

## PEOPLE OF THE PHILIPPINES, APPELLEE, VS. AMADEO TIRA AND CONNIE TIRA, APPELLANTS.

*G.R. No. 139615. May 28, 2004*

Ponente: CALLEJO, SR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-139615/>

---

### CALLEJO, SR., J.:

This is an appeal of the Decision[1] of the Regional Trial Court of Pangasinan, Branch 46, finding appellants Amadeo Tira and Connie Tira guilty beyond reasonable doubt of violating Section 16, in relation to Section 20, Article III of Republic Act No. 6425, known as the Dangerous Drugs Act of 1972, as amended by Rep. Act No. 7659, sentencing each of them to suffer the penalty of reclusion perpetua and ordering each of them to pay a fine of P1,000,000.[2]

### The Indictment

The appellants Amadeo Tira and Connie Tira were charged in an Information which reads:

That on or about March 9, 1998, in the Municipality of Urdaneta, province of Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, did then and there willfully, unlawfully and feloniously have in their possession, control and custody the following:

- Three (3) (sic) sachets of shabu
- Six (6) pieces opened sachets of shabu residue
- One (1) brick of dried marijuana leaves weighing 721 grams
- Six disposable lighter
- One (1) roll Aluminum Foil
- Several empty plastics (tea bag)
- Cash money amounting to P12,536.00 in different denominations believed to be proceeds of the contraband.

without first securing the necessary permit/license to possess the same.

CONTRARY to SEC. 8 in relation to Sec. 20 of RA 6425, as amended.[3]

### The Case for the Prosecution[4]

In the evening of February 24, 1998, SPO3 Asidelio Manibog received a verbal instruction from the Chief of Police Superintendent Wilson R. Victorio to conduct surveillance operations on the house of Amadeo Tira and Connie Tira at Perez Extension Street because of reported rampant drug activities in the said area. Manibog formed a team composed of SPO1 Renato Cresencia, PO3 Reynaldo Javonilla, Jr. and PO3 Efren Abad de Vera to conduct the ordered surveillance.

At around 8:00 p.m., the group, clad in civilian clothes, arrived at Perez Extension Street. As they stationed

themselves in the periphery of a store, they observed that more than twenty persons had gone in and out of the Tira residence. They confronted one of them, and asked what was going on inside the house. The person revealed that Amadeo Tira sold shabu, and that he was a regular customer. The group went closer to the house and started planning their next move. They wanted to pose as buyers, but hesitated, for fear of being identified as PNP members. Instead, they stayed there up to 12:00 midnight and continued observing the place. Convinced that illegal activities were going on in the house, the policemen returned to the station and reported to P/Supt. Wilson R. Victorio. After hearing their report, P/Supt. Victorio instructed his men to make an affidavit of surveillance preliminary to an application for a search warrant.[5]

On March 6, 1998, SPO3 Asidelio Manibog, PO3 Efren Abad de Vera, SPO1 Renato Cresencia and PO2 Reynaldo Soliven Javonilla, Jr. executed an Affidavit of Surveillance, alleging, inter alia, that they were members of the Drug Enforcement Unit of Urdaneta, Pangasinan, and that in the evening of February 24, 1998, they confirmed reports of illegal drug-related activities in the house of the spouses Amadeo and Connie Tira.[6] On March 6, 1998[7] Police Chief Inspector Danilo Bumatay Datu filed an Application for a Search Warrant in the Municipal Trial Court of Urdaneta, Pangasinan, attaching thereto the affidavit of surveillance executed by his men and a sketch of the place to be searched.[8]

Satisfied with the testimonies of SPO3 Manibog, PO3 de Vera, SPO1 Cresencia and PO2 Javonilla, Jr., Judge Aurora A. Gayapa issued a search warrant commanding the applicants to make an immediate search of the Tira residence at anytime of the day or night, particularly the first room on the right side, and the two rooms located at Perez south, and forthwith seize and take possession of the following items:

- Poor Man's Cocaine known as Shabu;
- Drug-Usage Paraphernalia; and
- Weighing scale.[9]

