

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. JOSEFINA A. ESPARAS AND RODRIGO O. LIBED (AT LARGE), ACCUSED. JOSEFINA A. ESPARAS, ACCUSED-APPELLANT.

G.R. No. 120034. July 10, 1998

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PER CURIAM:

The case at bar involves the first imposition of the death penalty on a woman, Josefina A. Esparas. Her crime is bringing to the country shabu whose street value at that time was estimated at P30 Million.[1]

The records show that JOSEFINA A. ESPARAS and her alleged husband, RODRIGO O. LIBED, were charged with the crime of illegally bringing into the country 20.09134 kilograms of shabu (Methamphetamine Hydrochloride), a regulated drug, in violation of Section 14, Article III of Republic Act No. 6425, as amended. The amended Information[2] against them, dated June 21, 1994, reads:

“That on or about the 20th day of May, 1994, in the City of Pasay, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law to import or bring into the country any prohibited drug/regulated drug, conspiring, confederating, and helping one another did then and there wilfully, unlawfully and feloniously import or bring into the country Methamphetamine Hydrochloride (Shabu), a regulated drug, with a total weight of 20.09314 kilograms, in violation of the above-cited law.

“Contrary to law.”

Accused Josefina Esparas pleaded not guilty when arraigned on August 26, 1994.[3] She absconded after the prosecution presented its key witnesses.[4] Accused Rodrigo Libed has remained at large.

At the trial, the prosecution presented, inter alia, NAIA’s Customs personnel as main witnesses, to wit: Collector Celso Templo, Examiner Perla Bandong, Agent Mariano Biteng, Jr., Chemist Elizabeth Ayonon and Collection Division Chief Zenaida Bonifacio.

The evidence reveals that on May 20, 1994, at 12:45 p.m., Cathay Pacific Airways (flight no. CX-901) arrived at the Ninoy Aquino International Airport (NAIA) from Hongkong. At 1:30 p.m., some of its passengers, including accused Esparas and her niece, Alma Juson, queued up at customs inspection lane no. 3 at the arrival area manned by Customs Examiner Perla C. Bandong. Accused Rodrigo Libed approached Examiner Bandong and handed to her the baggage declaration form (with No. CX-4200140)[5] of the accused Esparas and Juson. Accused Libed had a stick-on customs “official business pass” and a Citizen’s Crime Watch pin on his collar. He placed accused Esparas’ black traveling bag, bearing tag no. CX 849430 (Exhibit “C”), on the inspection table. Examiner Bandong unzipped the traveling bag and found piles of used clothes in its uppermost portion. Half-way through the traveling bag, she discovered its wooden base. Suspecting that it was a false bottom, Examiner Bandong asked accused Libed what was underneath the plywood. Libed claimed that it contained “personal effects.” As Examiner Bandong seemed unconvinced, he whispered in a trembling voice, “Ito iyong pinatutulungan ng Collector’s Office.” Examiner Bandong then asked, “Ano ba ito?” He asserted, “Tulungan mo na lang at alam na

ito ng Collector's Office.”[6]

Examiner Bandong called Customs Collector Celso Templo then about five (5) meters away from inspection lane no. 3. She briefed him of the problem. Collector Templo denied that the subject bag had been cleared by the Collector's Office and ordered Examiner Bandong to inspect it thoroughly. She slashed the backside of the false bottom of the bag and it yielded a black plastic bag containing yellowish crystalline granules.[7] The substance, weighing 9.97276 kilograms (Exhibit “D”), was later found to be positive for Metamphethamine Hydrochloride, a regulated drug commonly known as “shabu.”[8]

On orders of Collector Templo, accused Libed presented his Citizen's Crime Watch I.D. to establish his identity. Accused Libed claimed to be an employee of the Office of the Presidential Assistant on Military Affairs of Malacañang (OPAMA) and insisted that the “effects” had been cleared by “higher authorities.”[9] While accused Libed was making his explanation, Alma Juson, followed closely by accused Esparas, pushed the cart loaded with another black traveling bag towards the exit gate.[10] Collector Templo noticed them and he yelled at Customs Police Mariano Biteng to intercept Juson and accused Esparas who were already about five (5) meters away from the inspection lane.[11] Agent Biteng accosted them and escorted them back to inspection lane no. 3.

