

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDELMA LAGATA Y MANFOSTE, APPELLANT.

G.R. No. 135323. June 25, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Edelma Lagata was accused of having in her possession, custody and control Methamphetamine Hydrochloride or "shabu" without authority of law. The information reads:

That on or about the 10[th] day of December, 1996, in Pasay, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, EDELMA LAGATA Y MANFOSTE aka BABY, without authority of law, did then and there willfully, unlawfully and feloniously have in her possession, custody and control 257.422 grams of Methamphetamine Hydrochloride (SHABU), a regulated drug, without a corresponding license.

CONTRARY TO LAW.[1]

The case was docketed as Criminal Case No. 96-9539 of the RTC of Pasay City, Branch 110.

Upon arraignment on January 21, 1997, accused assisted by her counsel de parte pleaded not guilty to the crime charged against her.

After trial, the court rendered its judgment, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding the accused EDELMA LAGATA y MANFOSTE, GUILTY beyond reasonable doubt of the offense of Violation of Section 16 Article III in relation to Section 20 Republic Act 6425, as amended by Republic Act 7659, and hereby imposes on her the penalty of RECLUSION PERPETUA and condemns said accused to pay a fine of Five Hundred Thousand Pesos (P500,000.00) without subsidiary imprisonment in case of insolvency.

The 257.422 grams of Methamphetamine Hydrochloride or "shabu" (Exhibit "B", "B-1-a" "B-1-b") are hereby declared confiscated in favor of the government but in view of the fact that said specimen is in the possession of Forensic Chemist, Mrs. Lilia B. Ariola of the Forensic Chemistry Division of the National Bureau of Investigation, said Forensic Chemist or her duly authorized representative hereby ordered to cause the delivery and transportation thereof to the Dangerous Drugs Board for disposition in accordance with law.

The accused shall be credited in full for the period of her detention at the Pasay City Jail during the pendency of this case provided that she agreed in writing to abide by and comply strictly with the rules and regulations of the said City Jail.

SO ORDERED.[2]

On December 10, 1996, while appellant was tending her mother's store at 1742 Tramo St., Pasay City, a short and dark complexioned man wearing jeans and a pair of slippers approached and asked her to deliver a package wrapped in newspaper and placed in plastic bag to a certain Chinggay, a boarder in her mother's house. Fernando

Hernandez, one of the defense witnesses, was at the store buying softdrinks. Appellant did not examine the contents of the package and the man hurriedly left the store. She entered the living room of the house to give the package to Chinggay, who was in one of the rooms of the house, when she saw two men sitting on the sofa. The men approached her and introduced themselves as agents of the National Bureau of Investigation. The men took the package from her and opened it. To her surprise, it contained shabu. The NBI agents immediately arrested her.

Appellant does not deny the fact that at the time of her arrest she was in possession of the package which turned out to contain shabu. However, she denied knowledge of the contents of the package handed to her by the unidentified man.[3]

The prosecution has a different version of the events.

On November 27, 1996, Agents Dave Segunial and Rommel Vallejo of the Special Task Force Office of the National Bureau of Investigation received a tip from its informant that a certain "Baby" and "Chinggay", both residents of 1742 Tramo St., Pasay City, were engaged in drug trafficking. They were immediately instructed by their Executive Officer, Atty. Edmund Arugay, to conduct surveillance and validation of the information and, if found positive, to plan for a test buy or apply for a search warrant. Thus, they took pictures of the subject house and, on December 1, 1996, a test buy was conducted where their confidential informant, accompanied by Agent Vallejo, posed as buyer of shabu and Agent Segunial acted as their driver. They were able to buy P1,000.00 worth of substance weighing .1045 grams which, when submitted for laboratory examination, proved positive for shabu. The following day, they obtained a search warrant against "Baby" and "Chinggay" from the Regional Trial Court of Manila.

The team tried to serve the search warrant twice but their operations were aborted. On their first attempt, they were unable to gain entrance to the premises since the house had two steel gates and they could not force themselves into the premises, otherwise, the subjects will be able to dispose of the shabu and elude arrest. On the second occasion, they encountered watchers outside the house who, based on their experience, acted as look-out who would give signals to the subjects if they see suspicious looking people.

