

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALLAN K. C. KHOR, DEFENDANT-APPELLANT.

G.R. No. 126391. May 19, 1999

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

This is an appeal from the Decision[1] rendered on September 16, 1996 by the Regional Trial Court of Manila, Branch 41 in Criminal Cases Nos. 96-150419 and 96-150420 finding accused-appellant Alan K. C. Khor guilty beyond reasonable doubt of violation of Presidential Decree No. 1866 for illegal possession of one (1) Sig-Sauer caliber .380 automatic pistol with one (1) magazine without the proper license therefor; and for violation of Section 16, Article III in relation to Section 2 (e-2), Article I of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended by Batas Pambansa Bilang 179, for having in his possession ninety-five (95) kilos of methamphetamine hydrochloride known as "shabu".

Alan K.C. Khor, a Malaysian national, was charged in two (2) separate Informations by Assistant City Prosecutor Antonio S. Dimalanta before the Regional Trial Court of Manila, Branch 41, to wit:

CRIMINAL CASE NO. 96-150419

"That undersigned accuses ALAN K.C. KHOR of (a) (V)iolation of Presidential Decree 1866, committed as follows:

"That on or about June 7, 1996, in the City of Manila, Philippines, the said accused, a Malaysian national, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one SIG-SAUER Caliber .380 automatic pistol with one magazine without first having secured from the proper authorities the necessary license therefor."[2]

CRIMINAL CASE NO. 96-150420

"The undersigned accuses ALAN K.C. KHOR of (a) violation of Section 16, Article III in relation to Section 2 (e-2) Article I of Republic Act No. 6425 as amended by Batas Pambansa Bilang 179, committed as follows:

"That on or about June 7, 1996, in the City of Manila, Philippines, the said accused, not having been authorized by law to use and/or possess any regulated drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control 95 kilos of methamphetamine hydrochloride known as 'SHABU' separately placed in 95 pcs. of transparent plastic/cellophane bags at 1 kilo each, containing methamphetamine hydrochloride, a regulated drug, without the corresponding license or prescription thereof."[3]

Upon arraignment, the accused, assisted by counsel, pleaded not guilty to both Informations.[4]

Trial ensued. The prosecution presented the following witnesses: Police Inspector Cielito Coronel of the Police Assistance Reaction Against Crime (PARAC) of the Department of Interior and Local Government (DILG); Forensic Chemist Renee Eric Checa of the Western Police District; Police Senior Inspector Lucio Margallo IV of

the PARAC, DILG; SPO3 Reynaldo Cristobal also of the PARAC, DILG; and SPO4 Rodrigo Escaño of the Firearms and Explosives Unit (FEU) of PNP, Camp Crame.

The defense, on the other hand, presented the following witnesses: 1) Olivia Torreras, a lady detective of the Manila Diamond Hotel; 2) Miguel Abe, a radio broadcaster of DZXL; 3) Elfren Meneses, Jr. from the National Bureau of Investigation (NBI); and 4) accused himself, Alan K.C. Khor, whose testimony was in the Chinese language and was interpreted in English by Andrew Teh, an official Chinese Interpreter from the Taipei Economic and Cultural Office in the Philippines.

After trial, the court a quo rendered judgment[5] on September 16, 1996, the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered:

- In Crim. Case No. 96-150419, finding the accused guilty as charged and sentencing him to an indeterminate penalty of fourteen (14) years, eight (8) months and one (1) day to twenty (20) years of reclusion temporal as minimum and maximum, respectively; and

- In Crim. Case No. 96-150420, finding the accused guilty as charged and sentencing him to suffer the penalty of reclusion perpetua and to pay a fine of Five Million Pesos (P5,000,000.00).

The Clerk of Court is hereby directed to deliver and/or cause the delivery of the subject firearm and ammunitions and 95 kilos of shabu and other seized evidence, which are hereby forfeited in favor of the Government, to the Firearms and Explosive Unit of Philippine National Police and Dangerous Drugs Board, respectively, for their safekeeping and proper disposition upon finality of the judgment in this case.

Let a copy of this decision be also furnished to the DILG and Chief, PNP for appropriate action on pertinent matters treated in this decision."

Hence, this appeal by accused-appellant.

In the Appellee's Brief[6], the Office of the Solicitor General adopted the trial court's summation of the versions of the prosecution and the defense as follows:

"The gist of the testimonies of prosecution witnesses Cielito Coronel, Lucio Margallo and Reynaldo Cristobal, the police officers who apprehended the accused, aside from their claim that the accused tried to bribe them to secure his immediate release, more or less, echoes their Affidavit of Arrest dated June 8, 1996 (Exh. 'SSSS') which insofar as pertinent states as follows:

x x x x x x x x

AFFIDAVIT OF ARREST

WE THE UNDERSIGNED police officers, all bonafide members of the Western Police District Command, presently assigned with the PUBLIC ASSISTANCE AND REACTION AGAINST CRIME (PARAC), DILG, with office address at EDSA corner Reliance St., Mandaluyong City after having been sworn in accordance with law do hereby depose and say:

That we effected the arrest of a suspected druglord identified as ALAN K.C. KHOR, 51 yrs. old married, Malaysian citizen presently residing at room 2305 Manila Diamond Hotel, Roxas Blvd., Malate, Manila for violation of Section(s) 15 and 16 Article 3 of RA 6425 as amended (Illegal Distribution/Transport and Possession of Firearm/Ammunition), committed as follows:

That on or about 10:15 am 07 June 1996, at the front driveway of the Diamond Hotel located at Roxas Blvd., corner Quintos St., Malate, Manila, herein suspect ALAN K.C. KHOR, although not duly licensed nor authorized to do so, was actually caught en flagrante de lito, (sic) in the act of

delivering/distributing/transporting TEN (10) KILOS of SHABU or METHAMPHETAMINE HYDROCHLORIDE, regulated drug as defined by RA 6425, placed inside a black travelling bag, which he tried to place inside the trunk compartment of the car driven by a police ASSET who pretended to buy the said drugs from him on a delay-payment basis. (p. 8, TSN, July 9, 1996) That when interrogated, suspect Alan Khor was also found in possession of a SIG-SAUER Caliber .380 Automatic Pistol tucked inside the right waistline of his pants but could not present pertinent papers covering the said firearm. (p. 9 & 15, TSN, *ibid*) When interrogated further, Alan Khor also pointed to an old model Toyota Corolla car without license plate which when opened with a key in his possession, yielded eighty-five (85) more transparent plastic bags all containing suspected Shabu approximately weighing one kilogram each bag, and placed inside five (5) apple carton boxes. (p. 17, TSN, *ibid*) When submitted to the WPDC Criminal Investigation Laboratory Division for examination, all evidences of suspected Shabu were found POSITIVE for the test of METHAMPHETAMINE HYDROCHLORIDE as certified to by Chemist Renee Eric Checa. (p. 21, TSN, *ibid*) Hence, the arrest.

