PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO PAREDES Y SAUQUILLO, ACCUSED-APPELLANT.

G.R. No. 136105. October 23, 2001

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

Under automatic review is the decision[1] dated 30 September 1998 of the Regional Trial Court of Imus, Cavite, Branch 21 in Criminal Case No. 6332-98, finding accused-appellant Antonio Paredes y Sauquillo (hereafter ANTONIO), guilty of the violation of Section 15, Article III of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as further amended by R.A. No. 7659,[2] and sentencing him to suffer the penalty of death by lethal injection and to pay a fine of P500,000 and the costs.

ANTONIO was charged and tried under an Information[3] whose accusatory portion reads as follows:

> That on or about the 20th day of April 1998, in the Municipality of Imus, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, accused, not being authorized by law did, then and there, willfully, unlawfully and feloniously, sell, deliver and distribute to poseur-buyer 108.74 grams and 108.07 grams having a total weight of 216.81 grams of Methamphetamine Hydrochloride commonly known as "Shabu", a regulated drug, in violation of the provisions of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972.
>
> CONTRARY TO LAW.

ANTONIO entered a plea of not guilty upon his arraignment.[4]

At the trial on the merits, the prosecution presented as its witnesses SPO1 Joseph Yatco and PO3 Wilfredo Luna.

Joseph Yatco, a member of the Philippine National Police (PNP) assigned at the Cavite Provincial Narcotics Office in Camp General Pantaleon Garcia in Imus, Cavite, testified that on 20 April 1998 at about 1:00 A.M., he and a confidential informant went to the house of ANTONIO in Anabu II, Imus, Cavite, for the purpose of conducting a buy-bust operation. Joseph acted as poseur-buyer. Inside the house, he and the informant told ANTONIO that they wanted to buy shabu worth TWO HUNDRED THOUSAND PESOS (P200,000). ANTONIO said that he still had to prepare the merchandise. Thus, he told them to come back at 5:00 A.M. on the same date.[5] Subsequently, as instructed, Joseph returned to ANTONIO's house at 5:00 A.M. This time, the informant was not with him. He was accompanied by PO3 Wilfredo Luna, also a member of the PNP Narcotics Division at Camp Garcia in Imus, Cavite. Joseph introduced Wilfredo as his financier. ANTONIO asked them if they had money. The police officers showed two bundles of money.[6] The money was placed on the dining table in the kitchen where they were having the transaction. Upon seeing the money, ANTONIO took out from his black belt bag two (2) transparent plastic bags containing white crystalline substance and placed the items on the table. The police officers examined the substance. After ascertaining that it was shabu, Joseph and Wilfredo identified themselves as police officers. ANTONIO, who had a heart ailment, fainted so the police officers brought him to De la Salle University Medical Center in Dasmariñas, Cavite where he was confined for two (2) days under a

police guard. After discharge from the hospital, ANTONIO was then brought to Camp General Pantaleon Garcia for investigation.[7]

Joseph further declared that they brought the shabu contained in two transparent plastic bags inside a black bag (Exhibit "C") to Camp Vicente Lim Crime Laboratory for examination. The examination revealed that it was in fact shabu weighing more than 200 grams.[8]

Wilfredo Luna corroborated the testimony of Joseph.[9] Wilfredo further declared that upon qualitative examination, the contents of the two big heat-sealed transparent bags were found to be positive for methamphetamine hydrochloride otherwise known as "shabu."[10]

The testimony of Chief Forensic Chemist Mary Jean Geronimo of the Philippine National Police Crime Laboratory Office 4 in Camp Vicente Lim, Calamba, Laguna, who examined the subject matter of the buy-bust operation in this case and issued the Chemistry Report, Exhibit "B,"[11] was dispensed with in view of the stipulations of the parties.[12]

Exhibit "B" shows that the specimens submitted for examination were two big heat-sealed transparent plastic bags containing white crystalline substance weighing 108.74 and 108.07 grams placed inside a zippered black waist bag which gave positive result to the test for the presence of methamphetamine hydrochloride (shabu), a regulated drug.

The sole witness for the defense was ANTONIO. His testimony was brief. He denied that the black belt bag and the shabu were confiscated from him. He averred that on 20 April 1998 at about 5:00 A.M., he was awakened by knocks on the door of his house. When he opened the door, six persons barged in and announced a raid. He was so surprised that he collapsed. When he regained consciousness he found himself already at De la Salle University Medical Center in Dasmariñas, Cavite.[13]

In the decision mentioned in the opening paragraph of this ponencia the trial court gave credence to the testimonies of the prosecution witnesses, upheld the presumption of regularity on the part of the police officers in the performance of their functions, rejected ANTONIO's version of the incident, and found him guilty as charged.

In view of the penalty imposed, the case was automatically elevated to us for review pursuant to Article 47 of the Revised Penal Code, as amended by Section 22 of R.A. No. 7659.

