

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTHONY ONG CO, ACCUSED-APPELLANT.

G.R. No. 112046. July 11, 1995

Ponente: DAVIDE, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-112046/>

DAVIDE, JR., J.:

This appeal seeks the reversal of the decision[1] of the Regional Trial Court (RTC) of Manila, Branch 35, in Criminal Case No. 93-118519 finding appellant Anthony Ong Co 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, and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P25,000.00, with costs.

The appellant was tried under an information whose accusatory portion reads:

On or about March 18, 1993, in Manila and within the jurisdiction of this Honorable Court, the above named accused did then and there wilfully, unlawfully and feloniously dispense, transport, distribute, sell and deliver to a buyer without authority of law approximately 271.98 grams of Methamphetamine Hydrochloride, a regulated drug popularly known as 'Shabu.'

CONTRARY TO LAW.[2]

The following is the trial court's summary of the evidence for the prosecution and for the defense:

Stripped of incidental details, the People's evidence has satisfactorily proved that on March 9, 1993, after surveillance operation, SPO2 Romulo Ariel Agtay of the Regional Police Intelligence Unit at Camp Bagong Diwa, Taguig, Metro Manila, succeeded in establishing contact with the accused when the former was introduced to the latter by an informant in a small restaurant in front of the Lorenzo Ruiz Chinese School in Binondo, Manila. Posing as a buyer, the Police Officer offered to buy 200 grams of methamphetamine hydrochloride known as "shabu" from the accused, who agreed to sell the stuff for P650.00 per kilo or P1,300.00 for two kilos. The deal perfected, SPO2 Romulo Agtay reported to his superior the result of his mission.

On March 14, 1993, the informant advised SPO2 Romulo Agtay that the accused would meet the Police Officer on March 15, 1993, at 6 o'clock in the morning in the vicinity of Fortune Hotel at Salazar Street, Binondo, Manila. Consequently, on being informed of this development, Chief Leciste organized a team of operatives led by Police Inspector Leonardo Suan, with SPO2 Emerson Norberte and SPO2 Romulo Agtay, among others, as members, to conduct a buy-bust operation. SPO2 Romulo Agtay was assigned as poseur buyer.

Early in the morning on March 15, 1993, the buy-bust team of Chief Leciste proceeded to Fortune Hotel and occupied Room 308 under the name of its former occupant and used it as their base of operation.

At around 5:30 in the morning, the informant called up and alerted the team. So the law enforcers took up their respective assigned positions. SPO2 Romulo Agtay stepped out of the hotel and stood on the sidewalk of Salazar Street, about five meters away from the main door of the Fortune Hotel while the other members of the team

posted themselves inconspicuously at the lobby.

After about thirty minutes, or at around 6 o'clock, the accused arrived in a Mitsubishi Lancer car with plate No. PLM 528, put off its engine and opened its window, but he did not go down. SPO2 Romulo Agtay approached the accused, who handed to the former the stuff contained in four plastic bags (Exhibits C & submarkings), as the police officer gave three bundles of boodle money (Exhibit F) to the accused.

When the accused examined the money he realized they were boodle money. But then it was too late, as SPO2 Romulo Agtay had already given to his companions the pre-arranged signal and the other members of the buy-bust team had swarmed around the accused, and arrested him. SPO2 Romulo Agtay recovered the boodle money from the accused. Thereafter the Police Officers took him to their camp at Bagong Diwa, where he was investigated and detained.

On March 16, 1993, the stuff confiscated from the accused, suspected as methamphetamine hydrochloride, was submitted to the PNP Crime Laboratory Service at Camp Crame for laboratory examination to determine the presence of prohibited or regulated drugs. (Exhibit B.) The examination gave positive result to the tests for methamphetamine hydrochloride. (Exhibits D & E, also Exhibit 8).