On the other hand, accused Alan K.C. Khor admitted that the subject firearm was recovered from him at the time of the incident but contended that said firearm was covered by a license issued by the proper authorities and in support of his contention presented Exh. `J', a Certification dated July 23, 1996 that one Alan K.C. Khor of 1906 San Marcelino Street, Malate, Manila is a licensed/registered holder of subject firearm covered by a computerized license issued on February 15, 1996 with an expiration date of December 1996, and Exh. `2', a copy of the computerized license itself. (p. 14 & 17, TSN, August 12, 1996) The accused however denied the charge that he was in possession of the 95 kilos of shabu. (p. 34, TSN, *ibid*) He claimed that the black bag which contained the 10 kilos of shabu was possessed or held by a taxi driver called Nick. (p. 9, TSN, *ibid*). He further claimed that he does not own any Toyota Corolla red car and denied leading the policemen to the said Toyota corolla red car parked in the basement of the Diamond Hotel where the boxes containing the 85 kilos of shabu were allegedly found. (p. 34, TSN, *ibid*) (T)he accused likewise alleged that in the process of his arrest, while he was placed in the car on their way towards the Manila Hotel, the police officers took/got from him aside from the subject firearm about 1) P5,000.00 to P6,000.00, 2) US\$3,000.00, 3) his Khakia watch, and 4) his necklace. (p. 14, TSN, *ibid*) He added that thereafter in his hotel room, the police took/got from his dunhill bag and suitcase the amount of 1) US \$3,000.00 2) HONGKONG \$40,000.00, 3) JAPANESE YEN 500,000.00, 4) a diamond ring worth P320,000.00, 5) another diamond ring worth P60,000.00, 6) necklace with diamond worth P250,000.00, 7) two bracelets worth P30,000.00, 8) three dunhill lighters worth more than P60,000.00 9) three dunhill ballpens worth more than P30,000.00 10) one cellular phone, (11) camera worth P80,000.00 and 12) some family souvenirs which was priceless, his coat, pants, underwear, jacket and shoes. He further alleged that he gave the police arresting officers HK\$500,000.00 (Hongkong Dollars) or about 1.6 Million Pesos as partial payment of the P3 Million Pesos the police officers were asking from him. (p. 19, TSN, *ibid*)."

The accused raises the defense of denial. The appellant's brief[7] narrates the version of the defense as follows:

"Appellant is a Malaysian citizen, engaged mainly in the business of selling jewelry. (TSN, p. 39, Aug. 12, 1996) At the time of his arrest, his business which had been in operation for eleven years had its principal station at Hongkong where all his business dealings were made, including the deliveries of pieces of jewelry and payments thereof. (TSN, p. 5, Aug. 13, 1996) As some of his clients were residents of the Philippines, he usually came to the country to collect payments, especially when he had encountered difficulty in the collection of payments. (TSN, p. 6, Aug. 13, 1996). By then, he had been doing business in the Philippines for almost four (4) years. While in the Philippines, he had stayed in hotels, particularly, at the Manila Diamond Hotel, Roxas Boulevard. (TSN, p. 40, Aug. 12, 1996).

On June 7, 1996, Friday, at 10:00 in the morning, appellant went out of his room at the Manila Diamond Hotel to look for a friend with whom he had an appointment. Upon reaching the lobby, he went directly to the reception counter to check whether he had any message. (TSN, pp. 8-9, Aug. 12, 1996)

As there had been no message for him, he headed for the main door to see his friend. As he turned around, he

saw Nick, a taxi driver with whom he had traveled in his taxi several times in the past. Nick was carrying a black bag. Nick greeted him but he did not respond and instead, preoccupied with the thought of his appointment with his friend, proceeded to the main door. While he was standing beside the paging table, outside the building, waiting for his friend, Nick approached him and asked whether he needed his taxi services. He declined his offer, and said 'No, I don't need.' (TSN, pp. 9 and 10 Aug. 12, 1996)

He was still standing beside the paging system when he saw Nick went to a vehicle parked outside of the hotel. Nick opened its compartment and placed the bag which was approximately three feet high and one foot wide. (TSN, pp. 10-11 Aug. 12, 1996) When Nick was about to place his bag into the compartment of the car, appellant saw a man, a Filipino, approached Nick and arrested him. Nick was pushed to the front seat of the car. To his surprise, another man, also a Filipino, approached him also, and with gun pointed to his side held the back part of his pants, pushed him into the car vehicle and seated him at the rear portion of the same car by two men. He resisted them but could not do anything as one of the two men had a gun. (TSN, p. 11-12 Aug. 12, 1996) At this point, a female employee of the Manila Diamond Hotel approached the car and talked with the man at his right side. Appellant, being a foreigner, did not understand their conversation, except when the man told the lady to leave. (TSN, p. 12, Aug. 12, 1996)

When the vehicle they were riding was moving, the two men, one sitting at his right, and the other on his left, took his wallet containing P5,000.00 or P6,000 and US \$3,000.00, his Khakia watch, his necklace with diamond and seven pendants. (TSN, p. 14, Aug. 12, 1996) The men spoke to him in Filipino, but while he could not understand the language, he sensed that the two men were asking for his permit to carry the gun which they had also taken from him. (TSN, p. 15 Aug. 12, 1996)

