

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILLIAM ROBERT BURTON, ACCUSED-APPELLANT.

G.R. No. 114396. February 19, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Appellant, a British national, was convicted by the Regional Trial Court of Pasay City, for attempting to transport 5.6 kilograms of hashish, a prohibited drug, through the Ninoy Aquino International Airport. Though caught in flagrante delicto, he denies criminal liability therefor on the novel ground that he was not aware that his traveling bags contained the prohibited drug. He also challenges the credibility of the lawmen who apprehended him.

These matters are resolved by this Court in this appeal seeking the reversal of the Decision[1] of the Regional Trial Court of Pasay City, Branch 116,[2] promulgated on July 30, 1993, in Criminal Case No. 92-2117, involving a violation of Section 4, in relation to Section 21 of R.A. 6425, otherwise known as “The Dangerous Drugs Act of 1972.”

Accused-appellant William Robert Burton was indicted under an Information[3] which reads:

“That on or about December 26, 1992 at the Ninoy Aquino International Airport in Pasay City, Philippines and within the jurisdiction of this Honorable Court, the accused WILLIAM BURTON y ROBERT while about to depart abroad, did then and there willfully, feloniously and unlawfully carry and transport without legal authority, 5.6 kilograms, more or less of Marijuana (Hashish), a prohibited drug.

CONTRARY TO LAW.”

Upon arraignment, appellant pleaded not guilty.[4] After trial, appellant was found guilty by the trial court. The dispositive portion of the decision reads:[5]

“WHEREFORE, accused William Burton y Robert is found guilty beyond reasonable doubt of attempting to transport ‘hashish’, a derivative of marijuana, a prohibited drug, weighing about 5.6 kilograms, in violation of Section 4, in relation to Section 21, of Republic Act No. 6425, otherwise known as The Dangerous Drugs Act of 1972; and he is sentenced to suffer the penalty of life imprisonment and to pay a fine of P20,000.00.

The ‘hashish’ involved in this case, which is forfeited in favor of the government, is ordered turned over to the Dangerous Drugs Board for proper disposal.

SO ORDERED.”

Hence, this appeal.

The Facts

The facts of the case, as narrated by the trial court, are as follows:[6]

“xxxx At about 9:30 in the evening of December 26, 1992, accused William Burton y Robert, 30 years old, a

British national, checked in at the Ninoy Aquino International Airport (NAIA), Pasay City, for his trip to Sydney, Australia, on board Flight No. 209 of the Philippine Airlines. The accused had two pieces of luggage with him which he passed through the x-ray machine at the departure area of the airport. The machine showed certain portions of the sidings of one bag and the bottom of the other to be dark in color, making its operator to suspect that something illegal was inside them. Upon the request of the Customs examiner in the NAIA to whom the x-ray finding was referred, accused Burton removed all his belongings from the travelling bags. The two bags of the accused were then subjected to another x-ray examination. The same finding was revealed.

The accused, together with his two pieces of baggage, was brought to the Customs Office at the NAIA, where, with his consent, the sidings of one bag and the bottom of the other were slashed open. Found inside, sandwiched between thin plastic slabs attached to the upper and lower sides of one bag, and forming the false bottom of the other, were twelve (12) rectangular bricks and one (1) square brick of dark brown materials, each with a thickness of about one-third ($\frac{1}{3}$) of an inch. Their total weight was five and six-tenths (5.6) kilos.

During his investigation, the accused was observed to be walking in an uneasy manner. Suspecting that there was something hidden in his shoes, the investigator requested Burton to remove his shoes to which the accused consented. Retrieved from inside the shoes, hidden between their soles and the upper covers, were four (4) blocks, each about one-fourth ($\frac{1}{4}$) of an inch thick, of the same dark brown substance shaped according to the contour of the soles of the shoes. The articles taken from the two bags and from the pair of shoes of the accused were suspected to be marijuana or 'hashish' by the Customs and the police investigators. Representative samples of the substance were referred to the National Bureau of Investigation (NBI) for examination. The NBI Forensic Chemistry Division and the PNP Crime Laboratory Service found the materials to be 'hashish', a derivative of marijuana. This substance is a prohibited drug. (Sec. 2(e)(1)(i), Republic Act No. 6425)"

Evidence for the Prosecution

The prosecution presented witnesses Felimon Napuli, Forensic Chemist Julieta Flores, SPO4 Guillermo Zuño, and Forensic Chemist Leslie Chambers.

