus, the trial court deemed him and Pua to have waived their right to present additional evidence,[13] and the case was considered submitted for decision after the filing of memoranda. The counsel for Pua and Lee did not ask for the reconsideration of such ruling; neither did he submit any memorandum. Only accused Cuizon, who was assisted by another counsel, was able to submit his memorandum.

The Issues

In their brief, appellants Pua and Lee made the following assignments of errors:[14]

"I. The trial court erred in finding conspiracy among the accused.

"II. The trial court erred in giving credence to the testimonies of prosecution witnesses Marcelino Amurao, Jose Yap and Ernesto Diño despite contradictions made on material points.

"III. The trial court erred in not giving accused Paul Lee the opportunity to present his evidence in his defense in violation of his constitutional right to due process."

Appellant Cuizon, in a separate brief, essentially reiterates the first two assignments of errors above-quoted, and in addition challenges the legality and validity of his warrantless arrest and the search and seizure incidental thereto.[15]

As this Court sees it, the resolution of this case hinges on the pivotal question of the legality of the arrest and search of herein appellants effected by the NBI operatives. Put differently, were the warrantless arrests and the warrantless searches conducted by the NBI legal and constitutional?

The answer to this threshold question determines whether the judgment of the court a quo will stand or fall. Consequently, there is a need to resolve first this issue before endeavoring to consider the other issues raised by appellants.

A necessary side issue to be considered is, assuming the searches and arrests to have been illegal, whether failure by appellants Pua and Lee to explicitly assign the same as errors before this Court amounted to a waiver of their constitutional rights against such illegal searches and arrests.

The Court's Ruling

General Rule on Warrantless Arrests, Searches, & Seizures

Well entrenched in this country is the rule that no arrest, search and seizure can be made without a valid warrant issued by a competent judicial authority. So sacred is this right that no less than the fundamental law of the land^[16] ordains it:

"The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose, shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized."

It further decrees that any evidence obtained in violation of said right shall be inadmissible for any purpose in any proceeding. ^[17]

However, the right against warrantless arrest and search and seizure is not absolute. Thus, under Section 5 of Rule 113 of the Revised Rules of Court, an arrest without a warrant may be lawfully made by a peace officer or a private person:

"a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

"(b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

"(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another."

On the occasion of any of the aforementioned instances of legitimate arrest without warrant, the person arrested may be subjected to a search of his body and of his personal effects or belongings, "for dangerous weapons or anything which may be used as proof of the commission of an offense," likewise without need of a search warrant.^[18]

However, where a person is searched without a warrant, and under circumstances other than those justifying a warrantless arrest, as discussed above, upon a mere suspicion that he has embarked on some criminal activity, and/or for the purpose of discovering if indeed a crime has been committed by him, then the search made of such person as well as his arrest are deemed illegal.^[19] Consequently, any evidence which may have been obtained during such search, even if tending to confirm or actually confirming such initial suspicion, is absolutely inadmissible for any purpose and in any proceeding,^[20] the same being "the fruit of the poisonous tree."^[21] Emphasis is to be laid on the fact that the law requires that the search be incident to a lawful arrest, in order that the search itself may likewise be considered legal. Therefore, it is beyond cavil that a lawful arrest must precede the search of a person and his belongings. Were a search first undertaken, then an arrest effected based on evidence produced by the search, both such search and arrest would be unlawful, for being contrary to law.

The Instant Case Does Not Fall Under The Exceptions for Warrantless Searches, etc.

Re-assessing the factual backdrop of the case at bench, this Court cannot agree with and accept the conclusion of

the trial court that the appellants were caught in flagrante delicto which would justify the search without a warrant. The shaky reasoning of the court a quo gives away the baselessness of its findings and conclusion:

"x x x the search conducted on their bags in the hotel room could still be regarded as valid for being incidental to a lawful arrest. x x x The arrest of accused Pua and Lee without a warrant of arrest was lawful, as they could be considered to have committed the crime of transporting 'shabu' in the presence of the arresting officers from the time they received the bags containing the regulated drug in the airport up to the time they brought the bags to the hotel. Or their arrest without a warrant was legal as falling under the situation where an offense had in fact just been committed, and the arresting officers had personal knowledge of facts indicating that the said accused were the ones who committed it. x x x"[22]