Later, the car was parked at the side of the Manila Hotel, Nick was transferred to another vehicle. On the other hand, appellant remained in the same car. The men threatened him if he would not be able to produce the documents showing his permit to carry the gun. Fearing for his safety, appellant requested that he be taken back to the Manila Diamond Hotel. (TSN, p. 15, Aug. 12, 1996) The men granted his request. Upon reaching the Manila Diamond Hotel, the two men were joined by six other persons and they went up to his room, Room 2305, together with the manager of the hotel. (TSN, p. 16, Aug. 12, 1996) There, the appellant opened his suitcase, got his permit or license of the gun and gave it to the person who took his gun while in the car. (TSN, p. 17, Aug. 12, 1996)

The two men searched his bags, a big Dunhill bag and a big suitcase. Not surprisingly as accused appellant was a businessman, his bags contained valuables which the two men took possession, such as US\$8,000, Hongkong \$40,000.00, Japanese yen 500,000.00, diamond ring worth P320,000.00, another diamond ring worth P60,000.00, a necklace, another necklace with diamond, worth P250,000.00, two bracelets worth P30,000.00, three (3) Dunhill lighters, the value of which is more than P60,000.00, three Dunhill ballpen worth more than P30,000, one cellular phone, one camera worth more than P80,000.00, gifts from his family, coat, pants, underwear, and jackets. (TSN, pp. 18-19, Aug. 12, 1996)

The man who took his gun demanded something but as he could not understand what he was saying, he requested that he be allowed to wait for the person who could interpret the language. However, his request was turned down. (TSN, pp. 20-21, Aug. 12, 1996) Appellant was detained in his room from Friday to Sunday afternoon (June 7-9, 1996), during which time the three men kept demanding money from him, as indicated by their three fingers, in the amount of three (3) million pesos. The men even threatened him that he would be executed. (TSN, p. 20-21, Aug. 12, 1996) As appellant had no money to meet their demand, he called up his Hongkong manager, Mr. Tan, and informed him that he was kidnapped by the men who turned out to be policemen and he needed one million Hongkong dollars as payment for his freedom. (TSN, p. 22, Aug. 12, 1996)

The amount of Hongkong \$500,000.00 was sent to him in the following morning of Saturday. Converted into Philippine pesos, the amount of 1.6 million pesos was given to a tall policeman. Appellant was forced to give

money as he was scared and the persons detaining him kept asking money. (TSN, pp. 23-24, Aug. 12, 1996) Familiar with the common occurrence in the country that foreigners were being kidnapped for ransom, appellant thought that he was being kidnapped and he would be released upon handing the sum of money. (TSN, p. 45, Aug. 13, 1996)

But as he could not produce the additional amount, he was kept until the afternoon of Sunday. He was then transferred to a place which is not known to him and he was locked up in a room. On the following morning of June 10, 1996, some men entered his room, took his fingerprints and handcuffed him. Together, they walked to another place, walked into a room where people with cameras took his pictures. Apparently, the law enforcers had called a press conference and he was presented to the media. On the table in front of him were plastic bags containing white powder, long guns and short guns, including the gun that belonged to him. He was prevented from talking and from making any statement. (TSN, p. 24-27, Aug. 12, 1996)

Appellant was not aware of the reason why he was being detained. It was only after he engaged the services of a lawyer that he came to know that he was being accused of possession of shabu. (TSN, p. 54, Aug. 13, 1996) In fact he was never interrogated by anybody. As to what happened to Nick, the taxi driver, accused appellant later knew that he was released by the policemen. (TSN, p. 55, Aug. 13, 1996)"

In Criminal Case No. 96-150419 for illegal possession of firearm, the trial court ruled that accused, being a foreigner, cannot be validly granted a license to possess or hold a firearm and even if a license was granted to him, said license is void or invalid and is of no effect. It is of the view that any license secured or acquired by an unqualified person, i.e., a foreigner or underage, is null and void and does not grant the holder thereof a lawful authority to possess or hold the corresponding firearm.[8]

In Criminal Case No. 96-150420 for violation of the Dangerous Drugs Act, the court a quo ruled with respect to the ten (10) kilos of shabu that even if accused was not the one in actual possession, he can still be considered in constructive possession for being a companion of Nick.[9] Anent the eighty-five (85) kilos found in the Toyota Corolla red car, the trial court held that the denial of the accused cannot prevail over the positive and detailed testimony of the three police officers who testified as prosecution witnesses.

Appellant raises the following errors allegedly committed by the trial court:

"CRIMINAL CASE NO. 96-150419

I.

THE LOWER COURT ERRED IN HOLDING THE ACCUSED-APPELLANT STILL GUILTY AS CHARGED WHEN THE PROSECUTION ITSELF HAD SHOWN THAT SAID ACCUSED-APPELLANT HAD A LICENSE OR PERMIT TO CARRY A GUN.

II.

THE LOWER COURT ERRED IN RULING THAT THE LICENSE TO POSSESS OR HOLD A FIREARM GRANTED TO THE ACCUSED-APPELLANT WHO IS A FOREIGNER IS NULL AND VOID.

CRIMINAL CASE NO. 96-150420

I.

THE LOWER COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME OF VIOLATION OF REPUBLIC ACT NO. 6425 (DANGEROUS DRUGS ACT OF 1972) BASED ON THE THEORY OF CONSTRUCTIVE POSSESSION.

II.

THE LOWER COURT ERRED IN DEPRIVING THE ACCUSED-APPELLANT OF HIS RIGHT TO CONFRONT AND CROSS-EXAMINE THE POLICE ASSET OR INFORMER WHO WAS NEVER IDENTIFIED NOR PRESENTED TO THE WITNESS' STAND.

III.

THE LOWER COURT ERRED IN NOT ACQUITTING APPELLANT, HIS GUILT NOT HAVING BEEN PROVED BEYOND REASONABLE DOUBT."

A. Criminal Case No. 96-150419 (for violation of P.D. 1866)

In the criminal case for illegal possession of firearm, appellant contends that it is the prosecution that has the burden of proving the elements of illegal possession of firearm. Appellant alleges that when he was asked for the license for the gun, he requested the law enforcers to allow him to return to his room at the hotel to get the said permit and after having found it, he showed it to them. Appellant argues that it was the prosecution itself that even supported appellant's stand that he had a license to possess firearm.

The trial court, while stating that appellant had a license to possess the firearm,[10] nonetheless, found him liable for illegal possession of firearm stating that the said license was void or invalid for having been issued to a foreigner. Appellant, however, argues that his being a foreigner does not make his license void or invalid.

