

PEDRO CUPCUPIN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 132389. November 19, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is a petition for review on certiorari, seeking to set aside the November 27, 1997 decision of the Court of Appeals,[1] in CA-G.R. CR No. 17334, which affirmed with modification the November 18, 1994 decision[2] of the Regional Trial Court of Malabon, Branch 170, wherein petitioner Pedro Cupcupin was found guilty of the crimes of violation of Section 16, Article III, Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, and of violation of Section 1, Presidential Decree 1866, otherwise known as the Unlawful Possession of Firearms and Ammunition, in Criminal Case No. 13374-MN and Criminal Case No.13375-MN. 5784, respectively.

The Informations filed against petitioner read:

In Criminal Case No. 13374-MN for violation of Section 16, Article III, Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended:

That on 05 March 1993 in Malabon and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously possess approximately 38.2085 grams of methamphetamine hydrochloride, popularly known as “shabu”, a regulated drug, without the corresponding license or prescription therefor.

CONTRARY TO LAW.[3]

In Criminal Case No. 13375-MN for violation of Section 1, Presidential Decree 1866, otherwise known as the Unlawful Possession of Firearms and Ammunition:

That on 05 March 1993 in Malabon and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously have custody, control and possession of:

one (1) M16 Baby Armalite rifle with defaced serial no. and fully loaded magazine one (1) Browning pistol without serial no. with fully loaded magazine

two (2) empty magazine for Armalite

without lawful authority therefore.

CONTRARY TO LAW.[4]

Upon arraignment on August 5, 1993, petitioner pleaded not guilty. Trial on the merits thereafter ensued.[5]

The version of the prosecution can be synthesized as follows: Based on a confidential information that petitioner, Pedro Cupcupin is engaged in selling methamphetamine hydrochloride (shabu), and in possession of firearms and

ammunitions without the necessary license, NBI Agent Timoteo Rejano of the National Capital Region, conducted a surveillance on the vicinity of petitioner's residence at Int. David Santos, C. Arellano Streets, Malabon, Metro Manila. After confirming said confidential information, Agent Rejano applied for the issuance of search warrants before Judge Romeo J. Callejo,[6] of the Regional Trial Court of Manila, Branch 49.[7]

On March 3, 1993, Judge Romeo J. Callejo issued the following search warrants:

PEOPLE OF THE PHILIPPINES

Plaintiff, SEARCH WARRANT NO. 56-93

- versus -

FOR: VIOLATION OF SECTION 16

PEDRO CUPCUPIN ARTICLE III, of REPUBLIC

Int. David Santos, C. Arellano ACT 6425, AS AMENDED

Street, Malabon, Metro

Manila

Accused.

X ----- X

SEARCH WARRANT

TO ANY PEACE OFFICER:

Upon sufficient showing of the existence of probable cause, after determination personally by the Judge on examination under oath of the applicant and his witness by means of searching questions and answers thereto, based on the facts personally known to them that Respondent Pedro Cupcupin residing at said address, had been and still is using the said premises, for the possession and/or use of regulated substance known as methamphetamine hydrochloride (SHABU) in violation of section 16 of Republic Act 6425, as amended.

WHEREFORE, the Court commands you to conduct an immediate search, at any time of the day or night, including Saturdays and Sundays, on the premises at the above address, including the rooms located therein, and seize the following:

“UNDETERMINED QUANTITY OF METAMPHETAMINE HYDROCHLORIDE (SHABU)”

and to bring the same before the Court for proper disposition in accordance with law.

You shall make a return of the warrant to the Court within ten (10) days from today.

SO ORDERED.[8]

PEOPLE OF THE PHILIPPINES

Plaintiff, SEARCH WARRANT NO. 57-93

- versus -

FOR: VIOLATION OF

PEDRO CUPCUPIN PRESIDENTIAL DECREE 1866

Int. David Santos, C. Arellano (SECTION 1)

Street, Malabon, Metro

Manila

Accused.

x ----- x

SEARCH WARRANT

TO ANY PEACE OFFICER:

Upon sufficient showing of the existence of probable cause, after determination personally by the Judge on examination under oath of the applicant and his witness by means of searching questions, and answers thereto, based on the facts personally known to them, that Accused Pedro Cupcupin residing at said address, had been and still in possession of assorted firearms herein below listed, without the requisite license therefore, in violation of Presidential Decree No. 1866.