On December 10, 1996, at around 9:00 a.m., the team proceeded to the area with another confidential informant known to the subjects. When they arrived at the house, the informant talked to the person inside the store and they were allowed to enter the house. The first steel gate was opened by a man from across the street, while the second gate was opened by a lady who came from inside the house. They were led inside by another lady and were told to wait in the living room. A few minutes later, appellant entered the living room from the store, carrying a plastic bag. The informant gestured that she was Baby, one of the subjects. Agent Vallejo stood up and showed his badge. At the same time, Agent Segunial pressed the beeper to signal the rest of the team. Appellant cried, "huwag po, huwag po!" They confiscated the plastic bag with pink stripes, which contained two pouches of white crystalline substance, later found to be Methamphetamine Hydrochloride or shabu.

After appellant was arrested, Agent Vallejo heard running footsteps upstairs, so he immediately went up the stairs. He forcibly opened the door and saw a woman fleeing through another staircase at the back of the house. He chased the woman but failed to catch her.

The team searched the house but found no other articles or paraphernalia. At around that time, the media men and the barangay captain arrived.[4]

The only issue to be resolved in this appeal is whether or not appellant is guilty of the crime charged against her.

For one to be convicted of illegal possession of prohibited or regulated drugs, the following elements must concur: (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.[5]

In the case at bar, the presence of the first two elements of the offense is uncontroverted. Appellant does not deny that she had in her possession "shabu" at the time of her arrest. She certainly did not have the authority to possess the said regulated drug. What appellant contends to be wanting in this case is the third element.

Appellant maintained that the package of shabu did not belong to her; that she was merely asked to hand the package to a boarder in her mother's house; and that she was not aware of the contents thereof when it was handed to her. Even the prosecution failed to prove that she had knowledge of the contents of the package. Thus, it cannot be said that she was caught in flagrante delicto, since she was not consciously committing a crime when the NBI agents accosted her.[6]

The trial court, on the other hand, considered appellant's defense as absurd, preposterous and unworthy of belief.

We are very much aware of the well-settled rule that factual findings of the trial court deserve utmost respect and will not be disturbed on appeal because the trial court, unlike reviewing tribunals, had a firsthand opportunity to observe the demeanor and the conduct of the witnesses and could thus better assess their capacity to speak the truth.[7] Nevertheless, such rule admits of exceptions, such as when the trial court has overlooked certain facts or circumstances of substance and value, which if considered would change the result of the case. After a painstaking review of the records of the case, we find certain circumstances which if weighed would tilt the scales of justice in favor of appellant and cast a doubt on her guilt.

Anent the third element, we have held that possession of illegal drugs must be with knowledge of the accused or that animus possidendi existed together with the possession or control of said articles.[8] Knowledge refers to a mental state of awareness of a fact. Since courts cannot penetrate the mind of an accused and thereafter state its perceptions with certainty, resort to other evidence is necessary. Animus possidendi, as a state of mind, may be determined on a case-to-case basis by taking into consideration the prior or contemporaneous acts of the accused, as well as the surrounding circumstances. Its existence may and usually must be inferred from the attendant events in each particular case. [9]

The existence of animus possidendi is only prima facie. Thus, it is subject to contrary proof and may be rebutted by evidence that the accused did not in fact exercise power and control over the thing in question, and did not intend to do so.[10]

Under the facts and circumstances obtaining in this case, we find that appellant's explanation of how she came into possession of the package without knowing that it contained "shabu" is credible and sufficient to rebut the prima facie presumption of animus possidendi. Simply put, she just happened to be at the wrong place at the wrong time.

Appellant's narration was supported by credible corroboration from an unacquainted and disinterested person, Fernando Hernandez, who testified thus:

ATTY. OLIVETE

Q. Mr. witness, on Dec. 10, 1996 will you tell the Honorable Court where were you?

WITNESS

A. I was at the store buying softdrinks.

ATTY. OLIVETE

Q. Do you remember the location of that store?

WITNESS

A. Yes sir.

x x x x x x x x

ATTY. OLIVETE

Q. Why were you at the store at about 11:00 o'clock in the morning on that Dec. 10, 1996?

WITNESS

A. I was buying softdrinks while waiting for the owner of the house who went out to buy electrical materials for the construction of a nearby building.