Appellee, through the Solicitor General, recommends the dismissal of the criminal case for violation of P.D. 1866 after considering that the prosecution failed to prove an essential element of illegal possession of firearm, i.e., the absence of a license to possess such firearm.

We agree with appellant's contention and appellee's submission.

Possession of any firearm becomes unlawful only if the necessary permit and/or license therefor is not first obtained.[11] The absence of license and legal authority constitutes an essential ingredient of the offense of illegal possession of firearm and every ingredient or essential element of an offense must be shown by the prosecution by proof beyond reasonable doubt.[12] Stated otherwise, the negative fact of lack or absence of license constitutes an essential ingredient of the offense which the prosecution has the duty not only to allege but also to prove beyond reasonable doubt.[13]

In the case at bar, it is not disputed that at the time of the incident, appellant was found in possession of the subject firearm. However, appellant presented a computerized license issued by the proper authorities to him[14] and a Certification issued by the Firearms and Explosive Division of the PNP[15] to the effect that appellant is the licensed/registered holder of the subject firearm, a pistol, Sig-Sauer, caliber .380 with serial number S167273.

In cases involving illegal possession of firearm, the prosecution has the burden of proving the elements thereof, viz.: (a) the existence of the subject firearm; and (b) the fact that the accused who owned or possessed it does not have the corresponding license or permit to possess the same.[16] The essential element of lack of a license to possess subject firearm was not proven.

The prosecution even bolstered appellant's position that he was licensed to possess the subject firearm. Prosecution witness SPO4 Rodrigo Escaño, the Records Verifier[17] of the Firearms and Explosive Unit (FEU) of the PNP at Camp Crame testified, to wit:

"Pros. Rebagay

By the way, Mr. witness, if you know, who usually process, verify, authenticate and review all the documents being submitted by an applicant?

Atty. Aquino

Already, answered, Your Honor, the witness already named several persons whose notations already exists on the application as to who are the persons who actually participate in the processing of the application, there are so many persons according to the witness.

Pros. Rebagay

Who usually give the final approval, Mr. witness, whether an applicant has complied with all the requirements as stated in the application form?

A Police Sr. Inspector Marcelo Navarro, is my Chief, sir.

Court

Chief of the FEU?

A Yes, Your Honor.

Pros. Rebagay

So in effect, are you telling us that Police Supt. Marcelo Navarro reviewed all the documents before he signed the application?

A Yes, sir.

Court

You said there were documents that you brought. What are the other documents that you brought?

A The Certification, Your Honor.

Pros. Rebagay

Mr. Witness, aside from the document the personal file of Alan K.C. Khor, what other documents did you bring?

A The Certification I prepared, sir.

Q What is the content of the certification?

A The Certification dated 23 July 1996 contains which I quote:

`TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that we have on file one ALLAN K.C. KHOR of 1906 San Marcelino St., Malate, Manila, licensed/registered holder of the following firearms:

a) Pistol, Sigsr, Cal. 380 with serial number S 167273, covered by computerized license issued dated Feb 15, 1996 with an expiry date December 1996.

b) Re, S&W, Cal. 38, SN- 122781, covered by computerized license issued dated July 1, 1994 with an expiry date December 1996.

This certification is issued pursuant to Subpoena from the Regional Trial Court, National Capital Judicial Region, Branch 41, Manila dtd 17 July 1996.'

Pros. Rebagay:

Who prepared this Certification, Mr. witness?

A I was the one, sir.

Q And who was the one who signed this? Who is the person who signed this Certification, Mr. witness?

A Police Sr. Inspector Edwin C. Roque, the Chief, Records Branch, Sir."

The Standard Operating Procedure NR 3 of the FEU[18] which provides for the requirements for licensing of firearms states that it applies, among others, to "Filipino citizens only of at least 21 years of age." However, the probability that the license of the accused is not valid because he is a foreigner does not necessarily invalidate the license already issued to him by the proper authorities. It is not the burden of the accused to prove in this case that he has duly complied with the requirements for the issuance of a license to possess and/or carry firearms, considering that the agency that is charged with the issuance of the license, i.e., the Firearms and Explosive Division of the PNP, had issued a license to him apparently after undergoing a procedure of recording, verification, authentication and review. It is noted that in the appellant's application for firearm license,[19] which appellant claims was filled up by the owner of a gun store in Ongpin St. where he bought his gun,[20] the item on the applicant's citizenship and birthplace was blank indicating that no false entry was made in the application. It is only upon a finding that appellant's application for firearm license has complied with all the requirements that the Chief of the FEU approves the same.[21] The public officers charged with the issuance of licenses to possess firearm enjoy the presumption of regularity in the performance of official duties.[22] Thus, the license issued to appellant, which was subsisting, remains valid until canceled or revoked by the FEU.

Accordingly, for failure of the prosecution to prove an essential element of violation of P.D. 1866, i.e., that the accused did not have the corresponding license or permit to possess the subject firearm, appellant should be acquitted in Criminal Case No. 96-150419.

B. Criminal Case No. 96-150420 (For violation of R. A. 6425)

In the criminal case for violation of the Dangerous Drugs Act (R.A. 6425), appellant contends that the theory of constructive possession cannot apply. Appellant argues that although he was with Nick, the taxi driver, such fact constitutes circumstantial evidence which cannot satisfy the quantum of evidence needed to hold him guilty as the guilt of appellant cannot be inferred from one single circumstance. The fact that appellant was in the company of Nick at the time of the incident could not be the basis of his conviction and the trial court could not draw an inference that if Nick was carrying the bag, appellant would be equally guilty. Appellant claims that the trial court failed to state how he could have control and management of the merchandise in Nick's possession.

We do not agree with appellant's submissions. The arrest of the appellant was the result of a surveillance and buy-bust operation conducted by the police authorities who had received a tip from a police informer about his illegal activities.[23] There was an arrangement for the sale on a delayed payment basis of ten (10) kilos of shabu and appellant was arrested in the act of delivering the shabu at the Diamond Hotel at about 10:15 a.m. of June 7, 1996. The evidence clearly points to appellant's having possession not only of the ten (10) kilos of shabu but more clearly, of the eighty-five (85) kilos found in the basement of the hotel.

Police Inspector Cielito Coronel testified,[24] to wit:

"Q Mr. Witness, do you know the accused in this case Alan K.C. Khor?