WHEREFORE, the Court commands you to conduct an immediate search, at any time of the day and night, including Saturdays, on the premises at the above address including the rooms located therein and seize the following:

- a) Two (2) .45 cal. pistols;
- b) One (1) .38 cal. revolver;
- c) One (1) .9 mm. pistol;
- d) Two (2) M-16 armalite rifles; and
- e) One (1) .22 cal. pistol

and bring the same before the Court for proper disposition in accordance with law.

You shall make a return of the warrant to the Court within ten (10) days from today.

SO ORDERED.[9]

On March 5, 1993, at about 7 a.m., the team composed of Supervising Agent Eduard Villarta, NBI agents Timoteo Rejano, Ruel Lasala, Narciso Peña, Jr., Joel Consador, Ceres Delapa-Cabrera, Ernesto Cabrera and Special Investigators Arthur Oliveros and Ariel Nuñez and SPO1 Olazo, raided the house of petitioner located at Int. David Santos and C. Arellano Streets, Malabon, Metro Manila,[10] which consisted of a 2-storey house made up of strong materials and a workshop room at the ground floor made up of light materials.[11]

The NBI agents presented the search warrants and introduced themselves to the petitioner and his wife, Adelfa Cupcupin. Upon their request, the NBI agents waited for petitioner's mother, Iluminada Cupcupin and in their presence, the team searched the bedroom at the second floor and found a fully-loaded M16 armalite rifle underneath the bed. They likewise found a semi-automatic browning pistol and two empty magazines of armalite inside a drawer of a table found in the same bedroom. Agents Rejano and Consador inscribed their respective initials and date on the handle of the rifle and the pistol.[12] An Inventory of the items seized was thereafter signed by Adelfa Cupcupin, Elumina Cupcupin, and the petitioner.[13]

Thereafter, the team searched the workshop room, again in the presence of petitioner, his wife, and his mother.[14] Seized from petitioner's workshop room were the following: "1) nine (9) plastic packs of white

crystalline substance found inside a box [of] 'ETERNITY'; 2) one improvised water pipe; 3) one (1) improvised burner; 4) one (1) weighing scale marked 'TAVITA'; 5) three (3) small tooters; 6) one pack of plastic pouches; 7) one electric resealer; 8) aluminum foils; 9) five (5) assorted magazines for pistols; 10) one (1) rifle grenade; 11) assorted bullets for M16, .45 cal and 9 mm." [15] An inventory of the items seized was prepared and thereafter signed and acknowledged by Adelfa Cupcupin, Elumina Cupcupin, and the petitioner. [16]

Upon examination by NBI Forensic Chemist Aida R. Vilorio-Magsipoc, the nine plastic packs of white crystalline substance seized from the workshop room of petitioner, turned out to be 38.0201 grams of Methamphetamine Hydrochloride, popularly known as shabu. [17]

Petitioner, on the other hand, raised the defense of frame-up. He alleged that between 6:00 to 7:00 in the morning of March 5, 1993, while he was resting at the ground floor of his house in the company of his wife, Adelfa Cupcupin and their two children, the team of NBI agents arrived. They searched his house and detained him and his family at the ground floor. He denied ownership and possession of the illegal items allegedly seized from his house but admitted ownership of the automatic browning pistol found in his bedroom. He produced a Certification from the PNP Firearms and Explosive Division showing that said browning, cal. 9mm pistol with Serial No. 245PZ84617 is registered in his name. [18] After the search and while in handcuffs, he was forced to sign some documents which turned out to be an inventory receipt and a search warrant. [19]

Petitioner further declared that the charges against him are purely harassment because in 1991 he had been previously charged, but was subsequently acquitted of illegal possession of regulated drugs and firearms in Criminal Case Nos. 10108-MN and 10109- MN, respectively, before Branch 72, of the Regional Trial Court of Malabon. [20]

On November 18, 1994, a decision was rendered by the trial court convicting petitioner, to wit:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. 13374, finding accused Pedro Cupcupin guilty beyond reasonable doubt of Violation of Section 16, Article III, Republic Act 6425, as further amended by Republic Act 7659 and considering the quantity of the Methamphetamine Hydrochloride involved in this case, hereby sentences him to suffer an indeterminate penalty of One (1) Year, Eight (8) Months and Twenty (20) Days as minimum, to Four (4) Years, Two (2) Months and One (1) Day as maximum, & to pay the cost;

2. In Criminal Case No. 13375, finding accused Pedro Cupcupin guilty beyond reasonable doubt of Violation of Presidential Decree No. 1866, hereby sentences him to suffer an indeterminate penalty of Seventeen (17) Years, Four (4) Months and One (1) Day as minimum, to Eighteen (18) Years, Eight (8) Months and One (1) Day as maximum, and to pay the cost of this suit.