In his lone assignment of error, ANTONIO argues that the trial court erred in its conclusion that a buy-bust operation really took place, thus finding him guilty as charged.[14] He asserts that there are inconsistencies in the testimonies of the prosecution witnesses which impair their credibility. First, Wilfredo Luna claimed that on 20 April 1998, at about 1:00 A.M., he was in Anabu, Imus, Cavite, with Joseph Yatco and SPO3 Amado Antonio to conduct a buy-bust operation against ANTONIO.[15] Yatco, on the other hand, declared that at that time, he was in ANTONIO's house with a confidential informant, where he negotiated to buy 200 grams of shabu. There was no mention of Wilfredo and SPO3 Antonio.[16] Second, Luna said that the buy-bust operation took place in a very short span of time but Joseph testified that the transaction took place for about thirty (30) minutes.[17] Moreover, ANTONIO theorizes that if the buy-bust operation lasted for half an hour, it is contrary to human reason that he continued with the transaction especially that the police officers were armed and sported military haircut.

The issue before us deals with the credibility of the witnesses. Oftentimes, the credibility of prosecution witnesses is put to question in appeals of this nature. We have repeatedly held that we will not interfere with the trial court's determination of the credibility of witnesses, unless there appears on record some fact or circumstance of weight and influence which has been overlooked or the significance of which has been misinterpreted. The reason for this

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is that the trial court is in a better position to do so because it heard the witnesses testify before it and had every opportunity to observe their demeanor and deportment on the witness stand.[18] In this case, no reason exists to justify a departure from this rule. The trial court has found the prosecution's evidence to be "clear and straightforward" and very credible. Our own assessment of the testimonies of Wilfredo and Joseph as reflected in the transcript of stenographic notes convinces us of their credibility.

Besides, there is at all no evidence of any improper or ulterior motive on the part of Wilfredo Luna and Joseph Yatco which might have compelled them to testify falsely against ANTONIO. The presumption that the witnesses were not so actuated stands and the testimonies given are entitled to full faith and credit.[19]

The two alleged inconsistencies pointed to by ANTONIO are more apparent than real. First, a close scrutiny of the transcript of stenographic notes would disclose that at 1:00 A.M. of 20 April 1998, police officers Luna, Yatco and SPO3 Antonio were in Anabu, Imus, Cavite where ANTONIO's house was located.[20] Only Joseph and the confidential informant went inside the house while Luna stayed nearby. Yatco thus told the truth when he said that only the informant was with him in ANTONIO's house.[21] This testimony is not also inconsistent with Luna's statement that he was nearby, although outside the house.[22]

Second, ANTONIO's assertion that Luna said that the buy-bust operation lasted for "a very short span of time" is misleading since the transcript never showed that Luna gave an estimate on the duration of the buy-bust operation. Hence, the alleged inconsistency has no factual basis. Assuming, gratis argumenti, that indeed there was an inconsistency, it is too trivial to affect the credibility of the witnesses. Inconsistencies as to minor details and collateral matters do not affect the credibility of the witnesses nor the veracity or weight of their testimonies. Such minor inconsistencies may even serve to strengthen their credibility as they negate any suspicion that the testimonies have been rehearsed.[23]

ANTONIO states that the fact that the police officers were carrying guns and wore military haircut would definitely alert him that they were police officers. Hence, it is incredible that he would sell his illegal merchandise to them. We are not persuaded. No proof was ever presented that the guns were flagrantly displayed. In fact, Luna testified that his pistol was hidden.[24] Also, contrary to ANTONIO's claim, Luna testified that during the buy-bust operation he did not have a military haircut.[25] Assuming that ANTONIO knew that Luna and Yatco were police officers, such awareness would not guarantee that he would be deterred from selling his illegal merchandise. Knowledge by the accused that the poseur-buyer is a policeman is not a ground to support the theory that the accused could not have sold narcotics to the latter.[26] As we have noted many times, drug pushers have become increasingly daring in the operation of their illicit trade and have not hesitated to act openly, almost casually and even in scornful violation of the law, in selling prohibited drugs to any and all buyers. In real life, pushers, especially small quantity or retail pushers, sell their prohibited wares to customers, be they strangers or not, who have the price of the drug, and this fact we have recognized.[27]

As between the positive declarations of the police officers and ANTONIO's uncorroborated denial, the former deserve more credence and are entitled to greater evidentiary weight. It has been repeatedly held that credence shall be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there be evidence to the contrary.[28]

In view of the foregoing, we are fully convinced that ANTONIO's guilt for the offense charged had been proven beyond reasonable doubt. The governing law is Section 15 of R.A. 6425 which, as amended, reads:

> SEC. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution 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, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug.
>
> Notwithstanding the provisions of Section 20 of this Act to the contrary, if the victim of the offense is a minor, or should a regulated drug involved in any offense under this Section be the proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed.