A Yes, sir.

Q Why do you know this person?

A He was identified to us by one of our police assets.

Q And so when he was identified to you by police asset - why did you arrest this person, by the way, Mr. Witness?

A Well, we arrested him because of possession of ten kilos of shabu and possession of Sig Sauer 9 mm. firearm.

Q By the way, Mr. Witness, this accused Alan K.C. Khor was identified by a certain informer?

A Yes, sir.

Public Prosecutor

And so why - when he was apprehended?

Witness

Well, Alan K.C. Khor the accused in this case was identified by police asset who later came to our office and expressed his intention to cooperate in the apprehension of big time drug syndicate and he is being surveyed during our conversation.

Q So, in other words, this police asset of yours have voluntarily gave information regarding Alan K.C. Khor, is that what you are saying?

A Yes, sir.

Q Could you identify the name of this police asset?

A For security reason, sir, I'm sorry because we have apprehended a big time drug lord. We are afraid - for his safety.

Q By the way, when did this asset of yours give information regarding Alan K.C. Khor?

A That was sometime June 6, 1996.

Q And when you received information regarding this Alan Khor, what did you do, if any, Mr. Witness?

Witness

We arranged the meeting between the asset and myself and we have some conversation. Later on, there was a negotiation between Alan K.C. Khor and our asset regarding the delivery of ten kilos of shabu which delivery will be at the Diamond Hotel Ermita, Manila.

Q When this negotiation between Alan K.C. Khor and your asset, were you also present during that negotiation?

A The negotiation was done thru telephone and I was there listening when the asset was conversing with the accused.

Q What did you overheard when the conversation was going on between your asset and Alan K.C. Khor?

A There was an arrangement between them that the sale of ten kilos of shabu will be consummated at the diamond hotel on the following day.

Q And that is on June 7, am I correct?

A Yes, sir.

Q Could you please tell the time if you still remember?

A

The actual consummation of the sale of shabu was about 10:15 a.m. of June 7, 1996 in front of the Diamond Hotel.

Public Prosecutor

Did that negotiation push thru, Mr. Witness?

Witness

Yes, sir.

Q Could you please tell us how the subsequent delivery was made, if any?

A

There was an arrangement that the police asset will get from Alan K.C. Khor ten kilos of shabu on a delayed payment basis which delivery will be made on the 7[th] of June 1996. Beforehand, we already checked-in at the Diamond Hotel and conducted surveillance, further, to identify Alan K.C. Khor and at about more or less 10:00 a.m., Mr. Khor went down from his hotel, bringing with him black bag and then, we stand by at the front door of the Diamond Hotel. Afterwhich, the police asset came in with his car and when Alan K.C. Khor was about to place the bag inside the car, we grabbed him and the asset went out." (underscoring supplied).

Capt. Lucio Margallo, as Chief of the PARAC Team Bravo, instructed Coronel to make a plan of operation in effecting the arrest of herein appellant. He was at the lobby of the Manila Diamond Hotel when he saw appellant himself carrying a black travelling bag which when opened yielded ten (10) kilos of shabu. Margallo was one of those who arrested appellant.[25] Margallo testified:

"Q

And after that what transpired next, if any, Mr. Witness?

A

We saw a man coming from inside of the hotel carrying a black travelling bag and was about to raise that travelling bag inside the back compartment of the car, when I signalled Coronel and Cristobal to move-in and pounce of the man carrying with the black travelling bag. That was after introducing ourselves that we were police officers assigned with PARAC DILG.

Q

By the way, when this Honda Civic arrived at around 10:15 A.M., where were you positioned, Mr. Witness?

A

I was actually inside the Manila Diamond Hotel at the lobby, sir.

Q

And when you said you gave the signal to Coronel and Cristobal where are they positioned, Mr. Witness?

A

They were also inside the lobby of the Manila Diamond Hotel, sir.

Q

And after you gave your signal to these two (2) police officers, what did they do, if any, Mr. Witness?

A

As I said, sir, they pounced on that person who was carrying the black bag and asked to open the black travelling bag, they found suspected ten (10) kilos of methamphetamine hydrochloride placed in ten (10) plastic bags.

Q

And when these two (2) men apprehended this person who is carrying the black travelling bag, did you have a clear view of that person, Mr. Witness?

A

Yes, sir. Actually I was there. I was one of those who arrested that person.

Q

And if that person whom you arrested, Mr. Witness, is inside the courtroom, will you be able to identify him?

A

Yes, sir.

Q

Will you please point to him if he is inside the courtroom, Mr. Witness?

A

He is now seated at the second row, third from left wearing yellow t-shirt. (Witness pointing to the accused Alan K.C. Khor)."

Anent the claim of appellant that the testimonies of witnesses Coronel and Margallo differed as to whether the police asset contacted them by telephone or personally came to the office, a reading of the subject testimonies shows that both testimonies are consistent: the police asset called by telephone[26] but later came to the office for the meeting with Coronel.[27]

Olivia Torreras, who was presented as defense witness, ironically did not testify favorably for the defense. During the cross-examination, she testified that prior to the incident on June 7, 1996, Nick frequented the Manila

Diamond Hotel to ask for appellant. Although she testified that it was Nick who was about to put the black bag in the trunk of the maroon Toyota car, and that appellant was at the paging system when he was arrested, apparently to corroborate appellant's insistence that he was just a bystander, she stated categorically that she saw Nick and appellant together taking the bag out of the hotel:

"Public Prosecutor

How about this Nick, how did you come to know this certain Mr. Nick?

A Thru my co-diamond employee, sir.

Q Do you often see this Nick in the hotel also?

Witness

Yes, sir.

Public Prosecutor

How often do you see this certain person named Nick?

A Two times a day.

Q Is he also a guest of that hotel?

A No, sir.

Q What is he doing there, Madam Witness, considering that you often see him twice a day?

A He just asking for Mr. Khor.

Q He always ask for Mr. Khor, so, in other words, he just always visits Mr. Khor, is that what you want to impress?

A I don't know, sir.

Q But when he is asking from Mr. Khor, do you allow him to go in the hotel?

A He is not exactly to get inside the hotel but after he asked for Mr. Khor, he just go down to the landing area.