Napuli, a customs examiner, testified that on December 26, 1992, at 9:30 p.m., he was assigned at the inspection lane of the East Pre-Departure Area, Ninoy Aquino International Airport. Upon being informed by the x-ray operator that the x-ray examination showed unidentified objects inside two pieces of appellant's luggage, he conducted a thorough examination of said luggage. After obtaining permission from appellant, Napuli slashed the side of the suitcase with a knife and discovered twelve (12) blocks and one (1) bar of a dark substance suspected to be hashish. The dimension of each block was 4 x 7 x $\frac{1}{2}$ inches (Exh. "T-EE"); and the bar, more or less 4 x 4 x $\frac{2}{3}$ inches (Exh. "FF"). The blocks and bar appeared as black items "processed in compact." The suspected hashish was confiscated and turned over to the duty collector, and appellant was taken to District Collector Supervisor Bautista. Napuli proceeded to the Investigation Section where he executed an affidavit (Exh. "A") regarding this incident.[7]

Flores, Forensic Chemist 2 of the National Bureau of Investigation, testified that she received a letter-request from the Customs Narcotics Interdiction Unit of the Bureau of Customs for chromatographic analysis of the specimen of the confiscated substance from appellant (Exh "B").[8] After conducting an examination thereof, she reported in Dangerous Drugs Report No. DD-92-600 (Exh. "C") [9] her findings as follows:

"Weight of specimen before exam. #1=0.4193 gram

#2=0.8015 gram

Weight of specimen after exam. #1=0.3773 gram

#2=0.7213 gram

Examinations conducted on the above-mentioned specimen gave POSITIVE RESULTS for HASHISH.

xxx xxx xxx

REMARKS: HASHISH is a cannabis resin obtained from MARIJUANA. xxxx”

She also submitted a Certification (Exh. “D”)[10] stating:

“1. Brown substance contained in a small transparent plastic bag with markings.

Weight of specimen before exam.= 0.4193 gram

2. Brown substance contained in a small transparent plastic bag with markings.

Weight of specimen before exam.=0.8015 gram

xxx xxx xxx

examinations conducted on the above-mentioned specimen/s gave POSITIVE RESULTS for HASHISH.”

SPO4 Zuño, team leader of the Philippine National Police Narcotics Command stationed at NAIA, testified that at about 9 p.m. of December 26, 1992, while he was on-duty at the East Pre-Departure Section, he was informed by SPO2 Andres Andal that two pieces of luggage, suspected to contain illegal materials, had passed through the x-ray machine. He went to the x-ray machine where Napuli was conducting a thorough examination of appellant’s luggage, consisting of a suitcase and a traveling bag. At first, appellant was reluctant to comply with Napuli’s request to open them and to remove their contents; then, Zuño heard appellant say, “Patay.” When the two pieces of luggage were passed again through the x-ray machine, Zuño saw on the monitor a dark portion on the side of the suitcase and on the base of the traveling bag. The suitcase and bag were subjected to a thorough examination. Zuño, passing his hand along the interior frame of the suitcase, noticed that the side was thicker than that of an ordinary suitcase. Using a cutter (a bladed instrument), Napuli slashed the outer side and the lining of the suitcase. The hard plastic frame was thicker than the side of an ordinary suitcase and was wrapped with masking tape. When opened, a dark brown substance, shaped into blocks of various sizes and wrapped in masking tape, was concealed between the hard plastic frames.

The base of the traveling bag, which was made of two pieces of plastic and wood materials neatly riveted to the bottom of the traveling bag, was taken out and examined. When opened, more blocks of the same substance were found. A total of twelve blocks and one bar of the brown substance suspected to be hashish, a derivative of marijuana, were found inside appellant’s luggage.

Past midnight, appellant was brought to the Customs Legal Investigation Division, where he was interrogated by customs investigators as to the source of the suspected hashish. Appellant denied having knowledge thereof.

