

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILSON D. LIM, DANILO S. SY, JACKILYN O. SANTOS AND ANTONIO U. SIO, ACCUSED-APPELLANTS.

G.R. No. 141699. August 07, 2002

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-141699/>

AUSTRIA-MARTINEZ, J.:

For automatic review before us is a decision rendered by the Regional Trial Court of Caloocan City (Branch 129),[1] convicting accused Wilson D. Lim, Danilo S. Sy, Jackilyn O. Santos and Antonio U. Sio for violation of Section 15, Article III of RA 6425 as amended by RA 7659, and sentencing all the accused to suffer the supreme penalty of death.

Appellants were charged in an Information dated April 21, 1999 which reads as follows:

“That on or about March 27, 1999, in Caloocan City and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, conspiring, confederating and mutually helping each other, did then and there willfully, unlawfully and feloniously distribute, sell and deliver to a buyer about One Thousand Nine Hundred Ninety Four and 60/100 (1,994.60) grams of Methamphetamine Hydrochloride, otherwise known as ‘Shabu,’ a regulated drug.

“CONTRARY TO LAW.”[2]

Upon their arraignment on May 13, 1999, accused-appellants Wilson Lim, Jackilyn Santos and Antonio Sio, duly assisted by their respective counsels, pleaded not guilty.[3] Appellant Danilo Sy, represented by counsel, refused to enter a plea, thus, pursuant to Section 1(c), Rule 116 of the 1985 Rules on Criminal Procedure, the trial court entered a plea of not guilty for him.[4] Trial thereafter ensued.

The prosecution presented the following witnesses: (1) poseur buyer PO2 Nening Villarosa, (2) Police Inspector Edwin E. Zata, Forensic Chemical Officer, (3) SPO3 Armando Ballon, (4) SPO3 Rolando Sayson, (5) Superintendent John Lopez; and, the joint affidavit of PO3 Ybanez and SPO1 Parreño, the due execution of which was admitted by all accused.

In its appellee’s Brief, the Office of the Solicitor General summarized the prosecution’s version of the facts, on the basis of its evidence:

“About 11:00 o’clock in the morning of 27 March 1999, PO2 Nening Villarosa, Intelligence Operative, Presidential Anti-Organized Crime Task Force (PAOCTF), Camp Crame, was summoned by her “superior, Superintendent John Lopez, for a briefing in the latter’s office regarding a buy-bust operation wherein the former will act as a ‘poseur-buyer.’ The ‘sting’ operation would take place at the Apollo Motel, Second Avenue, Caloocan City. After the briefing, Superintendent Lopez gave PO2 Nening Villarosa a leather portfolio containing one million, two hundred twenty thousand pesos (P1,220,000.00), to be used as payment for 2 kilos of methamphetamine hydrochloride, locally known as ‘shabu’. Of the P1.22 million purchase money, only P6,000.00 were genuine, while the rest were ‘boodle’ money.

“Around 11:45 in the morning of the same day, PO2 Villarosa left Camp Crame for Apollo Motel. She was in her car together with an ‘informer’ who would introduce her to the ‘shabu’ seller and a female companion. Other members of the buy-bust team followed in their respective vehicles. When they reached Apollo Motel, they were met by appellant Danilo S. Sy, who told PO2 Villarosa and the ‘informer’ to proceed to Room 3 of the motel. On the other hand, some members of the buy-bust operation checked-in at Room 27 of the motel while the others stationed themselves within the perimeter of the motel.

“Inside Room 3 of the motel, PO2 Villarosa showed appellant Danilo Sy the money as payment for the ‘shabu’. PO2 Villarosa, however, did not allow appellant Danilo Sy to bring out of the room the money, allegedly to be shown to the owner of the ‘shabu’. Appellant Danilo Sy went out of the room and after 5 to 10 minutes later, he returned together with appellants Wilson Lim and Jackilyn Santos. Upon request of appellant Wilson Lim, he was also shown by PO2 Villarosa the purchase money. Thereafter, “appellants Danilo Sy and Wilson Lim went out of the room leaving behind appellant Jackilyn Santos. After about one (1) hour, appellant Danilo Sy returned and informed PO2 Villarosa that there would be a ‘slight delay’ of 20 minutes because the shabu was ‘still being prepared.’