P/Sr. Inspector Ludivico Bravo, and as head of the team, with SPO3 Cariaga, PO3 Concepcion, Cariño, Galima, Villaroya, Andaya, SPO1 Mario Tajon, SPO1 Asterio Dismaya, SPO1 Renato Cresencia, and PO3 Reynaldo Javonillo were directed to implement the search warrant.[10] They responded and brought Barangay Kagawad Mario Conwi to witness the search.[11] At 2:35 p.m. on March 9, 1998, the team proceeded to the Tira residence. The men found Ernesto Tira, the father of Amadeo, at the porch of the house. They introduced themselves and told Ernesto that they had a warrant authorizing them to search the premises. Ernesto led them inside. The policemen found the newly awakened Amadeo inside the first room[12] of the house.[13] With Barangay Kagawad Conwi and Amadeo Tira, the policemen proceeded to search the first room to the right (an inner room) and found the following under the bed where Amadeo slept:[14]

- 9 pcs. suspected methamphetamine hydrochloride placed in heat-sealed transparent plastic sachets
- roll aluminum foil
- several empty plastic transparent
- used and unused aluminum foil[15]
- disposable lighters
- 1 sachet of shabu confiscated from Nelson Tira[16]

They also found cash money amounting to P12,536 inside a shoulder bag placed on top of the television, in the following denominations:

1 pc. -P1,000.00 bill  
4 pcs. - 500.00 bill  
52 pcs. - 100.00 bill  
36 pcs. - 50.00 bill  
100 pcs. - 20.00 bill  
53 pcs. - 10.00 bill  
1 pc. - 5.00 bill  
1 pc. - 1.00 coin[17]

The policemen listed the foregoing items they found in the house. Amadeo's picture was taken while he was signing the said certification.[18] Ernesto (Amadeo's father), also witnessed the certification.

A joint affidavit of arrest was, thereafter, executed by SPO3 Asidelio Manibog, SPO1 Mario C. Tajon, SPO1 Asterio T. Dismaya, SPO1 Renato M. Cresencia and PO3 Reynaldo S. Javonilla, Jr. for the apprehension of Amadeo Tira and Nelson Tira who were brought to the police station for custodial investigation. The articles seized were turned over to the PNP Crime Laboratory, Urdaneta Sub-Office, for examination.[19] In turn, a laboratory examination request was made to the Chief of the Philippine National Police Service-1, Sub-Office, Urdaneta, Pangasinan for the following:

- Three (3) sachets of suspected methamphetamine hydrochloride approximately 0.5 grams;
- Six (6) opened sachets of suspected methamphetamine hydrochloride (SHABU) residue;
- Twenty-four (4) pieces of dried marijuana leaves sachet; and
- One (1) heat-sealed plastic sachet of suspected methamphetamine hydrochloride confiscated from the possession of Nelson Tira.[20]

On March 10, 1998, P/Supt. Wilson R. Victorio executed a Compliance/Return of Search Warrant.[21]

On March 17, 1998, the PNP Crime Laboratory Group in Physical Science Report No. DT-057-98 reported that the test conducted by Police Superintendent/Chemist Theresa Ann Bugayong-Cid,[22] yielded positive for methamphetamine hydrochloride (shabu) and marijuana. The report contained the following findings:

"A1 to A3, "B1 to B6," "E" – POSITIVE to the test for methamphetamine hydrochloride (shabu), a regulated drug.

"C" and "D1 to D4" – POSITIVE to the test for marijuana, a prohibited drug.

CONCLUSION:

Specimens A1 to A3, B1 to B6 and E contain methamphetamine hydrochloride (Shabu) and specimens C and D1 to D24 contain marijuana.[23]

A criminal complaint was filed by P/Supt. Wilson R. Victorio against Amadeo Tira and Connie Tira on March 10, 1998 for violation of Rep. Act No. 6425, as amended.[24] After finding probable cause, Assistant Provincial Prosecutor Rufino A. Moreno filed an Information against the Tira Spouses for illegal possession of shabu and marijuana, in violation of Section 8, in relation to Section 20 of Rep. Act No. 6425.[25] A warrant of arrest was issued against Connie Tira on May 13, 1998. However, when the policemen tried to serve the said warrant, she could not be found in the given address.[26] She was arrested only on October 6, 1998.[27]

During the trial, the court conducted an ocular inspection of the Tira residence.[28]

The Case for Accused Amadeo Tira[29]

Amadeo Tira denied the charge. He testified that he was a furniture delivery boy[30] who owned a one-storey

bungalow house with two bedrooms and one master's bedroom. There was also another room which was divided into an outer and inner room; the latter room had no windows or ventilation. The house stood twenty meters away from Perez Extension Street in Urdaneta, Pangasinan, and could be reached only by foot.[31] He leased the room located at the western portion to his nephew Chris Tira[32] and the latter's live-in-partner Gemma Lim for four hundred pesos a month.[33] Chris and Gemma were engaged in the buying and selling of bananas. He denied that there were young men coming in and out of his house.[34]