Court

As far as your knowledge is concern, even prior to the incident you know that Nick and Mr. Khor are known to each other,

A Yes sir.

Public Prosecutor

And when this Mr. Nick is asking for Mr. Khor, do you also see Mr. Khor going out of the Diamond Hotel to meet Mr. Nick?

Witness

Not yet sir.

Q So, when this Mr. Nick usually go to the hotel, he is just asking Mr. Khor whether he is in or he is out?

A Just in, sir.

Q He is just trying to make sure if Mr. Khor is around?

A Yes, sir.

Q And do you know, Ms. Witness, what is the business of Nick with certain Mr. Khor?

A I don't know, sir.

Q On June 7, 1996, you also stated a while ago that this Mr. Nick was carrying a black bag, you are sure with that, Madam Witness?

A

Yes, sir.

Q And what is again the dimension of that bag, what is the height of that bag?

A This one and this one.

Atty. Aquino

Witness is pointing to the height of the table.

Court

About one (1) meter.

Public Prosecutor

I'm just amuse, Madam Witness, if there is such bag which is One foot by One meter. What is that bag made of?

Court

Black bag including the handle with one meter, there are many bags of that kind.

Public Prosecutor

And what is that made of?

Witness

Leather, sir.

Public Prosecutor

Do you know where this Mr. Nick get this bag?

A I just saw them with Mr. Khor passing on the lobby of the Manila Diamond Hotel and then get out of the main entrance door.

Q So, in other words, you saw that bag being taken out from the hotel together with Nick and Mr. Khor?

A Yes, sir.

Public Prosecutor

And afterwards you also saw that, that bag is about to be put in the maroon toyota corolla car?

Witness

Yes, sir.

Q And who in particular is putting that bag in the trunk of that car? Am I correct that this Nick is putting that bag on the trunk of that car?

A Yes, sir.

Q Where is Mr. Khor at that time?

A

On the paging system.

Q What happened when this Mr. Nick is about to put that bag on the trunk of that maroon toyota corolla car?

A Some men dragged Mr. Khor at the paging system.

Q You said that some men, you were talking now of group of person maybe more than two, am I correct?

A I don't remember the exact number of person.

Q What I said, they maybe more than two because you said some men?

A Yes, sir.

Q You said that when this Nick is about to put the black bag into the trunk, this some men arrested or dragged Mr. Khor on the paging system?

Witness

Yes, sir.

Q You just mentioned a while ago that Mr. Khor is also in the paging system?

A Yes, sir, on the paging system.

Q And what happened to this Mr. Nick?

A He was placed in the toyota corolla car without plate number.

Q By whom?

A By the same person pushed Mr. Khor at the pavement."[28] (underscoring supplied).

Appellant's claim that the prosecution failed to establish that the black bag contained shabu is belied by prosecution witness Reynaldo Cristobal and the forensic chemist Renee Eric Checa. Cristobal testified thus:

"Q

By the way, who in particular arrested the subject person you mentioned?

A

The accused here Alan K.C. Khor was arrested initially by Capt. Margallo himself and Lt. Coronel and later on I approached them because as I told you I was the Investigator and one of the duty is to take custody of the evidences.

Q

And what were you recovered from this person whom you mentioned, Alan K.C. Khor, if any?

A

As I approached Capt. Margallo and Lt. Coronel, Capt. Margallo seized from the accused a 9 mm. automatic pistol and turned it over to me.

Q

So, let's clarify these things Mr. Witness. You said that they recovered a certain bag, did you say that?

A

Yes,sir.

Q

What's inside that bag Mr. Witness?

A

When we opened the said bag, it contained plastic bags, transparent, containing white granules suspected of shabu neatly arranged inside. A total of ten pieces of plastic bag.

Q

What is the color of this bag?

A

The color of the bag is black."[29]

These white granules contained in plastic bags were verified later on the same day by Renee Eric P. Checa, a

Forensic Chemist of the Western Police District Command, Criminal Investigation Laboratory Division, to be positive for methamphetamine hydrochloride, otherwise known as shabu.[30]

The alleged infirmities in the testimonies of the prosecution witnesses are not substantial. Moreover, their positive testimony detailing their buy-bust operation must be given greater weight than the denial of the accused.[31] The testimony of police officers carried with it the presumption of regularity in the performance of official functions.[32]

In fine, the proven facts established the accused-appellant's guilt with moral certainty: - Acting upon the tip of the police informer, a surveillance was conducted by the authorities upon the suspected druglord Alan K.C. Khor, who was billeted at the Diamond Hotel. Police Inspector Coronel checked-in at the same hotel the night before the police operation. A police asset pretended to buy the drugs on a delayed-payment basis. Appellant, together with a taxi driver called Nick, whom he knew before the incident in question, were seen going out of the hotel together in the morning of June 7, 1996. The appellant was seen bringing down the black bag later found to contain shabu. Appellant was about to place the black bag into the car when the police officers apprehended appellant. The black bag when opened contained ten (10) plastic bags which yielded a substance subsequently verified to be methamphetamine hydrochloride. Possession of the eighty-five (85) kilos was also clearly established. Appellant himself accompanied the apprehending officers to the parking ground at the basement where he opened a red car with a key in his possession; the Toyota car yielded five (5) cartons containing shabu in the back seat and in the trunk. Appellant offered to surrender 85 kilos of shabu to settle the case. The offer of compromise may be received in evidence as an implied admission of guilt.[33]

With respect to the testimony of the defense witness Torreras that it was a Toyota Corolla car and not a Honda car, as claimed by the prosecution, that stopped in front of the hotel and wherein Nick tried to deposit the black bag, this is a minor inconsistency which cannot destroy the material fact that indeed a car stopped in front of the hotel and Nick placed the black bag containing shabu in the said car. Testimonies must be taken in their entirety.[34] The rule is well-settled that inconsistencies in the testimony of witnesses when referring only to minor details and collateral matters do not affect either the substance of their declaration, their veracity, or the weight of their testimony.[35] Although there may be inconsistencies on minor details, the same do not impair the credibility of the witnesses where there is consistency in relating the principal occurrence and positive identification of the accused.[36] Such minor inconsistencies even enhance their veracity as the variances erase any suspicion of a rehearsed testimony.[37]

As regards the eighty-five (85) kilos found in the basement, Police Inspector Cielito Coronel testified during the direct examination, that appellant, in order to "settle the case", offered to give him and his other companions additional shabu placed at the Toyota Corolla car parked at the basement of the Manila Diamond Hotel. Thus:

"Q And after that, what happened, Mr. Witness?