Scrutinizing the provisions of Sec. 5 of Rule 113 of the Rules of Court on lawful arrests without warrant, we note that par. (c) of said section is obviously inapplicable, the appellants not being escapees from a penal institution at the time of arrest. Par. (a) on the other hand requires that the person be arrested (i) after he has committed or while he is actually committing or is at least attempting to commit an offense, (ii) in the presence of the arresting officer(s). These requirements are not present in the case at bench, for at the time of their arrest, appellants Pua and Lee were merely resting in their hotel room, and appellant Cuizon for his part was in bed resting with his wife and child inside his home. No offense had just been committed, or was being actually committed or being attempted by any of the accused in the presence of the lawmen.[23]

Par. (b) of the same provision is likewise inapplicable since its equally exacting requirements have also not been met. The prosecution failed to establish that at the time of the arrest, an offense had in fact just been committed and the arresting officers had personal knowledge of facts indicating that the accused-appellants had committed it. Appellant Cuizon could not, by the mere act of handing over four pieces of luggage to the other two appellants, be considered to have committed the offense of "carrying and transporting" prohibited drugs. Under the circumstances of the case, there was no sufficient probable cause for the arresting officers to believe that the accused were then and there committing a crime. The act per se of handing over the baggage, assuming the prosecution's version to be true, cannot in any way be considered a criminal act. It was not even an act performed under suspicious circumstances as indeed, it took place in broad daylight, practically at high noon, and out in the open, in full view of the public.[24] Furthermore, it can hardly be considered unusual, in an airport setting, for travellers and/or their welcomers to be passing, handing over and delivering pieces of baggage, especially considering the somewhat obsessive penchant of our fellow countrymen for sending along ("pakikipadala") things and gifts through friends and relatives. Moreover, one cannot determine from the external appearance of the luggage that they contained "shabu" hidden beneath some secret panel or false bottom. The only reason why such act of parting with luggage took on the color and dimensions of a felonious deed, at least as far as the lawmen were concerned, was the alleged tip that the NBI agents purportedly received that morning, to the effect that appellant Cuizon would be arriving that same day with a shipment of shabu. To quote from another decision of like import, "(A)ll they had was hearsay information (from the telephone caller), and about a crime that had yet to be committed." [25]

In the leading case of *People vs. Burgos*, [26] this Court laid down clear guidelines, as follows:

"Under Section 6(a) of Rule 113, the officer arresting a person who has just committed, is committing, or is about to commit an offense must have personal knowledge of that fact. The offense must also be committed in his presence or within his view. (*Sayo v. Chief of Police*, 80 Phil. 859)."

The same decision is highly instructive as it goes on to state:

"The Solicitor General is of the persuasion that the arrest may still be considered lawful under Section 6(b) using the test of reasonableness. He submits that the information given by Cesar Masamlok was sufficient to

induce a reasonable ground (for belief) that a crime has been committed and that the accused is probably guilty thereof.

"In arrests without a warrant under Section 6(b), however, it is not enough that there is reasonable ground to believe that the person to be arrested has committed a crime. A crime must in fact or actually have been committed first. That a crime has actually been committed is an essential precondition. It is not enough to suspect that a crime may have been committed. The fact of the commission of the offense must be undisputed. The test of reasonable ground applies only to the identity of the perpetrator.

"In this case, the accused was arrested on the sole basis of Masamlok' s verbal report. Masamlok led the authorities to suspect that the accused had committed crime. They were still fishing for evidence of a crime not yet ascertained. The subsequent recovery of the subject firearm on the basis of information from the lips of a frightened wife cannot make the arrest lawful. x x x"

The foregoing doctrine was affirmed in the case of Alih vs. Castro,[27] where this Court ruled that "x x x under the Revised Rule 113, Section 5(b), the officer making the arrest must have personal knowledge of the ground therefor as stressed in the recent case of People v. Burgos."

In the case at bench, not only did the NBI agents rely merely on hearsay information ("tips"), but they were completely uncertain that anything was really "going down" that day. That much is undisputed, from a reading of the testimony of Agent Diño:

"Q -

Now, but you were informed by the personnel of the airport that the spouses Cuizon were going to bring in or transport into the country shabu on February 21, 1992?

A -

Yes, sir.

Q -

Now, you were not sure or your group was not sure that they indeed would bring in shabu, is it not? That was only the information relayed to your group?

A -

Yes, sir.

xxx xxx xxx

Q -

But then you were jumping ahead. You were not sure is it not that they were bringing in shabu?