In the afternoon of March 6, 1998, he was in his house sleeping when the policemen barged into his house. He heard a commotion and went out of the room to see what it was all about, and saw police officers Cresencia, Javonilla and Bergonia, searching the room of his nephew, Chris Tira. He told them to stop searching so that he could contact his father, Ernesto, who in turn, would call the barangay captain. The policemen continued with their search. He was then pulled inside the room and the policemen showed him the items they allegedly found.[35]

Barangay Kagawad Mario Conwi testified that on March 9, 1998, while he was at Calle Perez, Urdaneta, Pangasinan, Capt. Ludivico Bravo asked to be accompanied to the Tira residence. Capt. Bravo was with at least ten other policemen. As they parked the car at Calle Perez, the policemen saw a man running towards the direction of the ricefields. Kagawad Conwi and some of the policemen chased the man, who turned out to be Nelson Tira. One of the policemen pointed to a sachet of shabu which fell to the ground near Nelson. The policemen arrested him and proceeded to the house of Amadeo Tira to serve the warrant.[36] When they reached the house, the other policemen were waiting. He saw Amadeo and Connie Tira sitting by the door of the house in the sala. Thereafter, he and the policemen started the search.[37] They searched the first room located at the right side (if facing south),[38] and found marijuana, shabu, money and some paraphernalia.[39] An inventory of the items seized was made afterwards, which was signed by Capt. Bravo and Ernesto Tira.[40]

Alfonso Gallardo, Amadeo's neighbor, testified that he was the one who constructed the Tira residence and that the house initially had two rooms. The first room was rented out, while the second room was occupied by the Spouses Amadeo and Connie Tira.[41] Subsequently, a divider was placed inside the first room.[42] He also testified that his house was only three (3) meters away from that of the Tiras, and that only a toilet separated their houses.[43] He denied that there were many people going in and out of the Tira residence.[44]

#### The Ruling of the Trial Court

The trial court rendered judgment on September 24, 1998, finding Amadeo Tira guilty beyond reasonable doubt of illegal possession of 807.3 grams of marijuana and 1.001 gram of shabu. The decretal portion of its decision is herein quoted:

WHEREFORE, JUDGMENT is hereby rendered CONVICTING beyond reasonable doubt accused AMADEO TIRA for Illegal Possession of Marijuana weighing 807.3 grams and shabu weighing 1.001 gram penalized under Article III, Sections 16 and 20, of Republic Act 6425, known as [the] Dangerous Drugs Act of 1972, as amended by Republic Act 7659. The Court sentences Amadeo Tira to suffer the penalty of Reclusion Perpetua and a fine of P1,000,000.00.

The amount of P12,536.00 is hereby forfeited in favor of the government which forms part of the fine; the marijuana weighing 807.3 grams and shabu weighing 1.001 gram are hereby forfeited in favor of the government; the disposable lighter and the aluminum foil are likewise forfeited in favor of the government.

The Branch Clerk of Court of this Court is hereby ordered to prepare the mittimus.

The Warden, Bureau of Jail Management and Penology (BJMP) is hereby ordered to transmit the person of Amadeo Tira to the National Bilibid Prison with proper escort within fifteen (15) days upon receipt of this

Order.[45]

The trial court upheld the validity of Search Warrant No. 3 issued by Judge Aurora Gayapa. It found Amadeo's defense, that the room where the items were seized was rented out to the couple Cris Tira and Gemma Lim, unsubstantiated. It held that Amadeo, as owner of the house, had control over the room as well as the things found therein and that the inner room was a secret and practical place to keep marijuana, shabu and related paraphernalia.[46]

Amadeo appealed the decision.[47]

#### The Case Against Connie Tira

After her arrest, Connie filed a motion to quash search warrant,[48] alleging that the police officers who applied for the said warrant did not have any personal knowledge of the reported illegal activities. She contended that the same was issued in violation of Section 4, Rule 126 of the Rules of Court, as the judge issued the search warrant without conducting searching questions and answers, and without attaching the records of the proceedings. Moreover, the search warrant issued was in the nature of a general warrant, to justify the "fishing expedition" conducted on the premises.