A

Mr. Khor tried to talk with us regarding the settling of the case and he offered to present additional items sold additional shabu which will appear to be confiscated from him provided that we will agree to settle the case with him. We presented that it is for free and he further surrendered more or less about 85 kilos of shabu.

Public Prosecutor

Were you able to take possession of these 85 kilos of shabu.

A Yes, sir.

Q By the way, were you able to - where did you get these 85 kilos of shabu?

A

At the parking ground of the Diamond Hotel. It was placed inside the Toyota vehicle. When he pointed it to us, we were able to recover five - cartons - placed on the apple cartons inside the vehicle. When we opened the cartons, it showed 85 more or less kilos of shabu.

Q Who are persons present, Mr. Witness, aside from you, Mr. Witness?

A Likewise Captain Margallo and SPO3 Cristobal were present.

Public Prosecutor

So, only the three of you - how about Alan K. C. Khor?

Witness

He was present because he was the one who opened the vehicle.

Q You mentioned that you got this Toyota Corolla car, will you please identify what is this Toyota Corolla car?

A

It is a red Toyota car with no plate number. We were able to recover from there inside the trunk, we recovered two cartons and the back sit, we were able to recover three more cartons.

Q You recovered two cartons inside the car?

A The trunk.

Q Then the other cartons from where did you get it?

A The cartons were recovered from the back sit of the car."[38]

The failure to show the ownership of the Toyota Corolla car which allegedly carried the 85 kilos of shabu is not material. What is in issue here is the possession by appellant of the 85 kilos of shabu and not the ownership of the car.

It is appellant's view that the testimony of the informer/informant is indispensable. This is not so. Well-settled is the rule that the presentation of an informant in an illegal drugs case is not essential for the conviction nor is it

indispensable for a successful prosecution because his testimony would merely be corroborative and cumulative.[39] Informants are generally not presented in court because of the need to hide their identity and preserve their invaluable service to the police.[40] The cases cited by appellant to support his claim that the police informer should have been presented as a witness, are not applicable to the case at bar. Here, the police officers directly testified regarding the entrapment, and the testimony of the police asset would merely have been corroborative.

As stated earlier, credence was properly accorded to the testimony of prosecution witnesses who are law enforcers.[41] The testimony of the police officers carried with it the presumption of regularity in the performance of official functions.[42] Law enforcers are presumed to have performed their duties regularly in the absence of evidence to the contrary.[43] When police officers have no motive for testifying falsely against the accused, courts are inclined to uphold the presumption of regularity in the performance of their duties[44] and no evidence whatsoever was presented that would suggest any improper motive on the part of the police enforcers. This Court accords great respect to and treats with finality the findings of the trial court on the matter of credibility of witnesses, absent any palpable error or arbitrariness in their findings.

Finally, appellant contends that his warrantless arrest was illegal and unconstitutional and the articles seized from him as a result of said arrest were inadmissible in evidence.

The rule is that an accused may be estopped from assailing the legality of his arrest if he failed to move for the quashing of the Information against him before his arraignment.[45] Any objection involving the arrest or the procedure in the acquisition by the court of jurisdiction over the person of an accused must be made before he enters his plea, otherwise the objection is deemed waived.[46] The records show that, although appellant filed a Motion for Reinvestigation, the same was "denied as per manifestation of his counsel that he is abandoning the said motion." [47] No motion to quash the Informations was ever filed by appellant who pleaded not guilty to both Informations upon arraignment.[48]

Moreover, the arrest of appellant was a result of a surveillance conducted by Police Inspector Coronel on the night before the arrest of appellant wherein Coronel himself checked in as guest at the Diamond Hotel where appellant was billeted and the phone calls received by Coronel from a "police informer" on the day before the actual arrest of appellant.[49] This was a buy-bust operation, far variant from an ordinary arrest; it is a form of entrapment which has repeatedly been accepted to be a valid means of arresting violators of the Dangerous Drugs Law.[50]

Appellant claims that the bundles of money allegedly confiscated from him were marked as Exhibit "3-B" but were never presented in court and the prosecution failed to explain their disappearance. It should be noted that appellant was charged in the Information for possession of shabu and not for the sale thereof. Nonetheless, even in the prosecution for the sale of dangerous drugs, the absence of marked money does not create a hiatus in the evidence for the prosecution as long as the sale of the dangerous drugs is adequately proven and the drug subject of the transaction is presented before the court.[51] In every prosecution for the illegal sale of dangerous drugs, what is material and indispensable is the submission of proof that the sale of illicit drug took place between the seller and the poseur-buyer.[52] In illegal possession of dangerous drugs, the elements are: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.[53] These circumstances of illegal possession are obtaining in the case at bar.

Pursuant to Section 16, Article III of R.A. 6425 as amended by Section 16 of R.A. 7659, in relation to Section 20 of R.A. 7659, the penalty of Reclusion Perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person caught in possession of 200 grams or more of shabu. Thus:

"SEC. 16. Possession or Use of Regulated Drugs. - The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who shall possess or use any regulated drug without the corresponding license or prescription, subject to the provisions of Section 20 hereof.

x x x x x x x x

SEC. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instruments of the Crime. - The penalties for offenses under Sections 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:

1. x x x
2. x x x
3. 200 grams or more of shabu or methylamphetamine hydrochloride;
4. x x x
5. x x x
6. x x x
7. x x x
8. x x x.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalty shall range from prison correccional to reclusion perpetua depending upon the quantity.

x x x x x x x x."

Ninety-five (95) kilos of shabu were confiscated from appellant. Considering that there is no aggravating nor mitigating circumstance that accompanies the commission of the crime, the trial court was correct in imposing the penalty of Reclusion Perpetua.

As regards the fine imposed by the trial court, it has been held that courts may fix any amount within the limits established by law; and in fixing the amount in each case, attention shall be given, not only to the mitigating and aggravating circumstances, but more particularly to the wealth or means of the culprit.[54] In view of the large quantity of shabu that was confiscated, we find no reason to disturb the trial court's imposition of fine in the amount of five million (P5,000,000.00) pesos.