Zuño observed appellant to be walking “uneasily” arousing his suspicion that a deadly weapon or an illegal item could be concealed in his legs or shoes. So he requested appellant to remove his white Reebok rubber shoes. He took pictures while appellant was removing them (Exh. “K-M”). Customs Police Elpidio Manuel examined said shoes (Exh. “I-J”) and found four (4) blocks of a similar substance suspected to be hashish. The blocks were either 2 x 3 x ¼ inches or 3 x 5 x ¼ inches in dimension, cut to conform to the shapes of the soles of the shoes (Exh. “P-S”).

When asked to comment on this discovery, appellant replied, “I have nothing to say.” Zuño issued a Receipt for Property Seized (Exh. “N”)[11] which appellant refused to acknowledge.

Chambers, forensic chemist of the PNP Crime Laboratory Services, testified that, at the request of the Chief of Office, NAIA District Office, SOD, PNP NARCOM, she conducted three types of tests: (1) the physical test, which included weighing of the samples and microscopic observation thereof, (2) the chemical test (Duquenois Levine Test), and (3) a confirmatory test (Thin Layer Chromatographic Test). The tests also gave positive results for marijuana (Exh. "HH-LL").

Evidence for the Defense

The defense presented appellant as its sole witness. He is a British national, unemployed and with a physical deformity (his arms are half the normal length) allegedly caused by his mother's having taken the drug Thalidomide during pregnancy.

He testified that on December 26, 1992, he went to the NAIA to check in his luggage for his flight to Sydney, Australia, to visit his uncle. Said luggage was purchased on that very same day from a certain John Parry for P10,000.00 together with a tape recorder, leather boots, and several articles of clothing. He explained that he had bought said bags to accommodate his extra belongings and to help Parry raise money for the latter's plane fare to Australia. As his luggage was passed through the x-ray machine, the operator found three unidentified dark areas on the top portion of the suitcase near the handle.

Brought before Napuli, he was asked to open his black canvass suitcase and to remove his personal belongings therefrom. He was informed that his bags could not be cleared to board the plane because of the unidentified dark portions appearing on the x-ray monitor. So, he gave Napuli permission to open the lining of the suitcase and to remove the base of the travelling bag. Blocks of a substance suspected to be hashish were found inside the lining of the suitcase. He denied having seen them before.

A medical kit, containing a syringe, was also found inside his traveling bag. Zuño asked if he was also using heroin. He replied, "Hindi". He explained that his physician in Britain advised him to bring his own syringe because, in some countries, the doctors use one syringe for two or three persons.

He claimed that he was alarmed and confused when told that he was to be investigated. He asked Andal if he was under arrest; the latter replied in the affirmative and informed him of his rights. Insults were hurled at him because of his deformity. Threats were likewise made; he was told that he could not avoid trouble because nobody knew that he was there. While escorting him to the toilet, Zuño remarked that maybe he was going to the toilet because he was hiding something.

When he returned, the police officer asked to look inside his shoes. After being threatened, appellant handed him his shoes. Zuño examined them and opened the inner soles which yielded more bars of the yet unidentified substance. Zuño returned his shoes and took his picture while he was putting them on. He was detained at the NARCOM office until noon of December 28, 1992.

He admitted that his only source of income was a trust fund in an English bank; proceeds of the loan he had obtained from it were sent to the Philippines.

Ruling of the Trial Court

The trial court convicted accused of attempting to transport prohibited drugs under Section 4, in relation to Section 21, of R.A. 6425. It ruled that the appellant[12]

"x x x should be deemed to have the intention to possess the marijuana or 'hashish' confiscated from him, in line with the principle that mere possession x x x raises the presumption of guilt and the burden of proof is on the possessor to explain the absence of animus possidendi."

Appellant was unable to rebut such presumption arising from his possession of the prohibited drugs. His excuse that he had no knowledge of the hashish was unavailing, as malice or intent to commit the crime is not required in cases of mala prohibita.

Issues

Appellant alleges that the lower court erred by:[13]

I. x x x failing to consider ‘knowledge or awareness’ of the existence of prohibited drugs as an essential element of the offense charged.

II. x x x ruling that the accused failed to destroy the presumption of ‘unlawful intent’.

III. x x x giving full credence to the testimony of prosecution witness, Mr. Zuno.”

The main thesis of the defense is that it was not proven that appellant knew that the bags he had checked in at the airport contained a prohibited drug. Appellant further claims that the trial court misunderstood his defense to be lack of “criminal intent” in carrying the prohibited drug instead of “lack of knowledge” that he was carrying it. Appellant explains that the trial court confused malice or criminal intent, which is unimportant in malum prohibitum, and animus possidendi or intent to possess a prohibited drug, which is an element of illegal transportation of a prohibited drug.