A -

Yes, sir." (TSN, May 19, 1992, pp. 37-38.)

In his testimony, NBI Investigator Jose Justo Yap, who was with Agent Diño during the operation, likewise admitted in substantially the same tenor their uncertainty regarding the commission of the offense (cf. TSN, May 20, 1992, pp. 29 & 34).

We therefore hold that under the circumstances obtaining, the prosecution failed to establish that there was sufficient and reasonable ground for the NBI agents to believe that appellants had committed a crime at the point

when the search and arrest of Pua and Lee were made; hence, said search and arrest do not come under the exception in par. (b) of Sec. 5 of Rule 113, and therefore should be deemed illegal. We might add that the search conducted on Pua and Lee was not incident to a lawful warrantless arrest, having preceded the same and produced the justification therefor. On the other hand, the search on Cuizon's residence, without the benefit of a search warrant, was clearly illegal and the 'shabu' seized thereat cannot but be considered inadmissible in evidence. More on these points later.

Comparison Between The Present Case and Earlier Decisions of This Court

For clarity's sake, it is imperative to compare the foregoing holding with previous decisions by this Court in various drug cases, in which apparently different conclusions were reached, in order to distinguish them from the instant case and avoid any potential misunderstanding of the foregoing holding as well as the constitutional and legal principles on which it is based.

1. In *People vs. Claudio*,^[28] the accused, a passenger on a bus bound for Baguio City, was arrested by a policeman on the same bus because of the distinctive odor of marijuana emanating from the plastic bag she was carrying. The Court held the warrantless arrest under the circumstances to be lawful, the search justified and the evidence thus discovered admissible in evidence.
2. In *People vs. Tangliben*,^[29] the accused, carrying a travelling bag at a bus terminal, was noticed by lawmen to be acting suspiciously, and was also positively fingered by an informer as carrying marijuana, and so he was accosted by policemen who happened to be on a surveillance mission; the lawmen asked him to open the bag, in which was found a package of marijuana leaves. It was held that there was a valid warrantless arrest and search incident thereto. The Court in effect considered the evidence on hand sufficient to have enabled the law enforcers to secure a search warrant had there been time, but as the case "presented urgency," and there was actually no time to obtain a warrant since the accused was about to board a bus, and inasmuch as an informer had given information "on the spot" that the accused was carrying marijuana, the search of his person and effects was thus considered valid.
3. In *Posadas vs. Court of Appeals*,^[30] the accused was seen acting suspiciously, and when accosted by two members of the Davao INP who identified themselves as lawmen, he suddenly fled, but was pursued, subdued and placed in custody. The buri bag he was carrying yielded an unlicensed revolver, live ammunition and a tear gas grenade. This Court upheld his conviction for illegal possession of firearms, holding that there was under the circumstances sufficient probable cause for a warrantless search.
4. In *People vs. Moises Maspil, Jr., et al.*,^[31] agents of the Narcotics Command set up a checkpoint on a highway in Atok, Benguet, to screen vehicular traffic on the way to Baguio City due to confidential reports from informers that Maspil and a certain Bagking would be transporting a large quantity of marijuana. At about 2 a.m. of November 1, 1986, the two suspects, riding a jeepney, pulled up to the checkpoint and were made to stop. The officers noticed that the vehicle was loaded with some sacks and tin cans, which, when opened, were seen to contain marijuana leaves. The Court upheld the search thus conducted as being incidental to a valid warrantless arrest.
5. In *People vs. Lo Ho Wing, et al.*,^[32] the Court ruled that the search of the appellants' moving vehicles and the seizure of 'shabu' therefrom was legal, in view of the intelligence information, including notably, clandestine reports by a planted deep penetration agent or spy who was even participating in the drug smuggling activities of the syndicate, to the effect that appellants were bringing in prohibited drugs into the country. The Court also held that it is not practicable to secure a search warrant in cases of smuggling with the use of a moving vehicle to

transport contraband, because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought.