On October 26, 1998, the presiding judge ordered Judge Aurora A. Gayapa to forward the stenographic notes of the applicant and the witnesses.[49] Connie was arraigned on November 9, 1998, pending the resolution of the motion. She pleaded not guilty to the charge of illegal possession of shabu and marijuana.[50] The trial court thereafter issued an Order on November 11, 1998, denying the motion to quash.[51] It did not give credence to the allegations of Connie Tira, and found that Judge Gayapa issued the search warrant after conducting searching questions, and in consideration of the affidavit of witness Enrique Milad.

Connie testified that she was engaged in the business of buying and selling of fruits, while her husband was employed at the Glasshouse Trading. One of the rooms in their house was occupied by their three boarders, two male persons and one female.

In the afternoon of March 9, 1998, she and her husband Amadeo were in their house, while their boarders were in their respective rooms. At 2:30 p.m., she was in the kitchen taking care of her one-year-old child. She had other three children, aged eight, four, and three, respectively, who were watching television. Her husband Amadeo was sleeping in one of the rooms. Suddenly, five policemen barged into their house and searched all the rooms. The policemen found and seized articles in the room occupied by one of their boarders. They arrested Amadeo, and her brother-in-law, Nelson Tira, and brought them to the police station. The boarders, however, were not arrested.

Joy Fernandez, a neighbor of the Tiras, lived approximately ten meters away from the latter. Since they had no television, she frequently went to her neighbor's house to watch certain programs. In the afternoon of March 9, 1998, she was at the Tira residence watching "Mirasol," while Connie was in the kitchen nursing her baby. Suddenly, about five or ten persons ran inside the house and handcuffed Amadeo Tira.[52]

#### The Ruling of the Trial Court

The trial court found Connie Tira guilty beyond reasonable doubt of illegal possession of 807.3 grams of marijuana and 1.001 gram of shabu. The dispositive portion of the decision reads:

WHEREFORE, JUDGMENT is hereby rendered CONVICTING beyond reasonable doubt accused CONNIE TIRA for Illegal Possession of Marijuana weighing 807.3 grams and shabu weighing 1.001 gram penalized under Article III, Section 16 and 20, of Republic Act 6425, known as [the] Dangerous Drugs Act of 1972, as

amended by Republic Act 7659, the Court sentences Connie Tira to suffer the penalty of Reclusion Perpetua and a fine of P1,000,000.00.

The amount of P12,536.00 is hereby forfeited in favor of the government which forms part of the fine; the marijuana weighing 807.3 grams and shabu weighing 1.001 gram are hereby forfeited in favor of the government; the disposable lighter and the aluminum foil are, likewise, forfeited in favor of the government.

The Warden, Bureau of Jail Management and Penology (BJMP) is hereby ordered to transmit the person of Connie Tira to the National Bilibid Prisons with proper escort within fifteen (15) days upon receipt of his Order.[53]

The trial court did not believe that Connie Tira had no knowledge, control and possession of the shabu and marijuana found in the first or inner room of their house. It stressed that Connie and Amadeo Tira jointly controlled and possessed the shabu and marijuana that the policemen found therein. It ratiocinated that it was unusual for a wife not to know the existence of prohibited drugs in the conjugal abode. Thus, as husband and wife, the accused conspired and confederated with each other in keeping custody of the said prohibited articles.[54] The court also held that Connie Tira's flight from their house after the search was an indication of her guilt. Connie, likewise, appealed the decision.[55]

#### The Present Appeal

In their brief, the appellants Amadeo and Connie Tira assigned the following errors committed by the trial court:

I

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANTS DESPITE FAILURE ON THE PART OF THE PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE SEARCH WAS ILLEGALLY MADE.

III

ASSUMING THAT ACCUSED-APPELLANT AMADEO TIRA IS GUILTY AS CHARGED, THE TRIAL COURT ERRED IN HOLDING THAT THERE WAS A CONSPIRACY BETWEEN HIM AND HIS WIFE CONNIE TIRA.[56]

The Court shall resolve the assigned errors simultaneously as they are interrelated.

The appellants contend that the search conducted by the policemen in the room occupied by Chris and Gemma Lim, where the articles and substances were found by the policemen, was made in their absence. Thus, the search was made in violation of Section 7, Rule 126 of the Rules of Criminal Procedure, which provides:

SEC. 7. Search of house, room, or premise, to be made in presence of two witnesses. – No search of house, room, or any other premise shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, in the presence of two witnesses of sufficient age and discretion residing in the same locality.