Accused Libed, Esparas and Juson, were taken to the customs extended service room where a more rigid examination of their luggage was conducted. The second traveling bag, bearing tag no. CX 849429 (Exhibit “E”), also had a false bottom. After slashing it, Examiner Bandong discovered a black plastic bag containing 9.97479 kilograms of shabu (Exhibit “F”) as per the confirmatory testing done by Customs Chemist Elizabeth Ayonon.[12]

Examiner Bandong prepared a Baggage Inventory Report (Exhibit “G”) and a Receipt of Property Seized (Exhibit “H”)[13] for the luggage and other belongings taken from accused Esparas and Juson. Among the items seized by the customs personnel from accused Esparas were her plane ticket, claim tags corresponding to the tag numbers assigned to the subject traveling bags, passport and her arrival immigration card.[14]

The regulated drug, weighing a total of 19.94755 kilograms, was turned over to the PNP NARCOM under Boat Note No. 22238641 (Exhibit “Z”) and deposited in the cashier's vault of the Bureau of Customs at the NAIA Arrival Area.[15] The traveling bags and the used clothings were placed inside the custom's in-bound room for safekeeping.

The Department of Justice (DOJ) conducted the preliminary investigation of the incident. During the investigation, accused Esparas submitted a counter-affidavit, dated June 6, 1994, wherein she claimed that the traveling bags belong to Robert Yu, a Chinese national introduced to her by her husband, accused Libed. Allegedly, Yu financed her trip to Hongkong on three (3) separate occasions, including the trip in May 1994. Upon her return trip on May 20, 1994, Yu requested her to bring the subject traveling bags as someone would get them from her in Manila. Accused Esparas further filed a Manifestation requesting that she be made a state witness against Yu, the alleged real felon.

After the investigation, the Department of Justice charged accused Esparas and Libed with a violation of the Dangerous Drugs Act (Republic Act 6425). Juson was excluded from the information for lack of complicity in the offense.

As aforesated, accused Esparas absconded during the trial and the defense did not present any witness. Instead, the records of the preliminary investigation were offered vice accused Esparas' testimony, including the aforementioned counter-affidavit and manifestation.

The trial court found accused Esparas guilty as charged and sentenced her to suffer the death penalty and pay a

fine of P10 Million and the costs of suit. It found that accused Esparas belongs to an organized group or syndicated crime group[16] and that she conspired with accused Libed in smuggling almost 20,000 grams of shabu to the country.

The case was elevated to this Court for automatic review of her death penalty.

In a Resolution,[17] date November 14, 1995, we required the Solicitor General and Atty. Florencio Anchuvias, counsel for the accused, to file their comments on the effect of accused Esparas' escape on the jurisdiction of this Court to review her conviction. August 20, 1996, by a majority vote, we issued an extended resolution[18] upholding the power of this Court to review all death penalty cases regardless of the escape of the accused from confinement prior to the judgment of the trial court, thus:

"We hold, however, that there is more wisdom in our existing jurisprudence mandating our review of all death penalty cases, regardless of the wish of the convict and regardless of the will of the court. Nothing less than life is at stake and any court decision authorizing the state to take life must be as error-free as possible. x x x Ours is not only the power but the duty to review all death penalty cases. No litigant can repudiate this power which is bestowed by the Constitution. The power is more of a sacred duty which we have to discharge to assure the People that the innocence of a citizen is our concern not only in crimes that slight, but even more, in crimes that shock the conscience. This concern cannot be diluted."

As earlier indicated in note 4, appellant Esparas was however rearrested and is now once more in the hands of the law and thus unquestionably subject to this Court's jurisdiction. Hence, the issue of whether a decision of conviction could be validly rendered while she was at large -- which was discussed when the Court deliberated on the present extended resolution -- has become moot in the case.