“About 4:00 P.M., appellants Danilo Sy and Wilson Lim returned together with appellant Antonio U. Sio, who was carrying a ‘Giordano’ paper bag containing the ‘shabu’. Inside the paper bag were 2 cartons, each containing a big transparent plastic sachet of one (1) kilogram of ‘shabu’ each.

“In the negotiation for the sale of the ‘shabu’, appellant Jackilyn Santos stated that the ‘shabu’ was ‘Class A’ and of good quality. To prove her point, appellant Jackilyn Santos sniffed a sample of the drug in the room. After being convinced of the genuineness of the ‘shabu,’ PO2 Villarosa gave the portfolio containing the money to appellant Antonio Sio who also gave the former the bag of ‘shabu.’

“Thereafter, PO2 Villarosa called up, through her cellphone, Superintendent John Lopez and said, ‘boss, nandito na sa akin,’ the signal for the team to pounce on the appellants. While on her way to the motel garage, she met her fellow operatives rushing towards Room 3 of the motel to arrest appellants.

“Around 6:00 P.M. of the same day, PO2 Villarosa and the other raiding operatives met at the PAOCTF office in Camp Crame. The 2 kilograms of ‘shabu’ she bought from the appellants were turned over by her to the Legal Division, PAOCTF.

“In the physical Science Report dated 27 March 1999 of Edwin Zata, forensic chemist, PNP Crime Laboratory, he found out that the specimen submitted to him by SPO3 Armando Ballon, Evidence Custodian of PAOCTF, which was confiscated from the appellants, was methamphetamine Hydrochloride, or ‘shabu’.”[5]

The defense presented an entirely different story.

Appellant Danilo Sy denied having conspired with the other accused in selling shabu to poseur buyer PO2 Nening Villarosa and presented the facts on the basis of defense evidence, as follows:

“In the morning of March 27, 1999, appellant’s daughter Jane Daphne Sy joined the elementary graduation rites of her class. Appellant and the other members of the family attended the ceremonies which lasted until past 12:00 noon. After the celebration, appellant brought his family to their house (pp. 16-19, tsn, October 18, 1999).

“At past one o’clock in the afternoon, appellant proceeded to Apollo Motel to meet his girlfriend co-accused Jackilyn Santos, who had checked in the motel since March 20, 1999. Appellant and Jackilyn Santos occupied Room 20 at the third floor (pp. 19-20, tsn, Oct. 18, 1999; p. 5, tsn, Oct. 28, 1999). Appellant and Jackilyn Santos made love and thereafter talked about the plans of appellant to leave the country on March 29, 1999 in anticipation of putting up a business. They ordered foods to be served in their room (p. 21, tsn, Oct. 18, 1999; p. 9, tsn, Oct. 28, 1999).

“In the late afternoon, when appellant and Jackilyn Santos were taking a nap, persons who turned out to be police officers kicked the door of Room 20. The police officers told them that they were being arrested. The police officers forcibly took them down to the second floor. They were hauled to Camp Crame and charged with the two other accused. Appellant’s licensed firearm and personal belongings were taken from him. Despite his persistent demand, these personal belongings were never returned.”[6]

Appellant Wilson Lim likewise denied the allegations of PO2 Villarosa and testified that he was the manager of the Apollo motel whose tour of duty was from 10:00 a.m. to 10:00 p.m.; that his office was located at the ground floor of the motel which was just behind the counter where the customers registered their names; that at around 4:00 p.m. of March 27, 1999, he was inside his office attending to some documents while the cashier and counter clerk of the motel were at the counter; that while inside his office, he heard a commotion outside; that he went out and told their security guard to see what was happening; that the security guard came back and told Wilson that his gun was taken by the raiding team; that Wilson got scared so he went inside his office and suddenly some policemen made a search in the counter and then entered his office where they also made a search therein; that while the search was going on, he asked the policemen what they were doing and he was told that they were looking for something; that he asked them if they had any search warrant and they told him they had none; that he was subsequently arrested without any warrant; that during the commotion, he heard a gunshot and one of the motel employees recovered an empty shell of a .45 cal. bullet which was later given to the counter; that he did not meet PO2 Villarosa inside room No. 3; and, that he had not seen her nor Supt. John Lopez and SPO3 Rolando Sayson at the Apollo motel.[7]

Hotel personnel, namely: security guard Rolando Tamundong, cashier Nenita Diosto and room attendant Gil Madulid testified, confirming Wilson’s testimony that he was inside his office when the police operatives conducted a raid in the Apollo motel.[8] These witnesses were adopted by the other accused as their own witnesses.