The defense of the accused is bare denial. He denied that he sold "shabu" to SPO2 Romulo Agtay. He denied he was paid by said Police Officer with boodle money. He denied he had shabu in his possession, or any knowledge about it. To explain his presence in the Fortune Hotel, the accused declared that he was called by phone by a certain Mr. Chua, who directed him to proceed to the hotel. But when he knocked at the door of Room 380, two men opened it and poked their guns at the temple of his head. Afterwards, they took him and drove him around to many places which he does not know, until finally they brought him to Bicutan where he was tortured and divested of his personal effects.[3]

The trial court gave full credence to the prosecution's evidence for being so "positive, convincing, and satisfactory" that the appellant's "denial and explanation cannot prevail and overwhelm" such evidence.[4] It further stated that:

SPO2 Romulo Agtay and SPO2 Emerson Norberte are law-enforcers. As such they are presumed to have performed their official duties in a regular manner, especially in the absence of concrete and credible evidence to the contrary. The defense has not offered any satisfactory evidence indicating that in testifying against the accused in the manner they did, these two police officers were actuated by any ulterior motives. The Supreme Court has held in a number of cases that where there appears no reliable evidence in the record showing that the principal witnesses of the People have been actuated by some sinister design in testifying against the accused, the presumption is that they have not been so actuated and their testimonies should be accorded full faith and credence. (People vs. Araya, 105 SCRA 133, 145; People vs. Campana, 124 SCRA 271, 282; People vs. de Jesus, G.R. Nos. 71942-43, Nov. 13, 1986; People vs. Umali, G.R. No. 84450, Feb. 4, 1991.)

Not only this, SPO2 Romulo Agtay and SPO2 Emerson Norberte were subjected to a searching and grueling cross-examination by a very competent and determined defense counsel such that any deliberate falsehood in their testimonies could have been easily detected and exposed. However, they have withstood well the ordeal. Hence, the Court believes the truth of their narrations.

In this appeal, appellant, Anthony Ong Co imputes to the trial court seventeen errors, quoted verbatim as follows:

I

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING THAT ABSENT ALLEGED MISSION ORDER ON BUY-BUST OPERATION CREATE DOUBT ON CREDIBILITY OF SPO2 ROMULO

AGTAY AND SPO2 EMERSON NORBERTE IN INDICTMENT OF ACCUSED.

II

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING THAT ABSENT THE PURPORTED REPORT OF SPO2 ROMULO AGTAY ON THE ALLEGED PRIORLY AGREED BUY AND SELL OF "SHABU" ON MARCH 9, 1993 TO HIS SUPERIOR, CAST DOUBT ON CREDIBILITY OF SPO2 AGTAY AND SPO2 EMERSON NORBERTE.

III

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING DOUBTFUL CREDIBILITY OF SPO2 ROMULO AGTAY AND SPO2 EMERSON NORBERTE IN THEIR TESTIMONIES WHICH ARE INCONSISTENT IN THEIR JOINT AFFIDAVIT OF ARREST, COMMON EXHS. "A" & "1".

IV

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING DOUBTFUL VERACITY AND TRUTHFULNESS OF THE ALLEGED BUY-BUST OPERATION ON THE BASIS OF FATAL INCONSISTENCY IN THE JOINT AFFIDAVIT OF ARREST -- EXECUTED BY SPO2 ROMULO AGTAY AND SPO2 EMERSON NORBERTE ON INDICTMENT.

V

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING ABSENT OF MISSION ORDER OF CHIEF LECISTE COMPOSED OF OPERATIVES LED BY POLICE INSPECTOR LEONARDO SUAN TO CONDUCT BUY-BUST OPERATION, WHEREBY SPO2 ROMULO AGTAY IS ASSIGNED AS THE POSEUR-BUYER, THUS, CAST DOUBT ON THE BUY-BUST OPERATION, ALLEGED IN THE INFORMATION.

VI

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING ABSENT OF POLICE INSPECTOR LEONARDO SUAN AS PROSECUTION WITNESS AT THE VERY LEAST, TO DISPUTE THE AFFIRMATIVE TESTIMONIAL AND DOCUMENTARY EVIDENCE BY ACCUSED AND DEFENSE WITNESSES, LULU MARTINEZ, GERWIN BAUTISTA, NOEL FRESCO, LEONIDO ADOBTANTE, AT MOST, TO DISPUTE THE COMPLAINT FILED BY ATTORNEY GARCIA AGAINST HIM AND POLICE CAPTORS, WITH THE NATIONAL BUREAU OF INVESTIGATION (NBI).