The appellants posit that the articles and substances found by the policemen in their house are inadmissible in evidence, being the fruits of a poisonous tree. Hence, they contend, they should have been acquitted of the crime charged. The appellants further assert that the prosecution failed to prove that they owned the prohibited drugs, and that the same were in their possession and control when found by the policemen. They insist that it cannot be presumed that they were in control and possession of the said substances/articles simply because they owned the house where the same were found, considering that the room was occupied by Chris Tira and his live-in partner, Gemma Lim.

The appellant Connie Tira avers that she never fled from their house after the policemen had conducted the search. Neither was she arrested by the policemen when they arrested her husband.

The appeals have no merit.

Contrary to the appellants' claim, appellant Amadeo Tira was present when the policemen searched the inner room of the house. The articles and substances were found under the bed on which the appellant Amadeo Tira slept. The policemen did not find the said articles and substances in any other room in the house:

**Q**

So when you reached the house of Amadeo Tira at the Tira's compound, you saw the father and you told him you are implementing the Search Warrant and your group was allowed to enter and you are allowed to search in the presence of Amadeo Tira?

**A**

Yes, Sir.

**PROS. DUMLAO**

Q In the course of your search, what did you find?

**WITNESS:**

A We found out suspected marijuana leaves, Sir.

Q Where, in what particular place did you find?

A Under the bed inside the room of Amadeo Tira, Sir

Q What else did you find aside from marijuana leaves?

A We also find suspected sachet of shabu, Sir.

Q What else?

A Lighter, Sir.

**COURT:**

Q If that shabu will be shown to you, could you identify the same?

**WITNESS:**

A Yes, Sir.

Q About the marijuana leaves, if shown to you could you identify the same?

A Yes, Sir.

**PROS. DURLAO:**

Q What else did you find out aside from the marijuana leaves, shabu and lighter?

...

A I have here the list, Sir.

One (1) brick of marijuana

24 pcs. tea bag of marijuana

9 pcs. sachets of suspected "shabu"

6 disposable lighters

1 roll of aluminum foil

several empty plastic; several used and unused aluminum foil

one (1) sachet of shabu confiscated from Nelson Tira; and

P12,536.00 cash in different denominations proceeds of the contraband (sic).

**COURT:**

Q Where did you find the money?

...

A Near the marijuana at the bag, Sir.

Q About the money, could you still identify if shown to you?

A Yes, Sir.

Q When you found shabu, lighter, marijuana, and money, what did you do?

A We marked them, Sir.

Q All of the items?

A Only the marijuana, Sir.

Q What mark did you place?

A My signature, Sir.[57]

...

**PROS. TOMBOC:**

...

Q And when you were allowed to enter the house, did you notice who was present?

A I noticed the presence of Connie Tira, Sir.

Q When you said Connie Tira, is she the same Connie Tira the accused in this case?

A Yes, Sir, she was taking care of the baby.

Q Who else?

A We also noticed the presence of Amadeo Tira, Sir.

Q What was he doing there?

A He was newly awake, Sir.

Q Upon entering the house, what did you do?

A We entered and searched the first room, Sir.

Q What did you find out?

A Shabu and Marijuana and paraphernalia, Sir.

Q Are you one of those who entered the house?

A Yes, Sir.

Q Can you mention to the Honorable Court those items that you searched in the house of Connie Tira and Amadeo Tira?

A

As per in (sic) our records, we found three (3) sachets containing suspected Methamphetamine Hydrochloride “Shabu” residue; one (1) brick of suspected dried marijuana leaves weighing more or less 750 grams; twenty-four (24) tea bags containing dried marijuana leaves; six (6) disposable lighter; one (1) roll aluminum foil; several empty plastics (tea bag); several used and unused aluminum foil; and cash money amounting to P12,536.00 in different denominations believe[d] to be proceeds of the contraband, Sir.

Q

You said you recovered one (1) brick of marijuana leaves, showing to you a (sic) one (1) brick suspected to be marijuana leaves, is this the one you are referring to?

A Yes, Sir, this is the one.[58]

Appellant Amadeo Tira was not the only witness to the search; Kagawad Mario Conwi and Ernesto Tira, Amadeo’s father, were also present. Ernesto Tira even led the policemen inside the house. This is evidenced not only by the testimony of Kagawad Conwi, but also by the certification signed by the appellant himself, along with Kagawad Conwi and Ernesto Tira.[59]

The trial court rejected the testimony of appellant Amadeo Tira that the inner room searched by the policemen was occupied by Chris Tira and his girlfriend Gemma Lim with the following encompassing disquisition:

... The defense contention that a couple from Baguio City first occupied the first room, the Court is not persuaded because they did not present said businessmen from Baguio City who were engaged in vegetable business. Secondly, the same room was rented by Chris Tira and Gemma Lim. Chris Tira and Gemma Lim, engaged in banana business, were not presented in Court. If it were true that Chris Tira and Gemma Lim were the supposed lessees of the room, they should have been apprehended by the searching party on March 9, 1998, at about 2:30 p.m. There was no proof showing that Chris Tira and Gemma Lim ever occupied the room, like personal belongings of Chris Tira and Gemma Lim. The defense did not even show proof showing that Chris Tira reside in the first room, like clothings, toothbrush, soap, shoes and other accessories which make them the residents or occupants of the room. There were no kitchen plates, spoons, powder, or soap evidencing that the said room was occupied by Chris Tira and Gemma Lim. Amadeo Tira contended that Chris Tira and Gemma Lim are engaged in banana business. There are no banana stored in the room at the time of the search and both of them were out of the room at the time of the search. And why did not Amadeo Tira supply the police officers of the personal identities and address where they could find Chris Tira and Gemma Lim at the time of the search. If they were banana dealers, they must be selling their banana in the market and they could have pointed them in the market.[60] ...

We are in full accord with the trial court. It bears stressing that the trial court conducted an ocular inspection of the house of the appellants, and thus, had first hand knowledge of the layout of the house. Besides, the testimony of the appellant Amadeo Tira, that the inner room was occupied by Chris Tira and Gemma Lim who were not there when the search was conducted, is belied by the testimony of the appellant Connie Tira that the room was occupied by two male and one female boarders who were in the room when the policemen searched it. Thus:

Q You said that while taking care of your baby, several policemen barged [sic] your house?

...

A Yes, Sir.

Q And they proceeded to your room where your husband was sleeping at that time?

A Yes, Sir.

Q And it is in that room where your husband was sleeping and where those articles were taken?

A No, Sir.

Q Where are (sic) those things came (sic) from?

A At the room where my boarders occupied, Sir.

Q So, at that time where were those boarders?

A They were inside their room, Sir.

Q How many of them?

A Two (2) male persons and one woman, Sir.

Q And do you know their whereabouts[s], Madam Witness?

A No more, Sir.

Q When did they leave, Madam Witness?

A At that time, they left the house, Sir.

Q They were not investigated by the police?

A No, Sir.[61]

We agree with the finding of the trial court that the only occupants of the house when the policemen conducted their search were the appellants and their young children, and that the appellants had no boarders therein.

Before the accused may be convicted of violating Section 8 of Republic Act No. 6425, as amended by Rep. Act No. 7659, the prosecution is burdened to prove beyond reasonable doubt the essential elements of the crime, viz: (1) the actual 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 or consciously possessed the said drug.[62]

The essential elements of the crime of possession of regulated drugs are the following: (a) the accused is found in possession of a regulated drug; (b) the person is not authorized by law or by duly constituted authorities; and, (c) the accused has knowledge that the said drug is a regulated drug. This crime is *mala prohibita*, and, as such, criminal intent is not an essential element. However, the prosecution must prove that the accused had the intent to possess (*animus possidendi*) the drugs. Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused.[63] On the other hand, constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found.[64] Exclusive possession or control is not necessary.[65] The accused cannot avoid conviction if his right to exercise control and dominion over the place where the contraband is located, is shared with another.[66]

Thus, conviction need not be predicated upon exclusive possession, and a showing of non-exclusive possession would not exonerate the accused.[67] Such fact of possession may be proved by direct or circumstantial evidence and any reasonable inference drawn therefrom. However, the prosecution must prove that the accused had knowledge of the existence and presence of the drug in the place under his control and dominion and the character of the drug.[68] Since knowledge by the accused of the existence and character of the drugs in the place where he exercises dominion and control is an internal act, the same may be presumed from the fact that the dangerous drug is in the house or place over which the accused has control or dominion, or within such premises in the absence of any satisfactory explanation.[69]

In this case, the prohibited and regulated drugs were found under the bed in the inner room of the house of the appellants where they also resided. The appellants had actual and exclusive possession and control and dominion over the house, including the room where the drugs were found by the policemen. The appellant Connie Tira cannot escape criminal liability for the crime charged simply and merely on her barefaced testimony that she was a plain housewife, had no involvement in the criminal actuations of her husband, and had no knowledge of the existence of the drugs in the inner room of the house. She had full access to the room, including the space under the bed. She failed to adduce any credible evidence that she was prohibited by her husband, the appellant Amadeo Tira, from entering the room, cleaning it, or even sleeping on the bed. We agree with the findings and disquisition of the trial court, viz:

The Court is not persuaded that Connie Tira has no knowledge, control and possession of the shabu and marijuana (Exhibits “M,” “N,” “O” and “P”) found in their room. Connie Tira and Amadeo Tira jointly control and possess the shabu (Exhibits “M” and “N”) and marijuana (Exhibits “O” and “P”) found in the room of their house. It is unusual for a wife not to know the existence in their conjugal abode, the questioned shabu and marijuana. The husband and wife (Amadeo and Connie) conspired and confederated with each other the keeping and custody of said prohibited articles. Both of them are deemed in possession of said articles in violation of R.A. 6425, Section 8, in relation to Section 20.

#### The Crimes Committed by the Appellants

The trial court convicted the appellants of violating Section 16, in relation to Section 20, of Rep. Act No. 6425, as amended. The Office of the Solicitor General (OSG) asserts that the appellants should be convicted of violating Section 8 of Rep. Act No. 6425, as amended. We do not agree with the trial court and the OSG. We find and so hold that the appellants are guilty of two separate crimes: (a) possession of regulated drugs under Section 16, in relation to Section 20, of Rep. Act No. 6425, as amended, for their possession of methamphetamine hydrochloride, a regulated drug; and, (b) violation of Section 8, in relation to Section 20 of the law, for their possession of marijuana, a prohibited drug. Although only one Information was filed against the appellants, nevertheless, they could be tried and convicted for the crimes alleged therein and proved by the prosecution. In this case, the appellants were charged for violation of possession of marijuana and shabu in one Information

which reads:

That on or about March 9, 1998, in the Municipality of Urdaneta, province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, did then and there willfully, unlawfully and feloniously have in their possession, control and custody the following:

- Three (3) pieces (sic) sachets of shabu
- Six (6) pieces opened sachets of shabu residue
- One (1) brick of dried marijuana leaves weighing 721 grams
- Twenty-four (24) tea bags of dried marijuana leaves weighing 86.3 grams
- Six [6] disposable lighter
- One (1) roll Aluminum foil
- Several empty plastics (tea bag)
- Cash money amounting to P12,536.00 in different denominations believed to be proceeds of the contraband.

without first securing the necessary permit/license to posses[s] the same.

CONTRARY TO SEC. 8, in relation to Sec. 20 of R.A. 6425, as amended.”[70]

The Information is defective because it charges two crimes. The appellants should have filed a motion to quash the Information under Section 3, Rule 117 of the Revised Rules of Court before their arraignment. They failed to do so. Hence, under Rule 120, Section 3 of the said rule, the appellants may be convicted of the crimes charged. The said Rule provides:

SEC. 3. Judgment for two or more offenses. - When two or more offenses are charged in a single complaint or information but the accused fails to object to it before trial, the court may convict him of as many offenses as are charged and proved, and impose on him the penalty for each offense, setting out separately the findings of fact and law in each offense.

#### The Proper Penalties On the Appellants

The crime of violation of Section 8, Article II of Rep. Act No. 6425, as amended, for illegal possession of 807.3 grams of marijuana, a prohibited drug, is punishable by reclusion perpetua to death. Considering that there are no qualifying circumstances, the appellants are sentenced to suffer the penalty of reclusion perpetua, conformably to Article 63 of the Revised Penal Code and are ordered to pay a fine of P500,000.00.

Under Section 16, Article III of Rep. Act No. 6425, as amended, the imposable penalty of possession of a regulated drug, less than 200 grams, in this case, shabu, is prision correccional to reclusion perpetua. Based on the quantity of the regulated drug subject of the offense, the imposable penalty shall be as follows:

### QUANTITY

#### IMPOSABLE PENALTY

Less than one (1) gram to 49.25 grams

prision correccional

49.26 grams to 98.50 grams

prision mayor

98.51 grams to 147.75 grams

reclusion temporal

147.76 grams to 199 grams

reclusion perpetua

Considering that the regulated drug found in the possession of the appellants is only 1.001 grams, the imposable penalty for the crime is prision correccional. Applying the Indeterminate Sentence Law, the appellants are sentenced to suffer an indeterminate penalty of from four (4) months and one (1) day of arresto mayor in its medium period as minimum, to three (3) years of prision correccional in its medium period as maximum, for violation of Section 16 of Rep. Act No. 6425, as amended.