In his appeal brief, Antonio Sio adopted the trial court’s digest of his testimony, as follows:

“xxx. In the morning of March 27, 1999 (Saturday), he reported for work as a supervisor of a Garment Factory in Balut, Tondo, Manila. Later, he called up his girlfriend and they checked in at the Apollo Motel at 1:00 o’clock in the afternoon. They occupied Room 4 on the second floor. At about 4:00 p.m., and while he and his lover were inside the room, about 5 men forcibly opened and entered the room. The men announced a raid and searched the room but found nothing. After getting his wrist watch and wallet, the men arrested and handcuffed him without being informed of the crime he had supposedly committed. He was brought to the ground floor and boarded into a vehicle. After about 15 minutes, 4 men also boarded the same vehicle and they left the Apollo Motel for Camp Crame. Before he was brought to PAOC-TF, Camp Crame, his girlfriend had been allowed to leave the Motel by one of the arresting officers. He first came to know of the crime imputed to him and the other accused the following day (Sunday) because they were brought to an Inquest Prosecutor. During the inquest, no ‘shabu’ or buy-bust money was presented. This is the first time he has been charged with selling ‘shabu’ which he does not even know the appearance of. The testimony of the poseur-buyer is not true. He never went to Room 3 of the Apollo Motel on the date of the incident. While he and his girlfriend were inside Room 4, he heard a gunshot from the outside. At about 4:00 p.m., he went down to inform the cashier that he and his lady companion were checking out. When he returned to his room, he heard the commotion which led to his arrest.

“This accused identified his Motel Card for Room 4, showing that he and his companion checked in at 12:41 p.m. and checked out at 4:41 p.m. (Exh. ‘7-Quimpo’), as well as his sworn statement (Exhs. ‘6’ & sub-markings-Quimpo).

“He did not know any of the other accused and did not see them at the Apollo Motel. He only saw them at the PAOC-TF office in Camp Crame.

“On cross-examination, Antonio Sio stated: Although the group of men who forcibly entered his room announced a raid, he did not inquire why a raid was being made. At the PAOC-TF, he and the other accused were tortured by the guards of the detention cell. They did not report their maltreatment because they did not want more physical abuse suffered by Danilo Sy who had earlier reported being maltreated.”[9]

Appellant Jackilyn Santos testified that she and Danilo Sy were lovers and they had checked in at the Apollo motel since March 20, 1999; that she stayed at the motel until March 27, 1999 but did not sleep there every night as Danilo took her home when he left the motel at dawn; that on March 27, Danilo arrived at the motel at past 1:00 p.m; that they made love, ate and talked about Danilo’s impending trip to Brunei; that while they were taking their nap, somebody knocked at the door and when she slightly opened the door, about 5 to 6 men in civilian clothes entered the room and a raid was announced; that she was only wrapped in a blanket and she was ordered to dress up while accused Danilo argued with the men on why they were being arrested; that she and Danilo were brought downstairs and then to PAOCTF at Camp Crame.[10]

On February 2, 2000, the trial court rendered its decision. It gave full faith and credit to the version of the prosecution. It found the testimony of poseur buyer PO2 Nening Villarosa to be direct, positive and credible. It also found that the accused acted together to achieve the goal of getting hold of a million pesos in the sale of shabu. The court did not believe the defense of alibi invoked by the appellants since they were at the motel where the poseur buyer claimed to have delivered the money and got the shabu; and held that the requirement of physical impossibility to be at the locus criminis was not proven. It also ruled out that there was illegal raid since none of the accused could even mention any possible reason for the imagined raid. It concluded that what was conducted was a buy-bust operation where the appellants were caught in flagrante delicto, hence, no need for a warrant of arrest. It further declared that the inconsistencies cited by the accused referred only to minor details and collateral matters which did not affect the substance of the testimonies of the prosecution witnesses. The dispositive portion of the decision reads:

“WHEREFORE, premises considered, this Court finds the 4 accused Wilson D. Lim, Danilo S. Sy, Jackilyn O. Santos and Antonio U. Sio guilty beyond reasonable doubt, as charged. Accordingly, and pursuant to Section 15, Article III of Rep. Act No. 6425, as amended by Section 4 of Rep. Act No. 7659, in relation to the ruling in People vs. Simon, 234 SCRA 555, they shall each serve the penalty of Death.