VII

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING THE ABSENT OF A LAWFUL ORDER PRIORLY ISSUED BY A COURT WITH COMPETENT JURISDICTION TO LEGALLY ARM THE INTENDED BUY-BUST OPERATION AND RAID OF THE PNP ON OCCUPANTS OF FORTUNE HOTEL ON MARCH 15, 1993 IN JUSTIFICATION OF THE INDICTMENT.

VIII

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING THAT NO DECISION IN A CASE SHALL BE RENDERED WITHOUT EXPRESSING THEREIN CLEARLY AND DISTINCTLY THE FACTS AND THE LAW ON WHICH IT IS BASED.

IX

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING ABSENT OF FINDINGS OF ENVIRONMENTAL FACTS PARTICULARLY THE TESTIMONIAL AND DOCUMENTARY

EVIDENCE BY ACCUSED AND WITNESSES, IN ITS CHALLENGED DECISION OF JULY 19, 1993.

X

THE COURT A QUO GRAVELY ERRED, WHEN ITS DECISION OF JULY 19, 1993, IN BIAS AND PREJUDICE, HAS INTENTIONALLY AND WITH MALICE, EMBARKED AS IT DID, ON A PIECE-MEAL SELECTED INCOMPLETE TESTIMONIAL EVIDENCE BY ACCUSED IS SHOWN IN THE RATIO DECIDENDI OF SUCH DECISION, BUT DID NOT EXPRESS THEREIN CLEARLY AND DISTINCTLY THE EXCULPATORY FACTS AND EVIDENCE ADDUCED BY THE DEFENSE WITNESSES.

XI

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING ABSENT OF POSITIVE, CONVINCING, SATISFACTORY EVIDENCE, RELIANCE AS IT DID ON THE CONTRADICTORY AND INCONSISTENT STATEMENTS OF SPO2 ROMULO AGTAY, IN DIVERGENCE TO THE STATEMENT OF SPO2 EMERSON NORBERTE.

XII

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING THAT DIVERGENCE OF STATEMENTS BY PROSECUTION WITNESSES ON MATERIAL FACTS TO THE INDICTMENT, JUSTIFY FAILURE OF REQUIRED QUANTUM OF PROOF ON REASONABLE DOUBT.

XIII

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING ABSENT OF CONCRETE PROOF OF PRESENCE OF "SHABU" IN THE BUY-BUST OPERATION OF MARCH 15, 1993 AT AROUND 6 O'CLOCK IN THE MORNING BETWEEN ACCUSED AND SPO2 ROMULO AGTAY, AN ALLEGED POSEUR BUYER, i.e., (i) ON THE ALLEGED QUANTITY AS PRIORLY AGREED OF THE ALLEGED "SHABU" IS NOT OF SAME QUANTITY WHEN ACCUSED IS FORCIBLY TAKEN INTO CUSTODY BY POLICE; AND (ii) ON THE ALLEGED CONSIDERATION PRICE AS PRIORLY AGREED OF THE ALLEGED "SHABU" IS NOT OF THE SAME AMOUNT WHEN ACCUSED IS FORCIBLY TAKEN INTO CUSTODY BY THE POLICE.

XIV

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING THAT THE INDICTMENT IS MERELY TO IMPRESS IF NOT TO RECORD AN 'ACCOMPLISHMENT' AND TO OBTAIN "COMMENDATORY RESULT", IF NOT 'PRAISE' FROM SUPERIORS AND IN THE RANK AND FILE OF THE PNP, THUS, IN ABSENT, i. e., (i) OF MISSION ORDER ON BUY-BUST OPERATION ON OR BEFORE MARCH 15, 1993; (ii) OF DOCUMENTARY PROOF, BE RESULTANT, SURVEILLANCE--INTELLIGENCE-OPERATION REPORT ON SET-UP BUY-BUST OF "SHABU"; (iii) OF MISSION ORDER OF PNP CHIEF LECISTE COMPOSED OF OPERATIVES LED BY POLICE INSPECTOR LEONARDO SUAN; (iv) OF COURT ORDER OF THE PNP RAID ON FORTUNE HOTEL ON MARCH 15, 1993; (v) OF THE RESULTANT POLICE REPORT AFTER THE BUY-BUST OPERATION ON MARCH 15, 1993 AT FORTUNE HOTEL -- INDEED DISPUTE -- THAT OFFICIAL DUTY OF ALL PNP OFFICERS, LED BY MAJOR FLORES, POLICE INSPECTOR LEONARDO SUAN, SPO2 ROMULO AGTAY, SPO2 EMERSON NORBERTE ON THE ALLEGED 'BUY-BUST OPERATION' ON MARCH 9, 1993 -- HAS NOT BEEN REGULARLY PERFORMED.