The prosecution’s evidence was allegedly overcome by appellant’s testimony that he bought the luggage and shoes from a certain John Parry without knowing that they concealed hashish.

In any event, he challenges the prosecution’s evidence, particularly the testimony of Zuño, as unworthy of credence.

The Court’s Ruling Crime and Punishment

Section 4 of Article II of the Dangerous Drugs Act of 1972, as amended by Presidential Decree No. 1675, provides:

“SEC. 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs.--The penalty of life imprisonment to death and a fine ranging from twenty thousand to thirty thousand pesos shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or shall act as a broker in any of such transactions. x x x x.”

As clearly indicated, said provision penalizes the acts of selling, administering, delivering, giving away to another, distributing, dispatching in transit or transporting any prohibited drug. While sale and delivery are given technical meanings under said Act, transportation, distribution and dispensation are not defined.[14] However, in indictments for violation of said provision, the prosecution must establish by clear and convincing evidence that the accused committed any of said unlawful acts at a particular time, date and place.[15]

Pursuant to this doctrine, the prosecution submitted in evidence the testimony of witnesses Napuli and Zuño. Napuli testified that:[16]

“x x x x x x x x x

q On December 26, 1992, where were you between the time 7:00 in the morning to 7:00 in the evening?

a I was assigned at the inspection lane of the Departure Area of the NAIA, sir.

q At 9:30 p.m., where were you on that specific date December 26, 1992?

a At 9:30 in the evening, December 26, 1992, I was assigned at the inspection lane at the Departure Area of the NAIA, sir.

PROS. VELASCO:

WITNESS:

q On that specific time and date, do you remember anything unusual, Mr. Napuli?

a There was an unusual incident which (sic) we were able to apprehend William Robert Burton carrying in his luggage suspected hashish, sir.

q How was he apprehended? Will you relay (sic) it to the Court, Mr. Witness?

a He was apprehended after his luggage had passed through the x-ray and it was found out that there was something red or an unidentified object inside his luggage, so we conducted immediately a thorough examination of his bag and we found out that certain hashish.

PROS. VELASCO:

WITNESS:

q You said that the luggage of Mr. Burton passed through the x-ray machine. What happened next, Mr. Witness?

a So, since we already suspected that there was something suspected hashish, we requested Mr. Burton to have his luggage opened.

PROS. VELASCO:

q So, what did you do next?

a Then we approached Mr. Burton and requested him to open his luggage.

PROS. VELASCO:

WITNESS:

q Now, after Mr. Burton opened his bag, what happened next?

a I immediately conducted the thorough examination, sir.

q What happened next?

a I pulled out all his clothes then re-x-ray again the bag.

q Why did you re-x-ray again the bag?

a To determine thoroughly what was really inside the bag, at the sidings of the bag.

q Why, Mr. Witness? When you first examined the bag, what did you find inside the bag when you first examined it?

a We found out his personal belongings, sir.

q So, after the first examination, you did not find any drugs inside the suitcase, Mr. Witness?

WITNESS: a Actually, in the course of the examination, we did not find the hashish but we already suspected that

it was being put at the sidings so we decided to re-x-ray it.

PROS. VELASCO:

q During the re-x-ray, what did you find out, Mr. Witness?

a After the re-x-ray of that bag was conducted, we decided (sic) Mr. Burton to slash the sidings of his bag, sir.

COURT:

q What did you find out during the re-x-ray examination?

a We found out that there was something inside the sidings of the bag, sir.

q What was that something appearing in the x-ray?

a It was red. It appeared in the x-ray a block type, sir.

q What portion of the luggage?

a It was in the sidings which contained that red and block type appearance in the x-ray. It was in the sidings of the bag concealed at the sidings of the bag.

q When it was re-x-ray, where were the contents of the bag which you examined upon opening it?

a The contents of the bag were placed on the inspection lane, his dresses, and his personal belongings, during the examination of the bag.

PROS. VELASCO:

WITNESS:

q After the bag has been passed again in the x-ray machine, what did you do, Mr. Witness?

a Again, it was passed through the x-ray, we decided to request Mr. Burton to have his luggage slashed in order to open, sir.