WHEREFORE, the appealed decision finding appellant Alan K.C. Khor guilty in Criminal Case No. 96-150420 for violation of Section 16, Article III in relation to Section 2 (e-2), Article I of Republic Act No. 6425 (otherwise known as the Dangerous Drugs Act of 1972), as amended by Batas Pambansa Bilang 179 and sentencing him to suffer the penalty of Reclusion Perpetua and to pay a fine of Five Million (P5,000,000.00) Pesos, is hereby **AFFIRMED**.

However, the decision finding appellant guilty for violation of Presidential Decree No. 1866 (Illegal Possession of Firearm) is **REVERSED** and **SET ASIDE** and appellant is hereby **ACQUITTED** of the said crime. Consequently, Criminal Case No. 96-150419 is **DISMISSED**.

SO ORDERED.

Romero (Chairman), Vitug, and Panganiban, JJ., concur.

Purisima, J., took no part in the deliberation.

[1] Written by Judge Rodolfo A. Ponferrada.

[2] p. 2, Record of Criminal Case No. 96-150419.

[3] p. 1, Record of Criminal Case No. 96-150420.

[4] Order of June 26, 1996, p. 6, Record.

[5] pp. 97-116, Record.

[6] pp. 5-8, Appellee's Brief, pp. 170-173, Rollo.

[7] pp. 4-9, Appellant's Brief, pp. 74-79, Rollo.

[8] pp. 13-14, RTC-Decision, pp. 109-110, Rollo.

[9] p. 15, *ibid.*, p. 111, Rollo.

[10] pp. 13-14, RTC-Decision, pp. 109-110, Record.

[11] *People vs. Caling*, *supra*.

[12] *People vs. Tobias*, 267 SCRA 229; *People vs. Solayao*, 262 SCRA 255; *People vs. Arce*, 227 SCRA 406.

[13] *People vs. Dela Rosa*, *supra*; *People vs. Eubra*, 274 SCRA 180; *Mallari vs. Court of Appeals*, *supra*; *People vs. Ramos*, 222 SCRA 557.

[14] Exhibit "2", p. 38, Record.

[15] Exhibit "1", p. 37, Record.

[16] *People vs. Bergante*, 286 SCRA 629; *People vs. Dela Rosa*, 284 SCRA 158; *Gonzales vs. Court of Appeals*, 277 SCRA 518; *People vs. Villanueva*, 275 SCRA 489; *Padilla vs. Court of Appeals*, 269 SCRA 402; *Mallari vs. CA*, 265 SCRA 456; *People vs. Caling*, 208 SCRA 821.

[17] Tsn, July 24, 1996 at pp. 6, 18-20.

[18] Exh. "HHHHH-1", p. 59, Record.

[19] Exhs. "IIIII-1" to "JJJJJ-2", pp. 62-63, Record.

[20] Tsn, August 13, 1996, p. 22-23.

[21] Tsn., July 24, 1996, at pp. 14-18.

[22] Section 3 (m), Rule 131.

[23] Tsn (Police Inspector Cielito Coronel), July 9, 1996 at pp. 5-9; Tsn (Capt. Lucio Margallo), July 16, 1996 at pp. 81-83.

[24] Tsn, July 9, 1996 at pp. 5-8.

[25] Tsn, July 16, 1996 at pp. 7-8, 13-19.

- [26] Tsn, July 16, 1996 at pp. 6-8.
- [27] Tsn, July 9, 1996 at pp. 5-8.
- [28] Tsn, July 31, 1996, at pp. 30-35.
- [29] Tsn, July 17, 1996 at pp. 17-18.
- [30] Tsn, July 10, 1996 at pp. 17-18, 23-37; Exhs. "DDDDD" to "FFFFFF", pp. 47-52, Record.
- [31] People vs. Mahusay, 282 SCRA 80; People vs. Guiamil, 277 SCRA 658; People vs. Castillo, 273 SCRA 22.
- [32] People vs. Salazar, 266 SCRA 607.
- [33] Section 27, Rule 130.
- [34] People vs. Zamora, 278 SCRA 60.
- [35] People vs. Castro, 274 SCRA 115; People vs. Lising, 275 SCRA 804; People vs. Turingan, 282 SCRA 424; People vs. Astorga, 283 SCRA 420.
- [36] Sumalpong vs. Court of Appeals, 268 SCRA 764.
- [37] People vs. Salvatierra, 276 SCRA 55; People vs. Lising, supra; People vs. Herbias, 265 SCRA 571; People vs. Sumaoy, 263 SCRA 460; Arceño vs. People, 256 SCRA 569; People vs. Español, 256 SCRA 137.
- [38] Tsn, July 9, 1996, at pp. 16-18.
- [39] People vs. Lacbanes, 270 SCRA 193; People vs. Salazar, 266 SCRA 607; People vs. Ballagan, 247 SCRA 535; People vs. Ong Co, 245 SCRA 733; People vs. People vs. Utinas, 239 SCRA 362; People vs. De los Reyes, 229 SCRA 439; People vs. Macasa, 229 SCRA 422.
- [40] People vs. Gireng, 241 SCRA 11.
- [41] People vs. Atad, 266 SCRA 262.
- [42] People vs. Salazar, 266 SCRA 607.
- [43] People vs. Jones, 278 SCRA 345; People vs. Castro, 274 SCRA 115; Marco vs. Court of Appeals, 273 SCRA 276.
- [44] People vs. Guiamil, 277 SCRA 658.
- [45] People vs. Hernandez, 282 SCRA 387.
- [46] People vs. Mahusay, 282 SCRA 80.
- [47] Order of June 26, 1996, p. 6, Record.
- [48] *ibid.*
- [49] Tsn, July 9, 1996 at pp. 7-8, 42, 51.
- [50] People vs. Juatan, 260 SCRA 532; People vs. Garcia, 235 SCRA 371; People vs. Basilgo, 235 SCRA 191; People vs. Manalo, 230 SCRA 309.
- [51] People vs. Lacbanes, 270 SCRA 193.
- [52] People vs. Castro, 274 SCRA 115; People vs. Lacbanes, supra.

[53] Manalili vs. Court of Appeals, 280 SCRA 400.

[54] Article 66, Revised Penal Code.

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