XV

THE COURT A QUO GRAVELY ERRED IN NOT HOLDING THAT THE TESTIMONIAL AND DOCUMENTARY EVIDENCE ADDUCED BY ACCUSED AND DEFENSE WITNESSES, MS. LULU

MARTINEZ, GERWIN BAUTISTA, NOEL FRESCO AND LEONIDO ADOBTANTE, WITH OTHER EVIDENCE, e.g. (i) THE CRIMINAL COMPLAINT WITH THE NATIONAL BUREAU OF INVESTIGATION (NBI) FILED AGAINST THE POLICE OFFICERS; (ii) THE SUPPORTING AFFIDAVITS OF JOSEFINA ESGUERRA FLORES AND CHENG HO CHUA; AND (iii) THE LETTER REQUEST DATED MARCH 31, 1993 TO THE DIRECTOR OF THE NATIONAL BUREAU OF INVESTIGATION (NBI) THRU CHIEF, SPECIAL OPERATIONS GROUP -- ARE MORE THAN SATISFACTORY PROOF INDICATING INNOCENCE OF ACCUSED, THUS, OFFSET ORCHESTRATED FALSEHOOD OF PROSECUTION WITNESS.

XVI

THE COURT A QUO GRAVELY ERRED IN ITS INSISTENCE FOR CONVICTION DESPITE ABSENT OF PROOF BEYOND REASONABLE DOUBT ON MORAL CERTAINTY.

XVII

LAST, THE COURT A QUO GRAVELY ERRED IN NOT HOLDING THE INNOCENCE OF THE ACCUSED TO THE INDICTMENT IN ABSENT OF THE CONSTITUTIVE ELEMENTS AS CHARGED.[5]

The appellant puts these errors under five categories denominated as: (a) "Incredible Evidence," for Assignment of Errors I, II, III, IV, V, VII, XI, and XIV; (b) "Exculpatory Evidence," for Assignment of Errors VI, XII, and XV; (c) "Unconstitutional Decision," for Assignment of Errors VIII, IX, and X; (d) "Innocence of the Accused," for Assignment of Errors XVI and XVII; and (e) "Corpus Delicti," for Assignment of Error XIII.

The crux of the first, second, and fourth categories is the credibility of the witnesses. The appellant insists that the trial court should have rejected the testimony of SPO2 Ariel Agtay and SPO2 Emerson Norberte for being incredible and improbable in view of the inconsistencies between their statements in open court and those in their joint affidavit of arrest, and between their respective testimonies in court. It should have, he asserts, given full credit to the testimonies of the defense witnesses which proved his innocence.

It is doctrinally entrenched that the evaluation of the testimonies of witnesses by the trial court is received on appeal with the highest respect because such court has the direct opportunity to observe the witnesses on the stand and determine if they are telling the truth or not.[6] The exceptions to this rule are when such evaluation was reached arbitrarily or when the trial court overlooked, misunderstood, or misapplied some fact or circumstances of weight and substance which could have affected the result of the case.[7] These exceptions have not been shown to exist in this case.

The claim of inconsistencies between the joint affidavit and the testimonies in court of witnesses Agtay and Norberte is based on an erroneous sweeping conclusion that whenever a witness discloses in his testimony in open court facts which he failed to state in an affidavit he executed ante litem motam, then a discrepancy or inconsistency exists between the testimony and the affidavit. There can be an inconsistency if what a witness has disclosed in the affidavit is contrary to that he has disclosed in open court, but not when what he has stated in open court are but details or additional facts that the affidavit, which is a brief summary of the events, failed to state. The infirmity of affidavits as a species of evidence is a matter of judicial experience. Generally, they are not prepared by the affiants themselves, but by another who uses his own language in writing the affiant's statements; omissions and misunderstandings by the writer are not infrequent, particularly under circumstances of hurry and impatience.[8] Affidavits, being taken ex parte, are almost always incomplete and inaccurate.[9] In the instant case, the testimonies of Agtay and Norberte in open court cannot be said to be inconsistent with the joint affidavit, as they merely supplied details of the events or transactions which the joint affidavit failed to do.