“Each accused shall also pay a fine of P500,000.00, pursuant to Section 4 of Rep. Act No. 7659.

“The Branch Clerk of this Court shall issue the corresponding Commitment Orders to the Bureau of Corrections, Muntinlupa City for the 3 male convicts, and to the Correctional Institution for Women, Mandaluyong City for the lone female convict, thru the City Jail Warden.

“The ‘shabu’ involved in this case shall be turned over to the Dangerous Drugs Board for destruction in accordance with law.

“Pursuant to Section 22 of Rep. Act No. 7659, the Branch Clerk of Court of this Court shall elevate the complete records of this case to the Honorable Supreme Court within 20 days but not earlier than 15 days after this promulgation, for automatic review.

“SO ORDERED.”[11]

Hence, herein automatic review.

Appellant Danilo Sy assigns the following errors of the court a quo:

“THE TRIAL COURT ERRED IN GIVING FULL FAITH AND CREDIT TO THE TESTIMONY OF (POLICE OFFICER) PO2 NENING G. VILLAROSA THAT APPELLANT DANILO S. SY INFORMED

HER TO PROCEED TO ROOM 3 OF APOLLO MOTEL TO WAIT FOR THE SHABU.

“ASSUMING THE TRUTH OF THE VERSION OF THE PROSECUTION, THE TRIAL COURT ERRED IN CONVICTING APPELLANT OF VIOLATING THE ANTI-DANGEROUS DRUGS LAW ON THE BASIS OF CONSPIRACY WITH THE OTHER ACCUSED.

“THE TRIAL COURT ERRED IN IGNORING THE NAGGING DOUBT AS TO THE GUILT OF APPELLANT AGGRAVATED BY THE NON-COMPLIANCE WITH THE LEGAL REQUIREMENTS AFTER THE CONFISCATION OF THE PROHIBITED DRUG.

“THE TRIAL COURT ERRED IN DENIGRATING THE CONTENTION OF APPELLANT THAT ASSUMING THE TRUTH OF THE PROSECUTION EVIDENCE, WHAT TOOK PLACE IS AN INSTIGATION AND NOT ENTRAPMENT, WHICH ABSOLVES APPELLANT OF CRIMINAL LIABILITY.

“THE TRIAL COURT ERRED IN NITPICKING THE VERSION OF APPELLANT AND JACKILYN SANTOS WHEN WHAT IT SHOULD HAVE DONE IS TO ASCERTAIN THE PRESENCE OF PROSECUTION EVIDENCE BEYOND REASONABLE DOUBT.[12]

In his Brief, appellant Wilson Lim raises a single issue, to wit:

“The only issue in this case is whether or not the prosecution by the testimonial and documentary evidence it has presented has established and proven the guilt of the accused beyond reasonable doubt for violation of Section 15, Art. III of Republic Act No. 6425, as amended.”[13]

Appellant Antonio U. Sio presents the following issue:

“The sole issue to be resolved in this appeal is whether the prosecution has proved beyond reasonable doubt, that all the accused-appellants conspired, confederated, and mutually helped one another in selling and delivering shabu to PO2 Villarosa.”[14]

Appellant Jackilyn Santos faults the trial court with the following assignment of errors:

“THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT THERE WAS A BUY-BUST OPERATION CONDUCTED DESPITE CLEAR EVIDENCE OF AN ILLEGAL RAID ON APOLLO MOTEL.

“THE TRIAL COURT ERRED IN GIVING FULL CREDIT TO THE TESTIMONY OF PO2 NENING VILLAROSA DESPITE THE GLARING INCONSISTENCIES AND IMPROBABILITIES THEREIN.

“THE TRIAL COURT ERRED IN HOLDING THAT THE PROSECUTION HAS PROVEN THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT, IN EFFECT DISREGARDING APPELLANT’S PRESUMPTION OF INNOCENCE.

“THE TRIAL COURT GRAVELY ERRED IN FINDING CONSPIRACY BETWEEN ALL THE ACCUSED DESPITE UTTER LACK OF EVIDENCE TO PROVE IT.[15]

Appellant Danilo Sy claims that the prosecution failed to establish his guilt beyond reasonable doubt because the prohibited substance was not found and taken from him nor did he receive the money as payment for the shabu, thus, he was not a participant in the alleged transaction; that assuming the truth of the version of the prosecution, where there was no proper introduction between the appellant and PO2 Villarosa who went to Apollo motel and showed the money to appellants, PO2 Villarosa instigated them to commit the crime and then arrested the appellants; that instigation and not entrapment took place is reinforced by the prosecution version that when they met appellant, he had no supply of the regulated drug.