PROS. VELASCO:q What happened next, Mr. Witness?

a So when we slashed the sidings of the bag, it yielded hashish, 12 blocks and one (1) bar.

q Can you describe these twelve (12) blocks that you have seen?

a It is black in color...

q xxx These twelve (12) blocks, what was the relation of (sic) these twelve (12) blocks to the hashish or drugs you are mentioning?

WITNESS:a That is the hashish, your Honor.

COURT:q How about this bar? What is the relation of this bar to the drugs or hashish you are mentioning?

WITNESS:a It is the hashish, your Honor.”

Witness Zuño corroborated Napuli’s testimony, saying that: [17]

“STATE PROSECUTOR

q So Mr. witness (sic) what happened next after Mr. Burton complied that his bags be opened?

a After complying to have his luggages (sic) re-examined, said luggages (sic) were brought to the customs examination table and have it re-examined by Mr. Napuli, sir.

q So what happened next, Mr. witness(sic)?

a After these two luggages (sic) were brought to the said examination table, Mr. Burton was again requested to have his luggages (sic) opened by him, in (sic) which he complied and that is the time Mr. Napuli started the thorough examination of the emptied luggages, (sic) sir.

q What happened next Mr. witness (sic) after the bags were subjected to the thorough examination by Mr. Napuli?

a When the suitcase are (sic) being examined by Mr. Napuli, I notice (sic) that the sidings and the bottom of the said suitcase is (sic) thicker than the ordinary suitcase being subjected for examination, sir.

q So when you noticed that one of the sidings is (sic) thicker, what happened next Mr. witness?

a With the used (sic) of a cutter or bladed weapon, and in the presence of Mr. Burton, Mr. Napuli slashed one of the sidings, sir.

q What happened next after this area has been opened?

a After one of the sidings has (sic) been slashed by Mr. Napuli in our presence, I found out that a hard portion thicker than ordinary sidings of the suitcase being examined. It is wrapped with masking tapes, sir.

q What happened next after that?

a After I discovered the masking tapes wrapped on the sidings, I made another slashed (sic) in the sidings of the hard object found on the sidings of the suitcase. In which it yielded brown substance wrapped with masking tapes.

STATE PROSECUTOR:

Will you please describe to the best of your knowledge what was the substance found inside it?

a When that substance or object concealed (sic) in between the hard plastic of the suitcase was retrieved by Mr. Napuli, we cut the portion of the said object and we found brown substance. And thorough (sic) physical examination, we suspected that it is hashish, sir.

STATE PROSECUTOR:

Will you please describe this brown substance?

a It is dark brown in color, sir.

q The appearance?

a It is form (sic) in blocks of various sizes. sir.

q What are the shapes of the blocks?

a The first one is rectangular in form, sir.

COURT:

How many blocks were they (sic)?

a Ten (10) blocks of various sizes, two (2) blocks also and one (1) small bar, Your Honor.

STATE PROSECUTOR:

Mr. witness (sic) in what specific part of this travelling bag have you found?

a It is on the bottom of the hand travelling bag, sir.

q Will you please show to us?

a This portion, sir.

(witness pointing to two (2) pieces of plastic with wood which is placed at the bottom of the bag. It is detachable with a piece of black plastic material in between the two (2) pieces of plastic in effect serves as a false bottom of the bag marked as Exhibit H).

q I have noticed Mr. witness (sic) that the false bottom is exposed, was this the condition also of this bag when it was inspected at the time of the arrest of Mr. Burton?

a No, sir, it was neatly revetted (sic) or there were revets (sic).

q Can you please explain to the Honorable Court how you came upon this present state Mr. witness(sic)?

a The bladed weapon was also used by Mr. Napuli, and when I found the (sic) difficulty in opening the revetted (sic) portion, I used a screw driver, sir.”