Neither do we find any serious inconsistencies between the testimony of Agtay and that of Norberte. What the appellant pointed out to be so, such as their statements on who actually held him,[10] are on minor or trivial matters which do not affect the substance, veracity, or weight of the testimony. Such inconsistencies even serve to strengthen the credibility of the prosecution witnesses because they erase any suspicion of rehearsed testimony.[11] Whatever discrepancies exist, we find them to be innocuous or honest lapses which do not impair the intrinsic credibility of the testimony.[12]

By and large, if Agtay and Norberte enmeshed themselves in falsehood to implicate an innocent person -- if indeed the appellant is innocent -- then they must have been moved by improper or ulterior motive. The appellant has not offered any evidence of such motive. It is settled that where there is no evidence to indicate that a principal prosecution witness was actuated by improper motive, the presumption is that he was not so actuated[13] and that he would not prevaricate and cause damnation to one who brought them no harm or injury;[14] hence, his testimony is entitled to full faith and credit. Additionally, in several drugs cases, this Court has consistently held that absent any proof to the contrary, law enforcers are presumed to have regularly performed their duty.[15]

In a further attempt to downgrade the evidence against him, the appellant intimates suppression of evidence on the part of the prosecution by its failure to present as witness the informant, as well as PNP Chief Leciste, Maj. Dominador A. Flores, and Police Inspector Suan, and to submit in evidence the mission order for the buy-bust operation against the appellant, the surveillance progress report, the mission order of Chief Leciste, and a court order for the raid conducted on 15 March 1993 in Fortune Hotel.

The presumption laid down in Section 3(e), Rule 131 of the Rules of Court, to wit: "(e) [t]hat evidence willfully suppressed would be adverse if produced," does not apply when the evidence claimed to have been suppressed, like the testimony of a witness, is merely corroborative, or where the witness whose testimony is claimed to have been suppressed is available to the accused.[16] In this case, it was not shown that the testimonial or documentary evidence alleged to have been suppressed were not available to the accused even by compulsory process.

As to the informant, it is settled that his identity or testimony is not indispensable in drugs cases, since his testimony would only corroborate that of the poseur-buyer.[17]

As to the others, the prosecution found their presentation unnecessary. We have repeatedly held that it is up to the prosecution to determine who should be presented as witnesses on the basis of its own assessment of their necessity.[18] After all, the testimony of a single witness, if trustworthy and reliable,[19] or if credible and positive,[20] would be sufficient to support a conviction. Moreover, in determining values and credibility of evidence, witnesses are to be weighed, not numbered.[21]

Anent the mission order and court order for the buy-bust operation, the surveillance progress report, and the mission order of Chief Leciste, the appellant seems to suggest that they are indispensable in buy-bust operations and must be in writing. There is no showing whatsoever that they are required in buy-bust operations. In *People vs. Buendia*,[22] we had the occasion to state:

Accused-appellants failed to prove that a buy-bust operation requires a written mission order. The burden of proof was on the appellants to support their affirmative assertion. This, they failed to do.

The appellant also carps, on the failure of Capt. Suan to testify for the prosecution "to refute the possitive [sic] and grave accusation" that he (Suan) unlawfully took the appellant's personal belongings consisting of an Easy Call pager unit, a cellular phone, t-shirts, pieces of jewelry, watch, and a belt.[23]

We have earlier stated that the presentation of other witnesses was deemed unnecessary by the prosecution. At

any rate, if the appellant honestly believed that the testimony of Capt. Suan would favor him and weaken the case against him, he could have availed of the compulsory process to require Capt. Suan to take the witness stand.

In any event, the testimonial evidence in this case has established beyond reasonable doubt the fact of the buy-bust operation and the culpability of the appellant for the sale of the regulated drug in question.