6. In *People vs. Malmstedt*,^[33] NARCOM agents stationed at Camp Dangwa, Mountain Province, set up a temporary checkpoint to check vehicles coming from the Cordillera Region, due to persistent reports that vehicles from Sagada were transporting marijuana and other drugs, and because of particular information to the effect that a Caucasian would be travelling from Sagada that day with prohibited drugs. The bus in which accused was riding was stopped at the checkpoint. While conducting an inspection, one of the NARCOM men noticed that accused, the only foreigner on board, had a bulge at the waist area. Thinking it might be a gun, the officer sought accused's passport or other identification papers. When the latter failed to comply, the lawman directed him to bring out whatever it was that was bulging at his waist. It was a pouch bag which, when opened by the accused, was found to contain packages of hashish, a derivative of marijuana. Invited for questioning, the accused disembarked from the bus and brought along with him two pieces of luggage; found inside were two teddy bears stuffed with more hashish. The Court held that there was sufficient probable cause in the premises for the lawmen to believe that the accused was then and there committing a crime and/or trying to hide something illegal from the authorities. Said probable cause arose not only from the persistent reports of the transport of prohibited drugs from Sagada, and the "tip" received by the NARCOM that same day that a Caucasian coming from Sagada would be bringing prohibited drugs, but also from the failure of the accused to present his passport or other identification papers when confronted by the lawmen, which only triggered suspicion on the part of the law enforcers that accused was trying to hide his identity, it being the normal thing expected of an innocent man with nothing to hide, that he readily present identification papers when asked to do so. The warrantless arrest and search were thus justified.

In all the cases discussed hereinabove, there were facts which were found by the Court to provide probable cause justifying warrantless arrests and searches, i.e., distinct odor of marijuana, reports about drug transporting or positive identification by informers, suspicious behaviour, attempt to flee, failure to produce identification papers, and so on. Too, urgency attended the arrests and searches because each of the above-mentioned cases involved the use of motor vehicles and the great likelihood that the accused would get away long before a warrant can be procured. And, lest it be overlooked, unlike in the case before us now, the law enforcers in the aforementioned cases acted immediately on the information received, suspicions raised, and probable causes established, and effected the arrests and searches without any delay.

Unexplained Matters in the Instant Case

In the case before us, the NBI agents testified that they purportedly decided against arresting the accused-appellants inside the airport as they allegedly wanted to discover the identities of the airport immigration, security or customs personnel who might be protecting the accused or otherwise involved in the drug smuggling activities, and also in order to avoid the possibility of an armed encounter with such protectors, which might result in injuries to innocent bystanders. These excuses are simply unacceptable. They are obviously after-thoughts concocted to justify their rank failure to effect the arrest within constitutional limits. Indeed, the NBI men failed to explain how come they did not apprehend the appellants at the moment Cuizon handed over the baggage to Pua and Lee, or even afterwards, in relative safety. Such arrest would have been consistent with the settled constitutional, legal and jurisprudential precedents earlier cited.

The spouses Cuizon had already passed through the airport security checks allegedly with their contraband cargo undetected in their luggage. Apparently, the NBI agents did not see (as indeed they did not testify that they saw) anyone from the airport immigration, security or customs who could have escorted the spouses Cuizon, and therefore, there was no danger of any "live ammo encounter" with such group(s). The alleged drug couriers had already made their way outside the NAIA, had allegedly made contact with the accused Pua and Lee, and were in

the very act of handing over the luggage to the latter. Why the NBI men did not move in and pounce on them at that very instant has not been satisfactorily explained. Instead, one of the agents, Diño, merely watched as Pua and Lee loaded the luggage into a cab and took off for Makati. Furthermore, it taxes the imagination too much to think that at the most critical and climactic moment, when agent Diño radioed his companions for help to close in on the suspects, the most amazing and stupendous thing actually happened: Murphy's Law kicked in - whatever could go wrong, did, and at the worst possible time - the batteries in Agent Diño's hand-held radio supposedly went dead and his message was not transmitted. Thus the departing Pua and Lee proceeded merrily and unimpeded to the Peninsula Hotel, while the spouses Cuizon simultaneously sped off to their residence in Caloocan City, leaving the lawmen empty-handed and scampering madly to catch up. Such absolutely astounding and incredible happenstance might find a place in a fourth-rate movie script, but expecting the courts to swallow it- hook, line and sinker - is infinite naivete, if not downright malevolence.