He also testified on how he found blocks of the same substance inside appellant’s shoes. He said: [18]

“STATE PROSECUTOR:

What happened next after the investigation of Mr. Burton?

a While thereat, I observed Mr. Burton to be uneasy on his shoes, so my suspicion arose (sic) that he is concealing (sic) may be (sic) a deadly weapon or some more illegal items. So I requested him to untie his white Reebok shoes, which (sic) he complied. While he was untying his shoes, I took shme (sic) pictures, sir.

q So what happened next after Mr. Burton untie (sic) his shoes, Mr. witness(sic)?

a When he untied his shoes, I requested custom (sic) police Elpidio Manuel to examine the said shoes, and inside the shoes we found out (sic) four (4) blocks of various sizes, sir.

q Four blocks of various sizes of what, Mr. witness(sic)?

a Suspected hashish, sir.

q Can you please describe briefly to the Court the appearance of these blocks of various sizes of hashish?

a Well, .. I mean the form follows the forms of the inner portion of the sole of the shoes, but it was not cut into two, and we found four (4) blocks in the shoes he is wearing, sir.

COURT

So it was sandwich (sic) between the upper sole or the cover and the sole proper?

a Yes, Your Honor.

STATE PROSECUTOR:

Then after you have discovered something were (sic) hidden inside the shoes of Mr. Burton what happened next, Mr. witness(sic)?

a And since he was denying knowledge on the suspected hashish that were earlier discovered from his luggages(sic), when I asked him what he can say about the four (4) blocks that were recovered in his shoes, and he said 'I have nothing to say'."

Sec. 21 of the same act provides:

"SEC. 21. Attempt and Conspiracy.--The same penalty prescribed by this Act for the commission of the offense shall be imposed in case of any attempt or conspiracy to commit the same in the following cases:

x x x x x x x x

(b) Sale, administration, delivery, distribution and transportation of dangerous drugs;

x x x x x x x x"

The foregoing testimony amply demonstrates that appellant committed an act punishable by said law. We agree with the following discussion of the trial court on the crime committed by appellant:

"x x x To transport means 'to transfer or convey from one person or place to another.' (Webster's Third New International Dictionary). The accused came from a hotel in Parañaque, Metro Manila, where he stayed before he checked in at the NAIA and was bound for Sydney, Australia. It is therefore apparent that he wanted to bring the prohibited drug from Parañaque to Sydney. However, because he was not able to pursue his trip, he should be considered only to have attempted to transport the prohibited drug to Sydney. Under Section 21 of The Dangerous Drugs Act of 1972, the same penalty prescribed by the said Act for the commission of the offense of transporting dangerous drugs shall be imposed in case of any attempt to commit the same crime.

x x x x x x x x

The act of accused Burton in attempting to transport the 'hashish' in question clearly constitutes a violation of Section 4, in relation to Section 21, of Republic Act No. 6425, since it does not appear that the accused had any legal authority to transfer or convey the said prohibited drug from the Philippines to Australia."

Upholding the Assessment of Witness by the Trial Court

Appellant questions the trial court's conferment of faith and credence on the testimony of prosecution witness Zuño despite some apparent inconsistencies. It is a well-entrenched rule in law that the assessment of a witness' credibility by the trial court is accorded great respect because said court is in the best position to observe and evaluate the witness' demeanor and deportment at the time he gave his testimony.[19]

The questions of whether appellant did utter the word "patay" in disappointment over the discovery of his misdeed and whether Zuño took pictures of appellant while the latter was removing or putting on his rubber shoes are of little significance. The trial court did take the utterance allegedly heard by Zuño as proof of appellant's knowledge of the hashish in his luggage and shoes, but the ineludible fact remains that appellant was caught with twelve blocks and seven bars of hashish in his possession. This remains un rebutted as proof of appellant's guilt.

The trial court properly admitted in evidence Exhibits “P-S” despite the absence of Zuño’s markings because these blocks of hashish bore Customs Examiner Elizabeth Ayonon’s markings instead. Zuño witnessed Ayonon place her markings on said exhibits.[20]

Existence of Animus Possidendi Unrebutted

In criminal cases involving prohibited drugs, appellant argues that there can be no conviction unless the prosecution shows that the accused knowingly possessed the prohibited articles in his person, or more legally put, that animus possidendi is shown to be present together with his possession or control of such article.[21]

Under the Rules of Evidence (Sec. 3[j], Rule 131, Rules of Court), “things which a person possesses, or exercises acts of ownership over, are owned by him.” Such disputable presumption is based upon the principle that direct proof of facts of this nature is rarely available, except in cases of confession. In several cases, the Court has held that possession of a considerable quantity of marijuana cannot indicate anything except the intention of the accused to sell, distribute and deliver said prohibited drug.[22]