The unlicensed M16 baby armalite, magazines, assorted ammunitions, methamphetamine hydrochloride and the paraphernalia presented as evidence are all forfeited in favor of the government, and the Branch Clerk of Court is directed to turn over the same to the PNP Firearms and Explosive Office and Dangerous Drugs Board for proper disposition.

The 9mm automatic pistol is hereby ordered returned to accused Pedro Cupcupin.

SO ORDERED. [21]

On appeal, the judgment of conviction was affirmed, but modified as to the penalties, to wit:

WHEREFORE, the decision subject of this appeal is AFFIRMED with modifications as to the penalties imposed:

(1) In Criminal Case No. 13374-MN for violation of R.A. No. 6425, accused-appellant is sentenced to suffer the indeterminate penalty of imprisonment of Six (6) Months of arresto mayor, as minimum, to Four (4) Years and Two (2) Months of prision correccional, as minimum.

(2) In Criminal Case No. 13375-MN for violation of P.D. No. 1866, accused-appellant shall suffer an indeterminate penalty of imprisonment of Six (6) Years of prision correccional, as minimum, to Eight (8) Years of prision mayor, as maximum, and to pay a fine of thirty thousand pesos (P30,000.00).

SO ORDERED.[22]

Hence, the instant petition raising the following errors:

I

THE HON. COURT OF APPEALS SERIOUSLY ERRED IN NOT HOLDING THAT THE SEARCH WARRANTS WERE LEGALLY AND CONSTITUTIONALLY INFIRM, INVALID AND VOID, THEY NOT HAVING COMPLIED WITH THE INDESPENSABLE REQUIREMENTS FOR THE ISSUANCE THEREOF.

II

THE HON. COURT OF APPEALS GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE WITNESSES OF THE PROSECUTION DESPITE THE FACT THAT THE WITNESSES, WHO WERE NBI AGENTS, WERE ACTUATED WITH MALICE, IMPROPER MOTIVE AND COMMITTED IRREGULAR ACTS IN SECURING AND IMPLEMENTING THE AFOREMENTIONED SEARCH WARRANTS.

III

THE HON. COURT OF APPEALS GRAVELY ERRED IN NOT GIVING WEIGHT AND PROBATIVE VALUE TO THE EARLIER JOINT DECISION OF THE TRIAL COURT ACQUITTING THE ACCUSED FOR THE OFFENSES OF VIOLATION OF SEC. 15 OF THE DANGEROUS DRUGS ACT AND VIOLATION OF P.D. 1866, WHICH ARE THE SAME OFFENSES NOW SUBJECT OF THE INSTANT CASES AND WHEREIN THE PETITIONER HAD BEEN CONVICTED BY THE TRIAL COURT AND AFFIRMED BY THE HON. COURT OF APPEALS.

IV

THE HON. COURT OF APPEALS SERIOUSLY ERRED IN NOT ACQUITTING THE ACCUSED-PETITIONER OF THE OFFENSES CHARGED, THE SAME NOT HAVING BEEN PROVED BEYOND REASONABLE DOUBT.[23]

Petitioner contends that the items allegedly seized from his residence are inadmissible as evidence because the search warrants issued against him failed to comply with the constitutional and statutory requirements for the issuance of a valid search warrant. Specifically, petitioner claims that said warrants were defective on the grounds that: (1) NBI Agent Timoteo Rejano who applied for the issuance thereof had no personal knowledge of the facts on which the warrants were based; and (2) subject warrants failed to particularly describe the place to be searched because there are two houses located in the address stated in the said warrants.

The contentions are without merit.