Even granting *arguendo* that the radio really went dead, nevertheless, the agents were not thereby rendered helpless or without recourse. The NBI agents, numbering five in all, not counting their so-called informant, claimed to have piled into three cars (TSN, May 19, 1992) and tailed the suspects Pua and Lee into Makati, keeping a safe two-car distance behind (TSN, May 20, 1992). The lawmen and the prosecutors failed to explain why the agents did not intercept the vehicle in which Pua and Lee were riding, along the way, pull them over, arrest them and search the luggage. And since the agents were in three (3) cars, they also could have easily arranged to have agents in one vehicle follow, intercept and apprehend the Cuizon while the others went after Pua and Lee. All or any of these possible moves are mere ordinary, common-sense steps, not requiring a great deal of intelligence. The NBI men who testified claimed to have conducted or participated in previous drug busts or similar operations and therefore must have been familiar with contingency planning, or at least should have known what to do in this situation where their alleged original plan fell through. At any rate, what the lawmen opted to do, i.e., allow Pua and Lee to freely leave the airport, allegedly bringing the drug cache to the hotel, and Cuizon to leave unimpededly the airport and reach his residence with one of the luggage, increased significantly the risk of the suspects (and/or the drugs) slipping through the lawmen's fingers, and puts into question the regularity of performance of their official functions. The agents' alleged actions in this case compare poorly with the forthright and decisive steps taken by lawmen in the cases earlier cited where this Court held the arrests and seizures to be valid.

Had the arrests and searches been made in transitu, i.e., had the agents intercepted and collared the suspects on the way to Makati and Caloocan, or better yet, at the very moment of the hand-over, then there would not have been any question at all as to the legality of their arrest and search, as they would presumably have been caught red-handed with the evidence, and consequently for that reason and by the very nature and manner of commission of the offense charged, there would have been no doubt also as to the existence of conspiracy among the appellant to transport the drugs. However, because of the way the operation actually turned out, there is no sufficient proof of conspiracy between Pua and Lee on the one hand, and Cuizon on the other, inasmuch as there is no clear and convincing evidence that the four (4) bags handed by Cuizon to Pua and Lee at the airport were the very same ones found in the possession of the latter in Room 340 of the Peninsula Hotel. Not one of the NBI agents when testifying could definitely and positively state that the bags seized from Room 340 were the very same ones passed by Cuizon at the airport; at best, they could only say that they "looked like" the ones they saw at the airport. And even assuming them to be the same bags, there remains doubt and uncertainty as to the actual ownership of the said bags as at the alleged turnover vis-a-vis the time they were seized by the agents. For these reasons, we cannot sustain the finding of conspiracy as between Cuizon on the one hand and Pua and Lee on the other. Well-settled is the rule that conspiracy must be proved independently and beyond reasonable doubt.[34]

Additionally, in light of the foregoing discussion, we find it extremely difficult to subscribe to the trial court's

finding as to the existence and sufficiency of probable cause in this case, one major component of which would have been the alleged information or "tip" purportedly received by the agents as to the expected arrival of the spouses Cuizon that fateful day with a large cache of 'shabu.' The question that defies resolution in our minds is why, if indeed the information or "tip" was genuine and from a highly reliable source as claimed by the government agents, did they not act on it? Throw in the alleged month-long surveillance supposedly conducted by some of the NBI people on the Cuizon couple, and the mystery only deepens. Even with the so-called tip and the results of surveillance, the government officers were still seemingly hesitant, reluctant, uncertain, or perhaps afraid, to arrest and search the accused appellants, so much so that the NBI agents who went after Pua and Lee at the Peninsula Hotel, instead of outrightly cuffing and searching them, as they were supposed to, opted instead to play it safe and meekly beseeched the two to sign a written consent for the agents to search their personal effects! Indeed, this is one for the books. If this is how confident the agents were about their "hot tips," reliable informers and undercover surveillance, then we cannot be blamed for failing to appreciate the existence/sufficiency of probable cause to justify a warrantless arrest and search in this case. There is a whole lot more that can be said on this score, but we shall leave it at that for now. We shall now dispose of the appeals of the accused-appellants individually.