In her Brief, the appellant thru counsel contends that the trial court erred:

I

"x x x IN NOT APPRECIATING THE REQUEST OF ACCUSED/APPELLANT ESPARAS TO ACT AS A STATE WITNESS TO PIN DOWN THE REAL CULPRIT IN THIS CASE, A CERTAIN ROBERT YU Y CHUA, WHO TRICKED HER IN GOING TO HONGKONG;

II

"x x x IN IMPOSING THE MANDATORY PENALTY OF DEATH AND TO PAY THE FINE OF TEN MILLION PESOS AND THE COSTS."

We affirm her conviction.

I

We reject the contention of the appellant that she should not have been charged in court and instead, she should have been used as a state witness against a certain Robert Yu. The settled rule is that the determination of who should be criminally charged in court is essentially an executive function, not a judicial one.[19] As the officer authorized to direct and control the prosecution of all criminal actions, the prosecutor is tasked to ascertain whether there is sufficient ground to engender a well-founded belief that an offense has been committed and that the accused is probably guilty thereof.[20]

The prosecutors in the case at bar cannot be faulted for refusing to use appellant as a state witness. The discharge of an accused for utilization as a state witness is governed by section 9, Rule 119 of the 1985 Rules on Criminal Procedure, viz:

“Sec. 9. Discharge of accused. When two or more accused are jointly charged with the commission of an offense, upon motion of the prosecution before resting its case, the court may direct one or more of the accused to be discharged with their consent so that they may be witnesses for the state after requiring the prosecution to present evidence and the sworn statement of each proposed state witness at a hearing in

support of the discharge, the court is satisfied that:

“(a) There is absolute necessity for the testimony of the accused whose discharge is requested ;

“(b) There is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said accused;

“(c) The testimony of said accused can be substantially corroborated in its material points;

“(d) Said accused does not appear to be the most guilty;

“(e) Said accused has not at any time been convicted of any offense involving moral turpitude.

“Evidence adduced in support of the discharge shall automatically form part of the trial. If the court denies the motion for discharge of the accused as state witness, his sworn statement shall be inadmissible in evidence.”

In its Brief for the People, the Solicitor General very well explained the reasons why the prosecution rejected Esparas’ request to be a state witness, viz:

“x x x. In the present case, said requisites have not been met. Appellant requested that she be discharged as State witness in order to pin down a certain Robert Yu, whom appellant claims to be the real owner of the “shabu” found in her baggage.

“However, it is important to note that said Robert Yu is neither a co-accused nor a co-conspirator. His name was merely mentioned by appellant so that she would have somebody to pass the blame to, and there is no evidence linking said Robert Yu to the present case. The fact that said Robert Yu had a string of drug cases is of no moment. It does not in any way prove that he is in conspiracy with appellant in the present case. Considering that appellant’s co-accused is Rodrigo Libed and not Robert Yu, appellant cannot claim to be worthy of being discharged as State witness against Robert Yu, since Robert Yu is neither impleaded as an accused nor is there the slightest showing of his participation in the offense.

“It is clear from the first paragraph of Section 9, Rule 119 of the 1985 Rules on Criminal Procedure that there must be at least two or more persons jointly charged with an offense and that upon motion of the prosecution, one or more of said accused may be discharged as State witness against a co-accused.

“The discharge of an accused is for the purpose of testifying against a co-accused in the same case and not against any one else who has not participated in committing the offense charged. Therefore, appellant cannot be discharged as State witness since Robert Yu is not her co-accused in this case.

“Appellant cannot also be discharged as State witness even against her co-accused Rodrigo Libed because the requisites under Section 9 of Rule 119 of the 1985 Rules on Criminal Procedure are not complied with. First, there is no necessity for appellant’s testimony for the prosecution to prove its case, since the testimony she is offering to give would only shift blame to Robert Yu, a person who is not even impleaded in the case.