Sections 2 and 3 (2), Article III, of the Constitution state:

SEC. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

SEC. 3. x x x

x x x x x x x x

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

Under Sections 4 and 5, Rule 126, of the Revised Rules on Criminal Procedure, the requisites for the issuance of a valid search warrant are as follows:

SEC. 4. Requisites for issuing search warrant. – A search warrant shall not issue except upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainant and the witness he may produce, and particularly describing the place to be searched and the things to be seized which may be anywhere in the Philippines. (3a)

SEC. 5. Examination of complainant; record. – The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he may produce on facts personally known to them and attach to the record their sworn statements, together with the affidavits submitted. (4a)

In determining probable cause in the issuance of a search warrant, the oath required must refer to the truth of the facts within the personal knowledge of the applicant or his witnesses, because the purpose thereof is to convince the committing magistrate, not the individual making the affidavit and seeking the issuance of the warrant, of the existence of probable cause. Search warrants are not issued on loose, vague or doubtful basis of fact, nor on mere suspicion or belief.[24]

In the case at bar, NBI Agent Timoteo Rejano who applied for the issuance of Search Warrant Nos. 56-93 and 57-93, had personal knowledge of the circumstances on which the warrants were based. Admittedly, Rejano's knowledge of petitioner's illegal possession of firearms and prohibited drugs came from a confidential informant, and therefore, initially hearsay. Nevertheless, the surveillance and investigation he conducted on the basis of said confidential information enabled him to gain personal knowledge of the illegal activities of petitioner.[25] Hence, his testimony was sufficient justification for the examining judge to conclude that there was probable cause for the issuance of a search warrant.

Contrary to the claim of petitioner, the records show that there is only one house located in the address to be searched. The residence of petitioner consisted of a structure with two floors, made up of strong materials and a workshop room at the ground floor made up of light materials. The un rebutted testimony of the prosecution witnesses reveal that inside the main house is an alley connected to the door of the workshop room. Pertinent portion of the testimony of NBI Agent Consador, one of the members of the raiding team, reads:

Court (witness)

Q Where is the house of the accused located?

A It is located at the corner of Arellano St., Your Honor.

Q Malabon?

A Yes, Your Honor.

Q Is there a number in the house of the accused?

A I cannot recall, Your Honor.

Q How many structures are there in the premises of Pedro Cupcupin?

A As I remember, there are two structures but it looks like they are adjacent, one big and the other one like nipa hut but they are adjacent, Your Honor.

Q What do you mean adjacent?

A The small structure is connected to the big structure, Your Honor.

Q When you say connected, will you tell the court what do you mean.

A When you enter the structure, there is a door that can be opened at the small structure, Your Honor.

Q Without going outside of the house?

A Yes, Your Honor.

Q Do we understand from you that there is a connecting alley inside the bigger structure going to the small structure?

A Yes, Your Honor.

Q These two structures belong to Pedro Cupcupin?

A Yes, Your Honor.

x x x x x x x x.[26]

Likewise relevant is the testimony of Agent Rejano, thus:

x x x x x x x x

A We go back now to the two buildings which you said in your own opinion is only one. I am showing to you the picture which was taken by your photographer, is this the scenario of the place where [the] two buildings depicted in the picture marked as Exhibit "N"? A two stor[e]y house is depicted at the left hand portion of Exhibit "M" that would be the house you are alluding to as the house which you first entered the second floor despite the fact that you will pass the ground floor that is the building you are alluding in that statement of yours or testimony of yours a while ago?

A Yes, sir.

Q How about a structure depicted at the right hand portion in between the two vehicles, is it part also of the residence of Cupcupin?

A It is part of the residence and while inside the edifice there is no divider, sir.

Q You will agree with me Mr. witness that despite the fact that there is no division, two vehicles were parked in between the two structures, one jeep and a passenger jeep. My question is, you will agree with me that despite the fact [that] there was no division, two structures were clearly depicted in Exhibit "N"?

A As I have said in my observation, there is only one structure because in between seemingly two structures, there is a corridor connecting the two structures. While inside the said edifice, there is only one structure, sir.

x x x x x x x x.[27]

It is clear from the foregoing that the workshop room where the packs of shabu were found is actually an integral part of petitioner's residence. Hence, it cannot be argued that there are two houses in the address stated in the warrants and that the same failed to particularly describe the place to be searched. The rule is that a description of the place to be searched is sufficient if the officer with the warrant can, with reasonable effort, ascertain and identify the place intended to be searched. Tested against the foregoing rule, the Court finds that the residence of petitioner stated in the warrants as "Int. David Santos, C. Arellano Street, Malabon, Metro Manila," can with reasonable effort be ascertained and identified by the NBI agents who were ordered to search the "... above address, including the rooms located therein." [28]