We are not convinced by the appellant's claim that the impugned decision is unconstitutional for being violative of Section 14, Article VIII of the Constitution.[24] Although the said decision consists only of four pages of legal-size bond paper, we find it to have fully complied with the constitutional requirement. It clearly and distinctly expresses the facts and the law upon which the judgment is based. It contains a faithful summary of the evidence for the prosecution and of the testimony of the appellant; states the law applicable, which is Section 15 of R.A. No. 6425, as amended; and after ruling that the methamphetamine hydrochloride (shabu) sold by the appellant to the poseur-buyer belongs to the amphetamine group of regulated drugs, sentences him accordingly.

In the last category of the assignment of errors, the appellant maintains that the corpus delicti was not established. He quotes portions of the testimony of SPO2 Ariel Agtay where the latter answered that he had not seen the four plastic packets of the alleged shabu, and the testimony of SPO2 Emerson Norberte that he had not seen clearly the package allegedly handed by the appellant to Agtay. The appellant further claims that the alleged "boodle money" was not marked before the buy-bust operation.

We are not persuaded. Agtay positively identified the four packets, thus:

State Pros. Manabat:

Q

Now Mr. Agtay, you also testified that if you will see this suspected methamphetamine hydrochloride which you bought from Anthony Co in that buy-bust operation on March 15, 1993, you will be able to identify this suspected methamphetamine hydrochloride.

A

Yes, sir.

Q

Now, there are four (4) packets of crystalline substance on top of the table, will you please go over these and tell us the relations of these 4 packets to that suspected methamphetamine hydrochloride, which was the subject of your buy-bust operation?

A

These are the packets of shabu which I bought from Anthony Co, sir.

Q

Why do you say these are the packets you bought from Anthony Co?

A

I put my initials on them and turn-over for investigation.

Q

Will you please identify these initials which you set before turning these specimen to the investigator?

A

The initials RACA in four (4) packets, were written by me, sir. (witness identifying the same)

State Pros. Manabat:

We request the same to be marked as ... first initial be encircled and marked as Exh. C-2-B, Your Honor.

Court:

Mark it.

State Pros. Manabat:

The next packets, your Honor, the initial of witness Agtay be encircled ... in the second packets as Exh. C-3-B,

Court:

Mark it.

State Pros. Manabat:

Q

And the 3rd packets, the initial of witness Agtay be encircled and marked as EXh. C-4-B, Your Honor.

Court:

Mark it.

State Pros. Manabat:

And finally, the four (4) packets, we pray the initial of witness RACA be encircled and marked as Exh.

Court:

Mark it.

State Pros. Manabat:

Now, Mr. Agtay when you bought this methamphetamine hydrochloride from Anthony Co, where were they contained?

A

It is wrapped on a piece of white paper, sir.[25]

Norberte, of course, could not clearly see the package because he was about five to seven meters away from the poseur-buyer, but he positively declared that he had seen the appellant hand a package to Agtay.[26]

As to the "boodle money," we agree with the following observations of the appellee:

With regard to the "boodle money," SPO2 Agtay testified that after he told appellant the he has the money, appellant gave him the package and he handed the "money" (p. 14, TSN, May 5, 1993). But when appellant started to suspect that it was just boodle money, SPO2 Agtay signaled to his other companions and appellant was arrested. SPO2 Agtay got hold of the boodle money he handed to appellant and later turned it over to the investigator (pp. 15, 17, supra). He wrote his initials "RACA" on the boodle money before he turned it over to the investigator (p. 12, TSN, May 5, 1993). Therefore, from the time the "buy-bust" operation was conducted up to the time appellant was arrested and Agtay got back the boodle money, it did not leave his sight and possession,

except when he handed it to appellant. But after the operation, it was SPO2 Agtay who recovered the same and handed it to the investigator.[27]

Anyhow, even the absence of the marked money would not create a hiatus in the prosecution's evidence as long as the prohibited stuff was presented before the trial court.[28]

The instant appeal must, therefore, fail.

The quantity of the regulated drug involved in this case is 271.98 grams. Had the offense been committed after the effectivity of R.A. No. 7659[29] on 31 December 1993,[30] the imposable penalty would have been reclusion perpetua to death and a fine ranging from P500,000.00 to P10 million.[31] The appellant is just lucky that the said law was not yet in effect on 18 March 1993 when the offense for which he was indicted was committed. Of course, it would have been entirely different if the quantity was less than 200 grams, for he would have been entitled to the reduced penalty in accordance with the rule laid down in *People vs. Simon*. [32]

WHEREFORE, the instant appeal is DISMISSED, and the challenged judgment of Branch 35 of the Regional Trial Court of Manila in Criminal Case No. 93-118519 is AFFIRMED in toto, with costs against the appellant.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Quiason, and Kapunan, JJ., concur.