“Second, the testimony of appellant is not needed since there are other direct evidence available for the proper prosecution of the offense committed. Among the evidence available are: (a) the testimonies of the prosecution witnesses which clearly show that the two (2) traveling bags which appellant brought in as her personal belongings each contained 9.97276 kilos and 9.97479 kilograms of methamphetamine hydrochloride or shabu; (2) the two packs of shabu seized from appellant; and (3) the two (2) traveling bags from which the shabu was found.

“Third, the testimony being offered by appellant cannot be substantially corroborated in its material points. If appellant will be allowed to testify against Robert Yu, no one and nothing will corroborate her testimony.

“Fourth, appellant appears to be the most guilty. She is the one who checked-in the luggage containing shabu in Hongkong and who attempted to check them out upon arrival at the NAIA. In other words, appellant is the one who actually attempted to import a total of 19.94755 kilograms of shabu into the Philippines and was caught red-handed. As between appellant and Rodrigo Libed appellant is the one who did the overt act of importing shabu into the Philippines. Therefore, she has the highest degree of culpability in terms of participation in the commission of the offense, and Rodrigo Libed is the least guilty. What the law prohibits is that the most guilty will be set free while his co-accused who are less guilty will be sent to jail. And by “most guilty” means the highest degree of culpability in terms of participation in the commission of the offense and not necessarily the severity of the penalty imposed. While all the accused may be given the same penalty by reason of conspiracy, yet, one may be considered least guilty if his degree of participation in the commission of the offense is taken into account (People vs. Ocimar, 212 SCRA 646, 655).”

Consistent with this stance, the prosecution did not file any motion in the trial court for the discharge of appellant Esparas. It ought to follow that the trial court cannot be faulted for not “appreciating” a non-existent motion.

II

We have thoroughly examined the evidence and we entertain no doubt as to the guilt of appellant Esparas. The prosecution evidence indubitably show that the traveling bags containing the shabu were in the possession of appellant. She personally accomplished the baggage declaration from for her luggage which included said bags and declared categorically therein that they contain “personal effects.” Further, she checked in the traveling bags in her name as evidenced by the baggage claim tags attached to her plane ticket. Considering these circumstances, we are governed by the disputable presumption that she owns the subject bags.[21]

Appellant failed to rebut this presumption. She escaped from confinement during the trial and there is nothing in the records to explain how the subject shabu came to her possession. There is not an iota of evidence on the absence of “animus possidendi” or intent to possess on her part. We have held that “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.”[22]

Animus possidendi is a state of mind, the presence or determination of which is largely dependent on attendant events in each case.[23] It may be inferred from the prior or contemporaneous acts of the accused, as well as the surrounding circumstances.[24]

In the case at bar, there is evidence to believe that appellant knew the existence of the shabu in her traveling bags. Upon arriving at the NAIA, her co-accused, Libed, managed to obtain an official business (OB) pass to gain access at the restricted customs inspection area. He tried to dissuade the customs personnel from examining appellant’s luggage but failed. Appellant’s used clothes were found inside the bags upon inspection. Upon further inspection, shabu was discovered in the false bottom of said bags. Shortly after the discovery of the shabu, and as customs personnel were arguing with accused Libed, appellant walked away from the customs inspection lane without waiting for her other luggage to be cleared. In an unmistakable attempt to run away, appellant and Juson clandestinely headed towards the exit gate. They were fortunately intercepted by Agent Biteng. These circumstances lead to the inescapable conclusion that appellant knew the illegal contents of her traveling bags.

