

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO LISING Y SANTIAGO, ACCUSED-APPELLANT.

G.R. No. 125510. July 21, 1997

Ponente: MELO, J.

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MELO, J.:

Despite the stiff penalties we have been imposing for possession, dealing, or use of dangerous drugs, such activities continue to persist, taking their nefarious toll. A case of drug possession is unfolded by the record of this case.

For possession of 375 grams of methamphetamine hydrochloride (shabu), accused-appellant was charged with violation of Section 16, Article III of Republic Act 6425, as amended by Republic Act 7659, otherwise known as the Dangerous Drugs Act of 1972, in an Information reading as follows:

That on or about June 17, 1994, in Makati, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there, wilfully, unlawfully and feloniously have in his possession, custody and control, three hundred seventy five (375) grams of methamphetamine hydrochloride, commonly known as SHABU, a regulated drug, in violation of the aforesaid law.

(p. 9, Rollo.)

After due trial, accused-appellant was found guilty by the trial court in a decision dated October 24, 1995, disposing:

WHEREFORE, in view of the foregoing the Court finds the accused RENATO LISING y SANTIAGO GUILTY beyond reasonable doubt of the crime of violation of Section 16 of Republic Act No. 6425, as amended and further amended by Republic Act No. 7659, and sentences him to suffer the penalty of RECLUSION PERPETUA and to pay a fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

The 375 grams of shabu which were forfeited in favor of the government have already been turned over by this Court to the Dangerous Drugs Board on August 25, 1995 for the latter's disposition in accordance with law.

The evidence custodian of the NBI is directed to turn over the P10,000.00 which were confiscated from the accused to the Clerk of Court of the Regional Trial Court of Makati who will receive the same in favor of the Government.

The NBI is directed to release or cause the release of the BMW car with Plate No. TJH 300 to its registered owner, Mr. Hernani Pascoguin. If the said car has already been released to Mr. Pascoguin, he is now considered relieved of the undertaking which he submitted in connection with said car.

(pp. 25-26, Rollo.)

In his appeal, accused-appellant imputes the following alleged errors to the trial court.

I. The trial court erred in giving weight to the incredible, inconsistent, improbable and hearsay testimonies of prosecution witnesses.

II. The trial court erred in disregarding the testimonies of the defense witnesses that appellant was not really caught in possession of shabu but was merely a victim of frame-up, vengeance and extortionate activity of the NBI operatives.

III. Court erred in admitting as evidence for the prosecution the following Exhibits:

a) EXHIBITS P to P-5 (The five transparent plastic bags allegedly containing the shabu and the red pouch allegedly containing the said drugs)

b) EXHIBIT C to C-5 (The Receipt of the Property Seized, and Inventory of the Money)

For being obtained in violation of appellant's constitutional rights.

(pp. 15-16, Appellant's Brief.)

A synthesis of the facts of the case, as borne out by the evidence, is accurately set forth in the appellee's brief as follows:

On June 17, 1994, at around 10 a.m., agents of the NBI, headed by one Atty. Benito, together with Atty. Justo Yap, Atty. Wilfredo Lucido, Melchor Dizon and Rolando Argabioso, were at Unit 1004-A Skyland Plaza Condominium, Buendia Avenue, cor. Tindalo St., Makati City for the purpose of serving a warrant of arrest on Raul Lacson. In the process of serving the warrant, the agents saw a substantial amount of shabu and assorted drug paraphernalia on top of a table inside Lacson's room. When asked about the source of the shabu, Lacson informed the agents that one Renato S. Lising, appellant herein, would be delivering to him a substantial amount of shabu at around 12 noon using a BMW car with Plate No. TJH-300 (TSN, Sept. 27, 1994, pp. 9 to 13).

The NBI agents requested their office for a record check on appellant's name. Per information gathered by the agents, appellant was previously charged with violating Sec. 16, Art. III of RA 6425 before the RTC of Pasig in Crim. Case No. 1929-D. The agents also learned that appellant was the same person they recommended to be prosecuted in 1992 for illegal possession of shabu (Ibid., pp. 14-15).

Immediately, a team headed by Atty. Jose Justo Yap was formed to stop and inspect appellant at the parking area upon his arrival (Ibid., p. 24).