Re:Appellant Antolin Cuizon

The search of the house of appellant Cuizon, having been conducted without any warrant, and not on the occasion or as an incident of a valid warrantless arrest, was indubitably illegal, and the shabu seized thereat could not be admissible in evidence. That is why even the trial judge did not make an effort to hold him liable under such seizure. He lamely argued: "(A)t any rate, accused Cuizon is not held criminally liable in this case in connection with the bag containing 'shabu' confiscated from his residence. His responsibility is based on the bags containing 'shabu' which he handed to Pua and Lee at the NAIA. Consequently, even if the bag and its contents of 'shabu' taken from his house were not admitted in evidence, the remaining proofs of the prosecution would still be sufficient to establish the charge against him." However, contrary to the trial judge's conclusion, we hold that insofar as Cuizon is concerned, all the evidence seized are considered fruit of the poisonous tree and are inadmissible as against him, and thus, he should be acquitted, since, as shown hereinabove, (i) the warrantless search conducted on Pua and Lee was clearly illegal per se, not being incident to a valid warrantless arrest either; (ii) and even if the search on Pua and Lee were not illegal, conspiracy as between Cuizon on the one hand and appellants Pua and Lee on the other had not been established by sufficient proof beyond reasonable doubt; and (iii) appellant Cuizon had timely raised before this Court the issue of the illegality of his own arrest and the search and seizure conducted at his residence, and questioned the admission of the seized shabu in evidence.

Re: Appellant Steve Pua @ "Tommy Sy"

What has been said for Cuizon cannot, alas, be said for appellant Pua. While the search and arrest carried out on him and Lee may have been illegal for not being incident to a lawful warrantless arrest, the unfortunate fact is that appellant Pua failed to challenge the validity of his arrest and search as well as the admission of the evidence obtained thereby; he did not raise the issue or assign the same as an error before this Court. Accordingly, any possible challenge thereto based on constitutional grounds is deemed waived. This Court has upheld and recognized waivers of constitutional rights, including, particularly, the right against unreasonable searches and seizures, in cases such as *People vs. Malasugui*[35] and *De Garcia vs. Locsin*.[36]

Additionally, the prosecution had argued and the trial court agreed that by virtue of the handwritten consent (Exhibit 'I') secured by the arresting officers from appellants Pua and Lee, the latter freely gave their consent to the search of their baggage, and thus, the drugs discovered as a result of the consented search is admissible in evidence. The said written permission is in English, and states plainly that they (Pua and Lee) freely consent to

the search of their luggage to be conducted by NBI agents to determine if Pua and Lee are carrying shabu. It appears that appellant Pua understands both English and Tagalog; he is born of a Filipino mother, had resided in Vito Cruz, Manila, and gave his occupation as that of salesman. He admitted that he was asked to sign the written consent, and that he did in fact sign it (TSN, May 28, 1992, pp. 33-34). His barefaced claim made during his direct and cross-examinations to the effect that he did not really read the consent but signed it right away, and that by signing it he only meant to give permission for the NBI agents to enter the room (and not to search) is hardly worthy of belief, considering that prior to the search, he seemed to have been extra careful about who to let into the hotel room.

Thus, the full weight of the prosecution's testimonial evidence plus the large amount of prohibited drugs found, must be given full force vis-a-vis Pua's claim of innocent presence in the hotel room, which is weak and not worthy of credence.

Re:Appellant Paul Lee @ "Paul Leung"

Appellant Lee's situation is different from that of Pua. We agree with the Solicitor General when he noted that the trial judge did not exert sufficient effort to make available compulsory process and to see to it that accused appellant Lee was given his day in court. It is clear that appellant Lee was effectively denied his right to counsel, for although he was provided with one, he could not understand and communicate with him concerning his defense such that, among other things, no memorandum was filed on his behalf; further, he was denied his right to have compulsory process to guarantee the availability of witnesses and the production of evidence on his behalf, including the services of a qualified and competent interpreter to enable him to present his testimony.[37] In sum, he was denied due process. For this reason, we hold that the case as against Lee must be remanded to the court of origin for a re-trial.

Epilogue

It is evident and clear to us that the NBI agents gravely mishandled the drug bust operation and in the process violated the constitutional guarantees against unlawful arrests and illegal searches and seizures. Because of the large haul of illegal drugs that the government officers claimed to have recovered, this Court agonized over the case before us and struggled to apply the law with an even hand. In the final analysis, we in the administration of justice would have no right to expect ordinary people to be law-abiding if we do not insist on the full protection of their rights. Some lawmen, prosecutors and judges may still tend to gloss over an illegal search and seizure as long as the law enforcers show the alleged evidence of the crime regardless of the methods by which they were obtained. This kind of attitude condones law-breaking in the name of law enforcement. Ironically, it only fosters the more rapid breakdown of our system of justice, and the eventual denigration of society. While this Court appreciates and encourages the efforts of law enforcers to uphold the law and to preserve the peace and security of society, we nevertheless admonish them to act with deliberate care and within the parameters set by the Constitution and the law. Truly, the end never justifies the means.