The defense of appellant that Robert Yu is the real owner of the shabu deserves scant consideration. Said defense is contained in her counter-affidavit which cannot be admitted in evidence for being hearsay. It has no probative

value for appellant did not appear in court to affirm its contents and to be cross-examined as to its truth.[25] Thus, we have ruled that “(a)ffidavits are generally not prepared by the affiants themselves but by another who uses his own language in writing the affiant’s statements, which may thus be either omitted or misunderstood by the one writing them. For this reason, and for the further reason that the adverse party is deprived of the opportunity to cross-examine the affiants, affidavits are generally rejected in judicial proceedings as hearsay, unless the affiants themselves are placed on the witness stand to testify thereon. Hence, such affidavits have no probative value and should be rejected by the trial court.”[26]

III

We now come to the penalty. It is urged that appellant should not have been penalized with death because the prosecution failed to establish that she is a member of an organized or syndicated group. Allegedly, there is no proof that conspiracy existed between her and accused Libed. To support this claim, the defense points to a resolution[27] of State Prosecutor Macapagal recommending the dismissal of the case against Libed for lack of conspiracy. We are not persuaded.

The governing law at the time the crime was committed is Republic Act No. 7659[28] which amended Republic Act No. 6425[29] and some provisions of the Revised Penal Code, including Article 62. Under Section 20, of R.A. No. 7659, the penalty for unlawfully bringing 200 grams or more of shabu into the country is reclusion perpetua to death and the imposable fine may range from five hundred thousand pesos to ten million pesos. The crime is aggravated when committed by any person who belongs to an organized or syndicated crime group. In such a case, the death penalty shall be imposed.[30]

Appellant cannot rely on the June 20, 1994 Resolution issued by Atty. Macapagal and approved by Assistant Chief Prosecutor Jovencio R. Zuno because the same was reversed by then Acting Secretary of Justice Ramon Liwag who found a prima facie showing of conspiracy between appellant and accused Libed. Accordingly, appellant and accused Libed were charged with a violation of the Dangerous Drugs Act for conspiring to import, without authority, the said regulated drug into the country.

Moreover, an organized or syndicated crime group has been defined as a group of two or more persons collaborating; confederating or mutually helping one another for purposes of gain in the commission of any crime. In the case at bar, the collaborative efforts of appellant and accused Libed were well established by the prosecution and correctly appreciated by the trial court, viz:

“x x x. That the offense of which Josefina Esparas and her husband, Rodrigo O. Libed, are charged of collaborating, confederating and mutually helping one another has been proven in the following manner, to wit: That Josefina Esparas travelled to Hongkong for business on May 17, 1994 as evidenced by Cathay Pacific Ticket No. 0269231197 (Exh. ‘L’); that when she was ready to fly back home, she called and coordinated her departure flight with her husband, Rodrigo O. Libed, early in the morning of May 20, 1994, aboard Cathay Pacific flight CX-901 (Exh. ‘1’ and ‘1-A’); that she checked-in two (2) receipts in the form of luggage claim tag Nos. 849430 and 849429 corresponding to the number attached to the two (2) T-bags (see CX-901 Boarding pass No. 164 – Exh. ‘P’ and CX luggage claim tag Nos. 849430 and 849429 – Exh. ‘C’); that accused Esparas and her luggage took off from Hongkong at about 0945, 20 May 1994 and arrived at the Philippine Port of Entry at 12:45 P.M. The name Josefina Esparas appears in CX-901 manifest as occupying seat No. 48-a (Exh. ‘A-1’). That upon her arrival, her co-accused, Rodrigo Libed, was waiting to help her facilitate her luggage through customs. Testimonies of Examiner Perla C. Bandong and Collector Celso Templo reveal that when Rodrigo Libed appeared in Customs Lane No. 3, he was wearing a customs access pass which he was able to secure on the strength of his false representation that he was connected with the Office of the Presidential Assistant on Military Affairs (OPAMA) and his identification card as a member of