What constitutes sale of an illegal drug is defined in Section 2, paragraph (o) of R.A. 6425, as amended, which states:

> (o) "Sell" -- means the act of giving a dangerous drug, whether for money or any other material consideration;

In this case, the sale of a regulated drug was sufficiently established by the testimonies of Joseph Yatco and Wilfredo Luna. The first was the poseur-buyer; the second personally witnessed the consummation of the transaction and did not waver in his testimony even on cross-examination.

While we affirm the trial court's judgment of conviction, we do not agree with its imposition of the death penalty. The penalty of reclusion perpetua to death prescribed in the aforesaid Section 15, as amended, is applicable in the case of shabu only if the quantity thereof is 200 grams or more pursuant to Section 20 of R.A. No. 6425, as amended by Section 17 of R.A. No. 7659. However, pursuant to the second paragraph of Section 15, and in light of our interpretation of said Section 20, as amended, in People vs. Simon,[29] the penalty of death is mandatory if the victim of the offense is a minor or if the drug involved is the proximate cause of the death of the victim. Pursuant to Section 24 of R.A. No. 6425, as amended by Section 19 of R.A. No. 7659, the imposition of the death penalty is also mandatory if the accused found guilty of such offense is a government official, employee or officer, or a member of police agencies or the armed forces.

In the case at bar, the quantity of the shabu involved is more than 200 grams. The prescribed penalty therefore is reclusion perpetua to death. No circumstance or condition which renders mandatory the imposition of the death penalty is present in this case. Consequently the imposition of the death penalty will depend entirely on the presence of aggravating circumstances pursuant to Article 63 of the Revised Penal Code, which is applicable in this case under the rule we laid down in People vs. Simon.[30] Pursuant to said Article 63, if the penalty prescribed by law is imposed of two indivisible penalties, the lesser penalty shall be imposed if neither mitigating nor aggravating circumstances are present in the commission of the crime. Fortunately for ANTONIO, the Information against him does not allege any aggravating circumstance; and no mitigating circumstance has been proven. The penalty to be imposed should, therefore, be reclusion perpetua, which is the lesser of the two indivisible penalties prescribed in Section 15 of R.A. No. 6425, as amended by R.A. No. 7659.

WHEREFORE, the decision of 30 September 1998 of the Regional Trial Court, Branch 21, of Imus, Cavite, in Criminal Case No. 6332-98 finding ANTONIO PAREDES y SAUQUILLO, guilty beyond reasonable doubt of the violation of Section 15, Article III of R.A. 6425, as amended, and sentencing him to suffer the death penalty and to pay a FINE of P500,000 and to pay the costs is hereby AFFIRMED, with the modification that the penalty of death is reduced to reclusion perpetua, with all the accessory penalties thereof.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.
Vitug, J., on official leave.

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[1] Original Record (OR), 87-89; Rollo, 10-12. Per Judge Roy S. del Rosario.

[2] Entitled An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, As Amended, Other Special Penal Laws, And for Other Purposes.

[3] OR, 1.

[4] Id., 21.

[5] TSN, 27 July 1998, 3-6.

[6] Actually, these were all bills of fake money, except two P1,000 bills, each placed on top of each bundle, and later marked as Exhibits "D" and "E," and identified by witness Joseph Yatco.

[7] TSN, 27 July 1998, 7-17.

[8] Id., 14.

[9] TSN, 13 July 1998, 2-21.

[10] Id., 14-15; OR, 11.

[11] OR, 32.

[12] Id., 31.

[13] TSN, 17 August 1998, 4-8.

[14] Rollo, 52.

[15] TSN, 13 July 1998, 3-5.

[16] TSN, 27 July 1998, 4-6,18.

[17] Rollo, 55-56.

[18] People v. Conde, 330 SCRA 645, 652 [2000].

[19] People v. Excija, 258 SCRA 424 [1996].

[20] TSN, 13 July 1998, 3-4.

[21] TSN, 27 July 1998, 4-6, 18.

[22] TSN, 13 July 1998, 7-8.

[23] People v. Amazan, G.R. Nos. 136251, 138606 and 138607, 16 January 2001.

[24] TSN, 20 July 1998, 6.

[25] Id., 7.

[26] See People v. Alegro, 275 SCRA 216 [1997].

[27] People v. Salamat, 225 SCRA 499, 507 [1993].

[28] People v. Uy, 327 SCRA 335, 349 [2000].

[29] G.R. No. 93028, 29 July 1994; 234 SCRA 555. We ruled therein that the penalty of reclusion perpetua to

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death is imposable only if the quantity of the drugs involved is in excess of that provided for in the first paragraph of Section 20 of R.A. No. 6425, as amended by Section 17 of R.A. No. 7659. If the quantity involved is less than that provided in the said paragraph, the penalty ranges from prision correccional to reclusion temporal depending upon the quantity.

[30] Id., at pp. 573-579.

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