Knowledge refers to a mental state of awareness of a fact. Since courts cannot penetrate the mind of an accused and thereafter state its perceptions with certainty, resort to other evidence is necessary. Animus possidendi, as a state of mind, may be determined on a case-to-case basis by taking into consideration the prior or contemporaneous acts of the accused, as well as the surrounding circumstances. Its existence may and usually must be inferred from the attendant events in each particular case.[23]

In prosecutions involving prohibited drugs, the state has a right to specify what proofs shall constitute prima facie evidence of guilt, and thereafter to place upon the accused the burden of showing that his act or acts are innocent and are not committed with any criminal intent or intention.[24]

The existence of animus possidendi is only prima facie. Thus, it is subject to contrary proof and may be rebutted by evidence that the accused did not in fact exercise power and control over the thing in question, and did not intend to do so.[25] The constitutional presumption of innocence will not apply as long as there is “some rational connection between the fact proved and the ultimate fact presumed, and the inference of one fact from proof of another shall not be so unreasonable as to be (a) purely arbitrary mandate.”[26]

The burden of evidence is thus shifted to the possessor to explain absence of animus possidendi. A mere uncorroborated claim of the accused that he did not know that he had a prohibited drug in his possession is insufficient. Any evasion, false statement, or attempt at concealment on his part, in explaining how the drug came into his possession, may be considered in determining his guilt.[27]

Under the facts obtaining in this case, the 5.6 kilos of hashish cleverly and painstakingly concealed inside appellant’s luggage and rubber shoes can be said to be in the possession and control of appellant with his knowledge. Not only were the blocks and bars of the prohibited drug of a considerable amount, but they were placed inside three different objects in order to escape detection by the authorities.

The Court also finds incredible appellant’s allegation that he had no idea that the luggage and rubber shoes he “purchased” from a certain John Parry contained prohibited drugs. Even the alleged transaction between them is dubious. Appellant claims that he had paid Parry P10,000.00 for the two pieces of luggage, clothes, camera, tape recorder, and Reebok rubber shoes which Parry would redeem from appellant in Australia. Appellant explains that this transaction, which brought no benefit or advantage to him, was more of a loan, an act of charity, to Parry who was raising money for his plane fare. However, appellant also admits that Parry was only a casual acquaintance whom he had met for about five to six times only. Thus, it is unbelievable for anyone, much less appellant who was unemployed and was relying only on the P6,000.00-per-month trust fund proceeds, to be so generous as to

shell out such an amount to a mere acquaintance.

Furthermore, this “purchase” was suspiciously made only hours prior to appellant’s apprehension at the airport. Appellant’s explanation, as a whole, is undeserving of credence as it is contrary to common experience. It leaves us with no other conclusion than that the animus possidendi did in fact exist at the time of the arrest.

In *People vs. Alfonso*, the Court disregarded a similar excuse, saying that if it were true that the accused was not really the owner and that he simply accepted the errand from one who was not even a friend, the explanation, standing by itself, is too trite and hackneyed to be accepted at its face value, since it is obviously contrary to human experience.[28] In any event, the particular circumstances surrounding the “sale” should have raised alarm in appellant’s mind about the dubious nature of the transaction. The absence of any suspicious reaction on appellant’s part is not consistent with human nature. And if he did not mind “carrying these bags” for someone he hardly knew and whom he conveniently alleges to be also going to Australia, it is strange that he did not point him to the airport authorities so he could have been apprehended. The Court also notes that Parry was never presented as a witness. Hence, his very existence, not just his alleged participation in appellant’s story, remains doubtful.

All told, the possession of the prohibited drugs by appellant with prima facie evidence of his knowledge thereof is sufficient to sustain a conviction in the absence of a satisfactory explanation.[29]

The Proper Penalty

The trial court imposed the penalty of “life imprisonment” plus a fine of twenty thousand pesos as the crime was committed on December 26, 1992 or about a year before Republic Act No. 7659,[30] imposing the penalty of *reclusión perpetua* to death, came into effect on December 31, 1993. Retroactive application of said law would not be advantageous to appellant in view of the increased range of penalty and conjunctive fine prescribed, where the quantity of prohibited drugs is “750 grams or more.” A more succinct explanation in *People vs. Ballagan* states:[31]

“First, the wealth of jurisprudence in cases wherein ‘life imprisonment’ is imposed is to the effect that said penalty, unlike *reclusión perpetua*, does not carry accessory penalties. In the event that Republic Act No. 7659 is applied retrospectively to appellant, he has to suffer not only *reclusión perpetua* but also the accessory penalties.