the Citizen's Crime Watch (ID 12401 – Exh. 'N-1'). That accused Josefina Esparas filed Philippine Immigration arrival card (No. 5048750) dated May 20, 1994 (Exh. 'R') and a 'customs declaration' (No. CX 4200140 – Exh. 'A') in which she entered her accompanied baggages as 'personal effects' (Exhs. 'A' and 'A-3'). That she and Rodrigo Libed approached Examiner Perla C. Bandong at lane 3 and presented Esparas' Passport (Exh. 'B'), Baggage Declaration (Exh. 'A') and ticket (Exhs. 'L' and 'L-3'). Attached to the ticket was luggage claim tag No. 849430 (Exh. 'O'); that co-accused Rodrigo Libed unloaded the bag and took it upon himself to deal with the examiner Perla C. Bandong asking the latter to pass off the luggage as "personal belongings" and when the examiner started to open the T-bag, he exerted extraordinary efforts to inform Customs Officers Bandong and Celso Templo that the shipment was coordinated with the Office of District Collector and the Office of the Presidential Assistant on Military Affairs (OPAMA) in order to get exemption from routine custom's examination; that when examination of the luggage was insisted upon by the examiner, Rodrigo Libed prevailed upon the examiner in this wise:

Examiner Perla Bandong: 'Bakit ano ba ito?'

Rodrigo Libed quoting Esparas: "personal belongings.'

Rodrigo Libed: (in trembling voice)

'Tulungan mo na lang at alam na ito ng Collector's Office.'

That when Collector Templo ordered examiner Bandong to conduct rigid examination, the latter found a false bottom half-way down the inside of the T-bag made of plywood intricately sewn to the sides. And as the bag was forcibly slashed open it yielded a sizable quantity of shabu, a regulated dangerous drug; and meanwhile, taking advantage of the temporary commotion, Rodrigo Libed disappeared and Esparas was collared pushing the other unexamined T-bag out of the exit gate of the customs zone. The rest are as stated in this Court's findings of fact.

On this point, this Court agrees with the findings and resolution of DOJ Acting Secretary Ramon J. Liwag reversing Prosecutors Macapagal's and Zuno's dismissal of the case as against Rodrigo Libed, which resolution forms part of the record both as prosecution attachment and defense exhibit '5-A'. The Acting Secretary's resolution correctly and succinctly stated as follows:

'The actuation of Libed demonstrate unity of purpose with Esparas towards the attainment of a common objective to smuggle prohibited (sic) drugs into the country. He met and escorted Esparas and Juson, and facilitated their movements from the baggage carousel to the examination lane. From the facts, it is shown that Libed exerted an extraordinary effort to get a pass by presenting himself to be a bonafide employee of the Office of the Presidential Assistant on Military Affairs (OPAMA) so that he could have free access to the area. The testimonies of Templo and Bandong xx xx xx deserve credence as they were given during the performance of their official functions – x x. The crime committed being of a serious nature, it is hard to believe to foist responsibility on said respondents for the mere satisfaction of a wild fancy. The act of Libed is to complete the importation of shabu into this country by performing indispensable and cooperative acts that concur with the attainment of the objective of Esparas.

The conduct of Libed and Esparas conclusively points to the existence of conspiracy. One performing one part, and the other performing a complementary part in pursuance of a common unlawful purpose.' (End of quote).

More than this, contrary to their claim, Rodrigo Libed is deemed to have acted with prior knowledge of the presence of the contraband, when, despite having heard his wife say that the luggage contained 'personal belongings,' he prevailed, 'in a trembling voice,' Examiner Bandong to desist from examining the luggage.'

"x x x x x x x x."

Final note. The Amended Information charged that appellant feloniously brought into the country 20.09314 kilograms of Methamphetamine Hydrochloride. However, the testimonial and documentary evidence adduced by

the prosecution showed that the total weight of the regulated drug is 19.94755 kilograms. The error is trivial for it will not change the penalty of the appellant.

Four members of the court -- although maintaining their adherence to the separate opinions expressed in *People vs. Echegaray* (G.R. No. 127472, February 12, 1997) that R.A. No. 7659, insofar as it prescribes the death penalty, is unconstitutional -- nevertheless submit to the ruling of the Court, by a majority vote, that the law is constitutional and that the death penalty should accordingly be imposed.