Appellant Wilson Lim argues that reasonable doubt exists as to their guilt because what took place on March 27, 1999 was an illegal raid and not a buy-bust operation as shown by the following circumstances: (1) prior to the alleged raid, he had allegedly been the subject of surveillance by the PAOCTF as he was purportedly engaged in illegal activity particularly drug trafficking and he used Apollo motel as drop off point of shabu; (2) the size and manpower complement of the task force, i.e., about 30 people, was definitely not intended for an ordinary buy-bust operation; (3) during the raid itself, he was told by the PAOCTF men that they were conducting a raid; (4) not only those persons who were allegedly actually caught in the buy-bust operation were arrested by the raiding team but also the counter clerk, cashier, security guard, Wilburt Lim and his two classmates; (5) three motor vehicles and a motorcycle which were not connected with the commission of the crime were also confiscated; (6) there were searches made at the motel counter, in his office and in the different rooms of the motel where the appellants were separately arrested; and (7) Supt. Lopez invited the motel personnel to Camp Crame to shed light on the illegal activities of the appellants. Appellant Wilson also points out material inconsistencies in the testimonies of the prosecution witnesses.

Appellants Antonio Sio and Jackilyn Santos corroborated Wilson's claim that the operation conducted by the PAOCTF was an illegal raid rather than a buy-bust operation.

Appellant Antonio claims that in an ordinary buy bust operation, the sale is made in the presence of the other police officers who immediately go into action to apprehend the culprit upon a pre-arranged signal to be given by the poseur buyer; that the poseur buyer is present during the arrest of the suspects since he is the one who has personal knowledge of the transaction. He also cites material inconsistencies in the testimonies of poseur buyer Villarosa.

Appellant Jackilyn Santos adds that assuming there was a buy-bust operation, the search and arrest were made after the poseur buyer who was in possession of shabu had already left the premises, hence, the police operatives had no personal knowledge of the crime when they conducted the search; that there was no conspiracy since it was not established that she took part in the delivery of the shabu nor was she in receipt of the money as the only evidence linking her was her presence inside the room; that such knowledge would not make her a co-conspirator.

The Solicitor General filed its Brief praying for the affirmance of the conviction of the appellants saying that the testimony of poseur buyer Villarosa positively identifying the appellants was sufficient to prove their guilt; that the alleged inconsistencies cited by the appellants referred only to trivial and minor matters which did not affect the fact of their actual commission of the offense charged; that conspiracy among the appellants was duly proven.

Certainly, the credibility of the prosecution witnesses and the determination of the guilt of accused depend on the resolution of the question of whether or not the arrest of the accused was a result of a buy-bust operation, as claimed by the prosecution, or a raid as advanced by the defense. Stated differently, the resolution of the issues presented before us boils down to a determination of whether appellants were indeed arrested in the actual commission of the crime charged due to a buy-bust operation or appellants were apprehended during a raid conducted by the police. Who to believe is a matter of credibility, and is usually best ascertained by the trial court which had the opportunity to observe the witnesses directly and to test their credibility by their demeanor on the stand.[16] The general rule is that factual findings of the trial court are accorded respect and are not disturbed on appeal[17] unless there appears in the record some facts or circumstances of weight and influence which the trial court has overlooked or the significance of which it has misappreciated or misinterpreted.[18]

After a thorough and painstaking examination of the records of this case, we found material facts and circumstances that the trial court had overlooked or misappreciated which, if considered, would alter the result of the case. These facts and circumstances cast serious doubts on the story of the poseur buyer PO2 Nening Villarosa

and the other prosecution witnesses as to the alleged buy bust operation, thus lending credence to the claim of the defense that what actually happened is a raid without a proper warrant of arrest and search warrant:

First, PO2 Villarosa testified that she was called upon by Supt. John Lopez on March 27, 1999 to act as poseur buyer in the buy-bust operation to be conducted on the same day against a certain Wilson Lim, part owner of the Apollo motel and alleged to be engaged in illegal activity particularly drug trafficking; that she had no knowledge of the operation prior to the said date; that she left Camp Crame together with the informer and the latter's lady companion at 11:45 in the morning and upon reaching the Apollo motel, she and the informer were met by a man who introduced himself as appellant Danilo Sy; that Sy told them to proceed to room No. 3 which they did. It baffles us that if they were supposed to meet the seller of the shabu, appellant Wilson Lim,[19] with whom the informer was supposed to have earlier struck a deal, why would they be met by a complete stranger, appellant Sy, who just introduced himself to PO2 Villarosa without saying in whose behalf he was representing, and PO2 Villarosa together with the informer just followed him without questions. There is nothing in the transcripts to show that she was told by the informer that appellant Sy was appellant Lim's man or that the informer knew Sy or Wilson beforehand. It is incredible that at the first meeting of appellant Sy and PO2 Villarosa where no proper introduction took place, the latter simply followed Sy's instructions as if they knew each other beforehand and had previous arrangement to meet, when in fact, based on the prosecution evidence, there was no such arrangement between PO2 Villarosa and Sy or between Sy and the informer.

Notably, the alleged meeting of PO2 Villarosa with appellant Danilo Sy was contradicted by the joint affidavit of prosecution witnesses PO3 Rolly Ybanez and PO3 Ronald Parreño which was admitted and stipulated upon by the parties. These police officers stated that PO2 Villarosa arrived earlier than them;[20] that at around 12:00 p.m., they posted themselves at the vicinity outside of the motel and they observed the arrival of a motor vehicle wherein appellant Danilo Sy alighted and proceeded to the cashier of the motel.[21] How then could appellant Danilo Sy had welcomed PO2 Villarosa upon her arrival at the motel before 12:00 noon, when, according to said police officers at the time that she arrived, Danilo Sy was not yet in the motel? The inconsistencies are too glaring that ought not to have been overlooked by the trial court.

Second, PO2 Villarosa testified that out of the P1.22 Million as payment for the shabu, only Six Thousand Pesos (P6,000.00) were genuine consisting of 12 pieces of P500 peso bill denominations and the rest were boodle money; that the money was presented to appellant Danilo Sy and later to appellant Wilson Lim inside room No. 3, who both inspected the money.[22] It is highly incredible that during the period of four (4) hours that she was inside the room waiting for the arrival of the shabu, none of the appellants despite the opportunity to do so, bothered to count the money considering that it was their first transaction with PO2 Villarosa. Moreover, if indeed the bag of money was inspected by both appellants Danilo Sy and Wilson Lim, as testified by PO2 Villarosa, they could have easily discovered that only twelve (12) pieces of P500 bills amounting to Six Thousand Pesos (P6,000.00) were genuine while the rest consisting of more than P1 Million Pesos were boodle money.

Third, it is difficult to believe PO2 Villarosa's testimony that all the appellants introduced themselves to her by full names when there appeared nothing in the transcripts that she ever introduced herself to them nor was there any conversation that took place between them.[23] Besides, it is highly incredible that any person engaged in an illegal transaction, such as a sale of shabu in a large scale at that, would recklessly divulge his complete identity.

Fourth, PO2 Villarosa's narration as to when appellant Jackilyn Santos sniffed shabu in her presence was also self-refutative. She testified in her direct examination that when appellant Antonio Sio arrived with the shabu, Jackilyn was inside the room and said that the shabu was class A and of good quality and sniffed the shabu; that after Villarosa was convinced of the genuineness of the shabu, she then gave the money to Antonio Sio. However, on cross examination, she declared that it was when appellants Danilo Sy and Wilson Lim went out of room No. 3

leaving appellant Jackilyn Santos with her and the informer that Jackilyn assured her that the shabu was of class A material and sniffed shabu in her presence.[24] When confronted on how Jackilyn could have sniffed shabu when the shabu was not yet delivered, Villarosa explained that Jackilyn brought a sample of the shabu and sniffed it.[25] Upon further questioning, she admitted that she did not know where Jackilyn got the shabu.[26]

Fifth, prosecution evidence shows that the shabu was delivered by appellant Antonio Sio to PO2 Villarosa only after four (4) hours of waiting. If indeed, as testified to by PO2 Villarosa and Supt. Lopez, there was a prior agreement of the availability of the shabu between the informer and Wilson Lim, as owner of the shabu, as to the time, place and amount,[27] why was the shabu not yet ready for disposition and Villarosa was still made to wait for it? It is quite dubious that such an illegal activity had to be transacted for such a long period of time when according to Supt. Lopez there had already been a previous arrangement with appellant Wilson Lim.