Second, the fine imposed upon appellant is the minimum imposable of twenty thousand pesos (P20,000.00), whereas if he were penalized under the new law, he would have to bear the minimum fine of P500,000.00. Thus, retrospective application of Republic Act No. 7659, the ‘heinous crimes law,’ in cases wherein the penalty of ‘life imprisonment’ has been imposed by the trial court, would prove more burdensome upon the appellant and would contradict the basic principle that all penal laws shall be interpreted in favor of the accused.”

In line with current jurisdiction, we affirm the trial court’s imposition of the penalty of life imprisonment and a fine of twenty thousand pesos (P20,000.00) upon appellant.[32]

WHEREFORE, the appeal is hereby DENIED. The appealed decision is AFFIRMED.
SO ORDERED.

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

[1] Rollo, pp. 15-18.

[2] Presided by Judge Alfredo J. Gustillo.

- [3] Rollo, p. 7.
- [4] Records, p. 39.
- [5] Rollo, p. 18.
- [6] Rollo, pp. 15-16.
- [7] Exhibits, p. 86.
- [8] Exhibits, p. 87.
- [9] Exhibits, p. 88.
- [10] Exhibit, p. 89.
- [11] Exhibit , p. 10.
- [12]Rollo, p. 17.
- [13] Rollo, p. 40-H.
- [14] Nitafan, David, Annotations on the Dangerous Drugs Act, 1995 ed., p. 241.
- [15] People vs. Rojo, 175 SCRA 119, 127-128, July 5, 1989.
- [16] TSN, May 3, 1993, pp. 3-16.
- [17] TSN, May 12, 1993, pp. 23-27.
- [18] TSN, May 12, 1993, pp. 30-32.
- [19] People vs. Magana, G.R. No. 105673, July 26, 1996, p. 16; People vs. Alimon, G.R. No. 87758, June 28, 1996, p. 12; People vs. Atuel, G.R. No. 106962, September 3, 1996, pp. 10-11; People vs. Añonuevo, G.R. No. 112989, September 18, 1996, pp. 11-12; and People vs. Pareja, G.R. No. 88043, December 9, 1996, p.14.
- [20]TSN, May 14, 1993, pp. 21-22.
- [21]Aquino, The Revised Penal Code, 1987 Ed., Vol. II, p. 351 citing U.S. vs. Ngan Ping, 34 Phil 660, 661 (1916); People vs. Libag, 184 SCRA 707, 715, April 27, 1990; and People vs. Aranda, 226 SCRA 562, 571, September 17, 1993.
- [22] People vs. Claudio, 160 SCRA 646, 654, April 15, 1988 and People vs. Toledo, 140 SCRA 259, 267, November 22, 1985.
- [23] U.S. vs. Tin Masa, 17 Phil 463, 465 (1910); People vs. Aranda, supra.; and People vs. De Gracia, 233 SCRA 716 , 727, July 6, 1994.
- [24]Dizon-Pamintuan vs. People, 234 SCRA 63, 74, July 11, 1994; and D.M. Consunji vs. Esguerra, G.R. 118590, July 30, 1996, pp. 9-10.
- [25] Cruz, Isagani A., CONSTITUTIONAL LAW, 1933 ed., p. 313; and U.S. vs. Lim Chingco, 15 Phil 52 (1910).
- [26] Dizon-Pamintuan vs. People, supra., p. 75.
- [27] U.S. vs. Yao Sim, 31 Phil 301, 302(1915) and U.S. vs. Jao Li Sing, 37 Phil 211, 214 (1917).
- [28]186 SCRA 576, 581-583, June 18, 1990.

[29]U.S. vs. Bandoc, 23 Phil. 14, 15 (1912); and U.S. vs. Ong To, 28 Phil. 216, 218 (1914).

[30] “SEC. 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs.--The penalty of reclusión perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who unless authorized by law, shall xxx transport any prohibited drug, x x x.

x x x x x x x x.”

[31]People vs. Ballagan, 247 SCRA 535, 550, August 23, 1995.

[32] People vs. Ballagan, *ibid*.

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