IN VIEW WHEREOF, the Decision dated March 13, 1995 of the Regional Trial Court of Pasay City (Branch 114) in Criminal Case No. 94-5897 is AFFIRMED. In accordance with Section 25 of Republic Act No. 7659, amending Article 83 of the Revised Penal Code, upon finality of the decision, let the record of the case be forthwith forwarded to the office of the President for the possible exercise of the pardoning power.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, Quisumbing, and Purisima, JJ., concur.

[1] Decision in Criminal Case No. 94-5897, p. 15; Rollo, p. 52.

[2] Rollo, p. 17.

[3] Rollo, p. 21

[4] Accused Esparas attended the hearing on October 25, 1994 where the prosecution presented its fifth witness, Zenaida Bonifacio. However, at the scheduled hearing on October 28, 1994, accused failed to appear as she escaped while in the custody of NARCOM police officers (See Original Records, pp. 295, 321 and 329). She was re-arrested while the case at bar is under review by this Court.

[5] Exhibit "A".

[6] TSN, Perla Bandong, September 22, 1994, 1994, pp. 7-17; Ibid., September 23, 1994, pp. 7-8.

[7] The plastic bag bore the signatures of accused Esparas and the Customs personnel who witnessed the incident, namely, Perla Bandong, Mariano Biteng, Elizabeth Ayonon and Alex Po.

[8] TSN, Elizabeth Ayonon, October 14, 1994, p. 15. TSN, Mariano Biteng, October 12, 1994, pp. 8-10; Exhibit "T" (Customs Narcotics Interdiction Unit Report, dated May 20, 1994).

[9] TSN, Celso Templo, September 30, 1994, pp. 21-22; Exhibit "N".

[10] TSN, Celso Templo, October 4, 1994, pp. 18.

[11] TSN, Perla Bandong, September 22, 1994, pp. 30-32.

[12] TSN, Perla Bandong, September 22, 1994, pp. 33-40; TSN, Elizabeth Ayonon, October 14, 1994, p. 10; See Exhibit "V".

[13] The Baggage Inventory Report listed the personal belongings found in the traveling bags of accused Esparas while the Receipt of Property Seized listed the regulated drugs taken from the bags.

[14] TSN, Celso Templo, October 4, 1994, pp. 19-20.

[15] TSN, Zenaida Bonifacio, October 25, 1994, p. 10.

[16] Section 23 of Republic Act No. 7639, which amended Article 62 of the Revised Penal Code, defined the term

organized/syndicated crime group as "a group of two or more persons collaborating, confederating or mutually helping one another for purposes of gain in the commission of any crime."

[17] See Rollo, p. 62.

[18] People vs. Esparas, et al., Resolution dated August 20, 1996.

[19] Webb vs. De Leon, G.R. Nos. 121234, 121245, and 121297, August 23, 1995, 247 SCRA 652, 685. Castillo vs. Villaluz, 171 SCRA 39, March 8, 1989 cited in People vs. Navarro, G.R. No. 96229, March 25, 1997, 270 SCRA 393. Roberts, Jr. vs. Court of Appeals, 254 SCRA 307, March 5, 1996.

[20] People vs. Navarro, G.R. No. 96229, March 25, 1997, 270 SCRA 393.

[21] Section 3 (j), Rule 131, Rules of Court provides that "things which a person possesses or exercises acts of ownership over are owned by him."

[22] People vs. Burton, G.R. No. 114396, February 19, 1997, 268 SCRA 531.

[23] People vs. Liam, G.R. No. 115988, March 29, 1996, 255 SCRA 532.

[24] People vs. Burton, supra.

[25] People vs. Brioso, No. L-28482, January 30, 1971, 37 SCRA 336, 341, cited in People's Bank and Trust Company vs. Leonidas, G.R. No. 47815, March 11, 1992, 207 SCRA 164, 166.

[26] Ibid.

[27] Dated June 20, 1994; See Exhibit "5", Folder of Exhibits, pp. 54-58.

[28] R.A. No. 7659 took effect on December 31, 1993.

[29] Dangerous Drugs Act of 1972.

[30] Section 23, R.A. No. 7659.

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