WHEREFORE, in view of the foregoing considerations, accused-appellant Antolin Cuizon y Ortega is hereby ACQUITTED on constitutional grounds. His immediate release is ordered unless he is detained for other valid causes. Accused-appellant Steve Pua y Clofas is hereby found GUILTY of the crime of Illegal Transport of Regulated Drugs, penalized under Section 15, R.A. No. 6425, as amended, and is hereby sentenced to suffer the penalty of reclusion perpetua; the Decision appealed from, as herein modified, is hereby affirmed as to appellant Pua. Finally, the case as to appellant Lee is hereby ordered REMANDED to the trial court in order that said accused may be given his day in court. The Decision appealed from is also AFFIRMED with respect to the disposition of the prohibited drugs involved in the case.

SO ORDERED.

Narvasa, C.J. (Chairman), Melo, and Francisco, JJ., concur.

Davide, Jr., J., concur in the result.

[1] Rollo, pp. 28-34.

[2] Presided over by Judge Alfredo J. Gustilo.

[3] Rollo, pp. 9-10.

[4] Records, pp. 37 & 42.

[5] Rollo, pp. 33-34.

[6] Rollo, pp. 90-95.

[7] TSN, May 28, 1992, p. 6.

[8] Ibid., pp. 3-4, 26.

[9] Ibid., pp. 8-12, 17 & 26.

[10] TSN, June 24, 1992, pp. 3, 7-9.

[11] Ibid., pp. 12-17, 19, 21.

[12] TSN's, June 11, 1992, pp. 3-4, 10-11, 13-17, 19-21, 24; June 17, 1992, pp. 3-6, 10-14, 16, 20; July 1, 1992, pp. 11-14, 16.

[13] Rollo, p. 28.

[14] Appellants' brief for Pua and Lee, pp. 4-5; Rollo, pp. 49-50.

[15] Appellant's brief for Cuizon, p. 11; Rollo, p. 167. See also page 4 of the Appellee's Brief, where the Solicitor General sums up appellant Cuizon's position as follows: "Appellant Cuizon contends that since he was not caught in flagrante delicto, the warrantless arrest and the incidental search and seizure conducted at his residence was illegal, thereby rendering the 'shabu' procured thereat inadmissible as evidence."

[16] Section 2, Article III, 1987 Constitution.

[17] Section 3(2), Art. III, 1987 Constitution.

[18] Sec. 12, Rule 126, Rules of Court.

[19] Cf. Separate Opinion of Chief Justice Andres R. Narvasa in *People vs. Malmstedt*, 198 SCRA 401,415 (June 19, 1991).

[20] *People vs. Burgos*, 144 SCRA 1 (September 4, 1986); *Nolasco vs. Ernani Cruz-Paño*, 147 SCRA 509 (January 30, 1987).

[21] Vide *People vs. Aminnudin*, 163 SCRA 402 (July 6, 1988).

[22] Decision, p. 5; Rollo, p. 32.

[23] Vide, *People vs. Mengote*, 210 SCRA 174 (June 22, 1992).

[24] *People vs. Tangliben*, 220 SCRA 221 (April 6, 1990); also *People vs. Mengote*, supra.

[25] *People vs. Mengote*, supra. In the present case, the NBI agents had nothing else to go on. They claimed that they had put the spouses Cuizon under surveillance for about a month (third week of January 1992 onward, up until the time of arrest per TSN, May 19, 1992, pp. 17-18). Nonetheless, their efforts yielded no result, and they still relied on "tips."

[26] 144 SCRA 1, 14-15 (September 4, 1986).

[27] 151 SCRA 279, 287 (June 23, 1987).

[28] 160 SCRA 646 (April 15, 1988).

[29] 184 SCRA 220 (April 6, 1990).

[30] 188 SCRA 288 (August 2, 1990).

[31] 188 SCRA 751 (August 20, 1990).

[32] 193 SCRA 122 (January 21, 1991).

[33] 198 SCRA 401 (June 19, 1991).

[34] *People vs. Lug-aw*, 229 SCRA 308 (January 18, 1994); *People vs. Jorge*, 231 SCRA 693 (April 22, 1994).

[35] 63 Phil. 221 (1936).

[36] 65 Phil. 689 (1938).

[37] *Rollo*, pp. 110-111.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.