COURT

Q. You mean to say there was nobody manning the sari-sari store?

WITNESS

A. There was Your Honor.

Q. After, or... as you were buying softdrinks at the store did you recall if you ever noticed something?

WITNESS

A. Yes sir.

ATTY. OLIVETE

Q. What is that thing you noticed while you were buying softdrinks at the store?

WITNESS

A. I chanced upon a person who did not buy and he was carrying with him a plastic bag sir.

ATTY. OLIVETE

Q. So you noticed a man arrived with a package, will you please tell the Court what this particular man did as he was beside in the store?

WITNESS

A. The plastic then he was carrying, he was then holding was handed to the person who was tending to the store.

COURT

Q. The man you said who gave something to the person inside the store, do you know him?

WITNESS

A. No, Your Honor.

COURT

Q. Have you ever seen that person prior to your seeing him the first time at the store?

WITNESS

A. No, Your Honor.

COURT

Q. The person to whom he gave that package did it appear to you that they know each other?

WITNESS

A. No answer.

COURT

Q. Do you feel that they do not know each other, just answer yes or no, why are you so evasive?

WITNESS

A. No, Your Honor, they do not know each other.

x x x x x x x x

ATTY. OLIVETE

Q. What did the man do when he went near the store?

WITNESS

A. The man who approached the store asked a favor from the person inside the store to give the package to a certain person whose name I could no longer recall sir.

ATTY. OLIVETE

Q. Could you recall the gender of the person to whom that particular package to be given?

WITNESS

A. It is a woman. The package is for a woman sir.

ATTY. OLIVETE

Q. And what did the person inside the store do when after the request for the package to be delivered was uttered?

WITNESS

A. The person went inside the house to get the softdrinks I was buying and to hand the package to that person who the package is addressed to, sir. [11]

Appellant's lack of knowledge of the contents of the plastic bag becomes all the more credible considering that when the NBI agents conducted a test buy to validate the tip given to them by their confidential informant, they relied entirely on the information that a certain "Baby" and "Chinggay" were selling "shabu". Agent Vallejo, narrating how the test buy was conducted, testified as follows:

COURT

Continue. Last question- that we asked was about you decided to have a test buy. What amount were you able to buy?

A P1,000 worth of shabu.

COURT

How many grams were you able to buy from that P1,000?

A We were able to purchase...

COURT

..Who acted as buyer?

A The informant, your Honor.

COURT

You mean to say the informant was admitted? In this sketch, there is a steel gate. According to you, you stayed outside the house.

A Yes, your Honor.

COURT

You were able to enter the gate?

A Yes, they opened the gate for us. It is bolted from inside. A lady unbolted the gate.

x x x x x x x x

COURT

Why did you not accompany the informant?

A I was not allowed to enter the house.

COURT

Who did not allow you to enter the house?

A The lady who opened the gate.

COURT

Is that lady the same accused?

A No, your Honor.

COURT

She is another person?

A Yes, your Honor.

COURT

Continue.

COURT

So you were just allowed inside the compound but your informant was able to enter.

A Yes, your Honor.

x x x x x x x x

FISCAL TILLADA

Mr. Vallejo, you said that the informant was able to buy shabu from the suspect. Did you come to know from whom the informant was able to buy the shabu?

A Yes, ma'am.

Q From whom?

A From Baby.

Q The informant later on told you that she was able to buy shabu from Baby.

A Yes, ma'am.[12]

When cross-examined, the witness further narrated, thus:

ATTY PAZZIUAGGAN

So you could not see what was happening from outside to the inside?

A Yes, ma'am.

Q So you have no personal knowledge of what transpired inside when your informant went inside the house?

A No.

Q And you merely relied on the information told to you afterwards?

A Yes, ma'am.

Q You had no way of checking the truth?