It must be stressed that petitioner does not deny ownership, access to and more importantly, immediate physical occupancy and control over said workshop room and his entire residence. As a matter of law, when prohibited and regulated drugs are found in a house or other building belonging to and occupied by a particular person, the presumption arises that such person is in possession of such drugs in violation of law, and the fact of finding the same is sufficient to convict. Otherwise stated, the finding of the drugs in the building owned by petitioner raised the presumption of knowledge and, standing alone, was sufficient to convict. [29]

It may be argued that in the cases of illegal possession of regulated drugs and firearms filed against petitioner in 1991, in Criminal Case Nos. 10108-MN and 10109- MN, respectively, before Branch 72, of the Regional Trial Court of Malabon, the trial court found that the "nipa hut" near the house of petitioner is owned by a certain Benjamin Santos. [30] But since it was not shown that said "nipa hut" is the same workshop room referred to in the present case, and that the factual circumstances on which the finding that subject "nipa hut" is not owned by petitioner, still holds true in the instant case, the Court cannot rule that there are indeed two houses in the address stated in the search warrants issued against petitioner. At any rate, it is not the ownership of the place where the illegal items were seized that matters. What is decisive is that, it is the petitioner who had access to and control over said workshop room being an integral part of his house.

In criminal cases involving prohibited drugs, there can be no conviction unless the prosecution shows that the accused knowingly possessed the prohibited articles in his person, or that animus possidendi is shown to be present together with his possession or control of such article. [31] Animus possidendi is only prima facie. It is subject to contrary proof and may be rebutted by evidence that the accused did not in fact exercise power and control over the thing in question, and did not intend to do so. The burden of evidence is thus shifted to the possessor to explain absence of animus possidendi. [32]

In the instant case, petitioner failed to present any evidence to rebut the existence of animus possidendi over the armalite rifle and the packs of shabu found in his residence. The mere uncorroborated statement that he was not aware of the existence of said illegal items in his house is insufficient. [33] Moreover, the defense of "frame-up" raised by petitioner is a common and standard line of defense which is invariably viewed by this Court with disfavor, it being capable of easy concoction and difficult to prove. Considering that no clear and convincing evidence was presented to prove that he was really framed up, the presumption of regularity in the performance of official duty, as well as the principle that findings of the trial court on the credibility of witnesses are entitled to great respect, must prevail over the petitioner's imputation of ill-motive and harassment on the part of the NBI Agents who conducted the search. [34]

For the crime of illegal possession of regulated drugs, the Court of Appeals correctly deleted the excess of 1 day in the maximum penalty imposed by the trial court, i.e., four (4) years, two (2) months, and one (1) day of prision correccional. In *People v. Medenilla*, [35] the Court held that if the regulated drug weighs less than 66.67 grams,

then the penalty is prision correccional, if 66.67 grams or more but less than 133.33 grams, then the penalty is prision mayor, and if 133.33 grams or more, but less than 200 grams, then the penalty is reclusion temporal. Considering that 38.0201 grams of Methamphetamine Hydrochloride, or shabu is involved in the case at bar, the proper penalty is prision correccional. There being no attendant modifying circumstance the maximum period of the impossible penalty, cannot exceed two (2) years, four (4) months and one (1) day to four (4) years and two (2) months, the medium period of prision correccional. Applying the Indeterminate Sentence Law, the minimum period of the impossible penalty shall be within the range of arresto mayor (1 month and 1 day to 6 months), the penalty next lower in degree to prision correccional.

Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act 2002, increased the penalty for illegal possession of 10 grams or more but less than 50 grams of methamphetamine hydrochloride or “shabu” to life imprisonment and a fine ranging from four hundred thousand pesos (P400,000.00) to five hundred thousand pesos (P500,000.00). However, said law not being favorable to the accused, cannot be given retroactive application in the instant case.

Under Republic Act 8294, amending P.D. No. 1866, the penalty for illegal possession of firearms classified as high powered, like an M16 armalite rifle,[36] is prision mayor minimum and a fine of P30,000.00. No modifying circumstance having been proven, the penalty shall be imposed in its medium period.[37] Applying the Indeterminate Sentence Law, the maximum period of the impossible penalty cannot exceed the medium period of prision mayor minimum, i.e., six (6) years, eight (8) months and one (1) day to seven (7) years and four (4) months. The Court of Appeals therefore erred in fixing the maximum period of the impossible penalty to eight (8) years of prision mayor. The minimum period shall be within the range of prision correccional in its maximum period (4 years, 2 months and 1 day to 6 years), the penalty next lower in degree to prision mayor minimum.