[1] Rollo, 16-19. Per Judge Ramon P. Makasiar.

[2] Rollo, 6.

[3] Rollo, 16-17.

[4] Citing *People vs. Chavez*, 117 SCRA 221 [1982]; *People vs. Campana*, 124 SCRA 271 [1983]; FRANCISCO, Rules of Court, vol. VII, Part 2 [1973 ed.], 256.

[5] Rollo, 44-48.

[6] *People vs. Garcia*, 209 SCRA 164 [1992].

[7] *People vs. de la Cruz*, 229 SCRA 754 [1994], citing *People vs. Santito*, 201 SCRA 87 [1991]; *People vs. Florida*, 214 SCRA 227 [1992]; *People vs. Matrimonio*, 215 SCRA 613 [1992].

[8] *People vs. Mariquina*, 84 Phil. 39, 42 [1949].

[9] *People vs. Patilan*, 197 SCRA 354 [1991], citing *People vs. Alcantara*, 33 SCRA 812 [1970], which in turn cites *People vs. Cabiltes*, 25 SCRA 112 [1968].

[10] Agtay is quoted to have answered that it was Norberte, while the latter said that it was Agtay.

[11] *People vs. Buka*, 205 SCRA 567 [1992]; *People vs. Fernandez*, 211 SCRA 698 [1992].

[12] *People vs. Francisco*, 213 SCRA 746 [1992].

[13] *People vs. Simon*, 209 SCRA 148 [1992]; *People vs. Rostata*, 218 SCRA 657 [1993]; *People vs. Lase*, 219 SCRA 584 [1993].

[14] *People vs. Villagrancia*, 219 SCRA 212 [1993].

[15] *People vs. Fernandez*, 209 SCRA 1 [1992].

[16] *People vs. Pablo*, 213 SCRA 1 [1992]; *People vs. Casinillo*, 213 SCRA 777 [1992].

[17] *People vs. Odicta*, 197 SCRA 158 [1991]; *People vs. Alerta*, 198 SCRA 656 [1991]; *People vs. Rumeral*, 200 SCRA 194 [1991]. See also, *People vs. Bagawe*, 207 SCRA 761 [1992]; *People vs. Bolasa*, 209 SCRA 476 [1992]; *People vs. Abelita*, 210 SCRA 497 [1992].

[18] *People vs. Atilano*, 204 SCRA 278 [1991]; *People vs. Samillano*, 207 SCRA 50 [1992]; *People vs. Carpio*, 207 SCRA 569 [1992]; *People vs. Kyamko*, 222 SCRA 183 [1993].

[19] *People vs. Salazar*, 58 SCRA 467 [1974]; *People vs. Flores*, 217 SCRA 613 [1993].

[20] *People vs. Samson*, 219 SCRA 364 [1993]; *People vs. Mendoza*, 223 SCRA 108 [1993]; *People vs. Cortes*, 226 SCRA 91 [1993].

[21] *People vs. Candado*, 84 SCRA 508 [1978]; *People vs. Besana*, 220 SCRA 93 [1993].

[22] 210 SCRA 531, 537 [1992].

[23] Brief for the Accused-Appellant, 44; Rollo, 92.

[24] It reads in part as follows:

SEC. 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

[25] TSN, 10 May 1993, 13-14.

[26] TSN, 3 May 1993, 18.

[27] Appellant's Brief, 44; Rollo, 209.

[28] *People vs. del Pilar*, 188 SCRA 37 [1990].

[29] Entitled, "An Act to Impose the Death Penalty On Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, as amended, other Special Laws, and for Other Purposes."

[30] *People vs. Simon*, 234 SCRA 555 [1994].

[31] Section 14, in relation to Section 17, of R.A. No. 7659 which amended Sections 14, 14-A, and 15, and Section 20, respectively, of R.A. No. 6425, as amended.

[32] *Supra* note 30.

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.