A We trusted our informant.[13]

The foregoing testimony reveals that the NBI agents had no personal knowledge that herein appellant was peddling shabu. In fact, they did not know the identity of the appellant before December 10, 1996, when they served the search warrant.[14] Only the informant who transacted the test buy saw the alleged pushers. This notwithstanding, the prosecution did not present the confidential informant as witness. We have held in many cases[15] that the testimony of the poseur-buyer becomes material and indispensable when the appellant denies having committed the prohibited act. Without the testimony of the poseur-buyer, more often than not, there is no convincing evidence that she did sell or possess the prohibited or regulated drug.[16] Especially if there are no other eyewitness to the illicit transaction, the non-presentation of the poseur buyer can be fatal to the case of the prosecution.[17] In fine, what they reportedly learned from the informant was indubitably hearsay as the latter was never called to appear and testify at the trial.[18]

The likelihood of having mistaken appellant as the pusher is further bolstered by the fact that during the search, the NBI agents employed another confidential asset other than the one who acted as the poseur buyer during the test buy. Furthermore, as testified to by Agent Vallejo, there were three ladies inside the house, including the appellant. The first lady was the one who opened the gate, the second lady was the one who brought them in the house and went upstairs, and the third lady was appellant, who entered the living room through the door connecting to the store.[19] NBI agents placed too much reliance on their informants that a certain Baby lived in the house subject of the search warrant, making no initiatives to find out whether it was true, or at the very least ascertain the identity of the alleged "pushers".

True, appellant was arrested while in possession of the regulated drug. This fact is not denied. However, appellant's lack of knowledge of the contents of the plastic bag casts a reasonable doubt as to her guilt. Her guilt cannot be sustained where the prosecution's evidence is anchored on shaky foundations. The prosecution has the onus probandi of establishing the guilt of the accused beyond reasonable doubt.[20] Much as we abhor the proliferation of drug pushers, we cannot allow the incarceration of an individual based on insufficient factual nexus of said person's participation in the commission of the offense.[21]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Pasay City, Branch 110, in Criminal Case No. 96-9539, finding appellant Edelma Lagata y Manfoste guilty beyond reasonable doubt of violation of Section 16, Article III, Republic Act No. 6425 (The Dangerous Drugs Act of 1972), as amended, is REVERSED and SET ASIDE. Appellant is ACQUITTED of the offense charged on the ground of reasonable doubt. She is ordered RELEASED from detention unless she is being held for some other lawful cause.

Costs de oficio.

SO ORDERED.

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

[1] Records, p. 1.

[2] Rollo, p. 30, penned by Judge Porfirio G. Macaraeg.

[3] Rollo, Brief for Accused Appellant, pp. 57-82.

[4] See Decision, *supra*.

[5] *People v. Khor*, 366 Phil. 762, 745 [1999], cited in *People v. De Guzman*, G.R. Nos. 117952-53, 14 February 2001, 351 SCRA 573, 587.

[6] Rollo, Brief for Accused-Appellant, pp. 69-74.

[7] *People v. Cordero*, G.R. Nos. 136894-96, 7 February 2001, 351 SCRA 383, 396.

[8] *People v. Tee*, G.R. Nos. 140546-47, January 20, 2003.

[9] *People v. Burton*, 335 Phil 1003, 1024-1025 [1997].

[10] *Ibid.*

[11] TSN, January 22, 1998, pp. 7-12.

[12] TSN, June 6, 1997, pp. 9-11.

[13] *Ibid.*, p. 34.

[14] See TSN, June 6, 1997, p. 40.

[15] *People v. Fider*, G.R. No. 105285, 3 June 1993, 223 SCRA 117; *People v. Sillo*, G.R. No. 91001, 18 September 1992, 214 SCRA 74; *People v. Tantiado*, G.R. Nos. 92795-96, 2 September 1992, 213 SCRA 365; *People v. Fulgarillas*, G.R. No. 91160, 4 August 1992, 212 SCRA 76; *People v. Olaes*, G.R. No. 76547, 30 July 1990, 188 SCRA 91; *People v. Ramos*, G.R. Nos. 85401-02, 4 June 1990, 186 SCRA 184; *People v. Sahagun*, G.R. No. 62024, 12 February 1990, 182 SCRA 91 [1990]; *People v. Rojo*, G.R. No. 82737, 5 July 1989, 175 SCRA 119; *People v. Ale*, 229 Phil. 81 [1986].

[16] *People v. Ramos*, G.R. Nos. 85401-02, 7 June 1990.

[17] *People v. Uy*, G.R. No. 129019, 16 August 2000, 338 SCRA 232, 224.

[18] *People v. Olaes*, G.R. No. 76547, 30 July 1990,

[19] *Ibid.*, p. 20.

[20] *People v. Melosantos*, 315 Phil. 622, 647 [1995].

[21] *Ibid.*

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