IN LIGHT OF ALL THE FOREGOING, appellants Amadeo and Connie Tira are found GUILTY beyond reasonable doubt of violating Section 8, Article II of Rep. Act No. 6425, as amended, and are hereby sentenced to suffer the penalty of reclusion perpetua, and ORDERED to pay a fine of P1,000,000.00. The said appellants are, likewise, found GUILTY beyond reasonable doubt of violating Section 16, Article III of Rep. Act No. 6425, as amended, and are sentenced to suffer an indeterminate penalty of from Four (4) Months and One (1) Day of arresto mayor in its medium period as minimum, to Three (3) years of prision correccional, in its medium period, as maximum.

No costs.

**SO ORDERED.**

Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, and Tinga, JJ., concur.

Davide, Jr., C.J., on official leave.

Puno, J., on official leave.

---

[1] Penned by Honorable Judge Modesto C. Juanson.

[2] Rollo, pp. 17, 66.

[3] Records, p. 1.

[4] The prosecution presented the following witnesses: Celestino B. Corpuz, SPO3 Asedilio Manibog, SPO1 Asterio Dismaya, Police Inspector Panfilo M. Regis and Police Superintendent Theresa Ann B. Cid.

[5] TSN, 15 June 1998, pp. 6-9.

[6] Exhibit "A-3", Records, p. 41

[7] Exhibit "A-2;" Id., at 44.

[8] Id. at 42.

[9] Exhibit "A," Records, p. 43.

- [10] TSN, 15 June 1998, p. 11.
- [11] Ibid.
- [12] TSN, 16 June 1998, p. 6.
- [13] TSN, 6 January 1999, p.6.
- [14] TSN, 15 June 1998, p. 13.
- [15] Exhibit “D,” Records, p. 47.
- [16] Exhibit “A-6,” Records, p. 49.
- [17] TSN, 16 June 1998, p. 4; Exhibit “J.”
- [18] Exhibits “L” and “L-1.”
- [19] Exhibit “E,” TSN, 15 June 1998, p. 18.
- [20] Exhibit “B,” Records, p. 45.
- [21] Exhibit “A-7,” Records, p. 50.
- [22] Exhibit “C-1,” Records, p. 46.
- [23] Exhibit “C,” Id. at 46.
- [24] Records, p. 7.
- [25] Id. at 1.
- [26] Id. at 36.
- [27] Id. at 219.
- [28] Id. at 82.
- [29] Appellant Amadeo Tira presented the following: Alfonso Gallardo, Mario Conwi and Amadeo Tira.
- [30] TSN, 5 August 1998, p. 2.
- [31] Id. at 6.
- [32] TSN, 10 August 1998, p. 4.
- [33] TSN, 5 August 1998, p. 5.
- [34] Id. at 11.
- [35] Id. at 8-10.
- [36] TSN, 11 August 1998, pp. 3-5.
- [37] Id. at 6.
- [38] Id.
- [39] Id. at 9.
- [40] Id. at 9-10.

- [41] TSN, 18 August 1998, pp. 5-6.
- [42] Id. at 12.
- [43] Id. at 3-4.
- [44] Id. at 7.
- [45] Records, p. 107.
- [46] Id. at 104-106.
- [47] Id., at 122
- [48] Id., at 116-121.
- [49] Id., at 128.
- [50] Id., at 142.
- [51] Id., at 150.
- [52] TSN, 23 March 1999, pp. 3-7.
- [53] Records, p. 228.
- [54] Id., at supra.
- [55] Records, p. 229.
- [56] Rollo, p. 95.
- [57] TSN, 15 June 1998, pp. 13-14.
- [58] TSN, 11 January 1999, pp. 11-12.
- [59] Exhibit "8."
- [60] Rollo, p. 47.
- [61] TSN, 5 April 1999, pp. 10-11.
- [62] *People v. De Guzman*, 315 SCRA 573 (2001).
- [63] *People v. Ramos*, 186 SCRA 184 (1990).
- [64] *People v. Rice*, 131 Cal. Rptr. 330 (1976); *People v. Francis*, 450 P.2d. 591 ( ).
- [65] *People v. Estrada*, 234 44 Cal. Rptr. 165 (1965).
- [66] *People v. Francis*, supra; *People v. Jackson*, 302 12 Cal. Rptr. 748; *People v. Rice*, supra.
- [67] *People v. Tolliver*, 125 Cal. Rptr. 905 (1976).
- [68] *Peope v. Rice*, supra.
- [69] *People v. Baluda*, 318 SCRA 503 (1999).
- [70] Rollo, pp. 126-127.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.