WHEREFORE, in view of all the foregoing, the November 27, 1997 decision of the Court of Appeals in CA-G.R. CR No. 17334, finding petitioner Pedro Cupcupin guilty beyond reasonable doubt of the crimes of illegal possession of regulated drugs and illegal possession of firearm is AFFIRMED with MODIFICATIONS. As modified, petitioner is sentenced to suffer: (1) the indeterminate penalty of imprisonment ranging from six (6) months of arresto mayor, as minimum, to four (4) years and two (2) months, of prision correccional, as maximum in Criminal Case No. 13374-MN, for illegal possession of regulated drugs under Section 16, of R.A. No. 6425, as amended by R.A. No. 7659; and (2) the indeterminate penalty of imprisonment ranging from six (6) years of prision correccional, as minimum, to seven (7) years and four (4) months of prision mayor, as maximum, and to pay a fine of P30,000.00 for illegal possession of firearm under Section 1, of P.D. No. 1866, as amended by R.A. No. 8294, in Criminal Case No. 13375-MN.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Carpio, and Azcuna, JJ., concur.

[1] Eleventh Division, composed of Associate Justices: Quirino D. Abad Santos, Jr. (Chairman and ponente); Ruben T. Reyes (member) and Hilarion L. Aquino (member).

[2] Penned by Judge Benjamin T. Antonio.

[3] Records of Criminal Case No. 13374-MN, p. 1.

[4] Records of Criminal Case No. 13375-MN, p. 1.

[5] Records, p. 81.

- [6] Now Associate Justice of the Supreme Court.
- [7] TSN, December 14, 1993, p. 32.
- [8] Exhibit “E”, Records, p. 146.
- [9] Exhibit “E-1”, Records, p. 147.
- [10] TSN, December 14, 1993, p. 5.
- [11] TSN, February 1, 1994, p. 13; January 6, 1994, pp. 14-15.
- [12] TSN, December 14, 1993, pp. 7-11; February 1, 1994, pp. 1-7.
- [13] Exhibit “K”, Records, p. 149.
- [14] TSN, December 14, 1993, p. 12.
- [15] Exhibit “J”, Records, p. 148.
- [16] Ibid.
- [17] Exhibit “C”, Records, p. 145.
- [18] Exhibits “6” and “7”, Records, pp. 225-227.
- [19] TSN, April 5, 1994, pp. 2-14.
- [20] Exhibits “4”, Records, p. 218.
- [21] Records, p. 253.
- [22] Rollo, p. 79.
- [23] Rollo, pp. 38-39.
- [24] Uy, et al. v. Bureau of Internal Revenue, et al., 344 SCRA 36, 55-56 [2000]; citing Alvarez v. Court of First Instance of Tayabas, 64 Phil. 33 [1937]; Quintero v. National Bureau of Investigation, 162 SCRA 467 [1988].
- [25] Yu, et al. v. Hondrado, et al., 99 SCRA 273, 278 [1980].
- [26] TSN, February 1, 1994, p. 13.
- [27] TSN, January 6, 1994, pp. 14-15.
- [28] Exhibit “E”, p. 146; and Exhibit “E-1”, p. 147.
- [29] United States v. Gan Lian Po, 34 Phil. 880, 882-883.
- [30] Exhibit “4-B”, Records, pp. 219-221.
- [31] People v. Burton, 268 SCRA 531, 550-551 [1997]; citing Aquino, The Revised Penal Code, 1987 Ed., Vol. II, p. 351; U.S. v. Ngan Ping, 34 Phil. 660 [1916]; People v. Libag, 184 SCRA 707 [1990]; People v. Aranda, 226 SCRA 562 [1993].
- [32] People v. Burton, supra, citing Cruz, Isagani A., Constitutional Law, 1993 ed., p. 313; U.S. v. Lim Chingco, 15 Phil. 52 [1910].
- [33] People v. Burton, supra.

[34] *People v. Sotto*, 275 SCRA 191, 204-205 [1997]; citing *People v. Ponsica*, 230 SCRA 87 [1994].

[35] 355 SCRA 172, 194 [2001].

[36] *People v. Castillo, et al.*, 333 SCRA 506, 522 [2000].

[37] Revised Penal Code, Article 64.

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