At around 12 noon, appellant arrived on board a blue BMW with Plate No. TJH-300. When appellant got off his car, he was carrying a red pouch. The NBI agents approached, identified themselves to appellant and requested that the red pouch be inspected. Upon inspection, it was discovered that the pouch contained five (5) big plastic packets of white crystalline granules suspected to be shabu. Appellant was immediately placed under arrest. Subsequent search inside the BMW revealed P10,000.00 in P100 bills, which amount was also confiscated (Ibid., pp. 25 to 27).

The crystalline granules with a combined weight of 375.0 grams were found positive to be shabu by the Forensic Chemistry Division of the NBI (Ibid., p. 26, Exhibit F).

(pp. 3-5, Appellee's Brief; p. 57, Rollo.)

Accused-appellant contends that the trial court convicted him on the basis of incredible, inconsistent, and hearsay testimony of the prosecution witnesses.

An evaluation of the evidence does not support accused-appellant's contention.

Accused-appellant impugns the prosecution witnesses' testimony that they found a substantial quantity of shabu in the room of Raul Lacson, and insists that the NBI search of Lacson's room was illegal for want of a search warrant. Accused-appellant's contention is totally irrelevant. He is charged with possession of the shabu found in the red pouch which was in his possession and control, and not of the shabu found in Lacson's room.

To substantiate his contention that the prosecution witnesses' testimony is incredible and inconsistent accused-appellant cites the testimony of prosecution witness Justo Yap. According to accused-appellant, Yap testified on direct examination that accused-appellant had already alighted from his car when Yap inspected the red pouch containing the shabu; but on cross-examination, Yap supposedly contradicted himself when he declared that accused-appellant had barely alighted from his car or had yet to go out when Yap inspected the pouch.

Obviously the incident pointed out by accused-appellant is a minor inconsequential detail. Whether accused-appellant had already alighted or barely alighted from his car when Yap inspected the pouch does not alter the time and place of the search in any way. The difference between "alighted" and "barely alighted" must have covered but a brief span of seconds at most, not an appreciable lapse of time to stigmatize Yap's testimony as inconsistent. Minor inconsistencies and contradictions in the testimony of witnesses do not impair their credibility but even enhance their veracity as these minor variances in fact erase any suspicion of a rehearsed testimony (*People vs. Israel*, 231 SCRA 155 [1994]; *People vs. Querido*, 229 SCRA 745 [1994]). At any rate, the trial court found, as set forth in the synthesis of facts, that accused-appellant was accosted by the NBI agents after he "got off his car", and we have no reason to believe otherwise.

Accused-appellant likewise argues that the testimony of witnesses Justo Yap and Wilfredo Lucido is hearsay considering the prosecution's failure to present Raul Lacson to testify that accused-appellant would deliver to him a quantity of shabu.

There was absolutely no necessity to put Raul Lacson on the witness stand, for under the circumstances of the case he assumed the role of an informant, having volunteered to reveal to the NBI agents the information that accused-appellant would deliver a quantity of shabu to him. We have consistently ruled that the testimony of an informant is not indispensable to a successful prosecution for drug-pushing since his testimony would be merely corroborative and cumulative with that of the arresting officers (*People vs. Macasa*, 229 SCRA 422 [1994]; *People vs. De los Reyes*, 229 SCRA 439 [1994]), and, of course, what accused-appellant cannot escape from is the damaging fact that the shabu was seized from him.

Accused-appellant's denunciation that he was merely a victim of a frame-up and extortion by the NBI agents and that he gave P200,000.00 to the NBI agents through his girlfriend Maria Victoria Yambao, finds no support in the evidence. The charge of frame-up is the usual defense set up by persons accused of drug dealing (*People vs. De los Reyes*, supra), and should not accord a redoubtable sanctuary to a person accused of drug dealing unless the evidence of such frame-up is clear and convincing.

Finally, accused-appellant assails the legality of the search and seizure of the pouch. We are not persuaded.

It must be recalled that accused-appellant had already alighted from his car when he was accosted by the NBI agents. The agents then inspected the red pouch he was carrying, and found that it contained five big plastic packets of white crystalline granules (which upon chemical analysis later by the NBI Forensic Chemistry Division turned out to be shabu). He was thereupon arrested. Verily, the NBI agents had reasonable grounds to believe that accused-appellant was in possession of shabu, having been so informed by Lacson, who was himself caught in possession of shabu and this reasonable belief was indelibly confirmed by the subsequent discovery and seizure of the shabu contained in the pouch which was surrendered without objection by accused-appellant to the NBI agents for the inspection.

WHEREFORE, the decision appealed is hereby AFFIRMED.

SO ORDERED.

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

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