Sixth, PO2 Villarosa stated that when Antonio Sio arrived with the shabu at around 4 p.m., he was with appellants Danilo Sy and Wilson Lim; and that Antonio went directly to her without uttering any explanation for the delay. It is not in accordance with ordinary human conduct and therefore unbelievable that no explanation was given to PO2 Villarosa, who was made to wait by the seller, why there was a delay of four (4) hours in the preparation of the shabu when there was supposed to be a previous arrangement for the purchase thereof.

Seventh, the alleged frequent calls made by PO2 Villarosa to Supt. Lopez and vice versa,[28] while she was inside room No. 3, especially the call where Villarosa even told Supt. Lopez the number of people inside room No. 3, all made in the presence of Jackilyn Santos, stretches far too thinly our understanding of ordinary human behaviour. It is quite incredible that such actions would not arouse the suspicion of Jackilyn Santos if really the latter was in the same room with Villarosa waiting for the shabu and was in conspiracy with her co-accused.

Eight, if indeed PO2 Villarosa acted as poseur buyer in this case, why did she immediately leave the room after her last cellphone call to Supt. Lopez signaling that the transaction was already consummated when the police operatives were still on their way to the room to arrest the appellants? In *People vs. Del Rosario*, the Court made the following observations:

“The usual procedure in a buy-bust operation is for the police officers to arrest the pusher of drugs at the very moment he hands over the dangerous drug to the poseur-buyer. That is the very reason why such a police operation is called a ‘buy-bust’ operation. The police poseur-buyer ‘buys’ dangerous drugs from the pusher and ‘busts’ (arrests) him the moment the pusher hands over the drug to the police officer.”[29]

which, applied to the present case, brings to the forefront, the irregularity in the conduct of the alleged buy-bust operation between PO2 Villarosa and the appellants. Insofar as Supt. Lopez and the other arresting officers are concerned, they did not see the actual buy-bust operation engaged by PO2 Villarosa. Thus, there is much to be desired in the manner the police authorities effected the arrest of the appellants. It generates in the mind a persistent nagging uncertainty that a buy-bust operation actually took place.

Ninth, there appears nothing in the records that the PAOC-TF agents complied with the procedure in the custody of seized prohibited and regulated drugs as embodied in the Dangerous Drugs Board Regulation No. 3 Series of 1979 as amended by Board Regulation No. 2, S. 1990,[30] i.e., any apprehending team having initial and control of said drugs and/or paraphernalia, should immediately after seizure or confiscation, have the same physically inventoried and photographed in the presence of the accused, if there be any, and or his representative, who shall be required to sign the copies of the inventory and be given a copy thereof. The failure of the agents to comply with such a requirement raises a doubt whether what was submitted for laboratory examination and presented in court was actually recovered from the appellants. It negates the presumption that official duties have been regularly performed by the PAOC-TF agents.

Tenth, doubts as to the existence of the buy-bust money produce reasonable uncertainty as to the credibility of the evidence for the prosecution that appellants were arrested by reason of the buy-bust operation. SPO3 Armando Ballon, investigator of the PAOC Task Force, testified that the genuine money amounting to Six Thousand Pesos (P6,000.00) was not turned over to him but only the xerox copy of the 12 pieces of P500 bills.[31] On the other hand, Supt. Lopez testified that his asset misplaced the genuine money.[32]

True, the presentation in evidence of the money in drug cases resulting from buy-bust operations may not be indispensable, but the foregoing peculiar circumstances of this case and the unexplained failure to establish who was in custody of the money only taint further the veracity[33] of Villarosa's testimony and the rest of the prosecution witnesses.

Furthermore, we find additional material contradictions in the testimonies of the prosecution witnesses which weakened the probative value of the prosecution's evidence as a whole. Both PO2 Villarosa and Supt. Lopez said that they were in constant communication with each other while the former was in room No. 3 and the latter was in room No. 27. However, their testimonies concerning the on-going operation were not consistent with each other. Villarosa said that she was with one informer when she was led by appellant Danilo Sy to room No. 3;[34] that when the shabu was brought to her at around 4:00 p.m., she gave the money to appellant Antonio Sio and she immediately went out of the room and proceeded to her car and drove directly to Camp Crame;[35] that she saw the police operatives at around 6:00 p.m. of the same day.[36] On the other hand, Lopez testified that Villarosa was with two (2) informers inside the room as told to him by Villarosa;[37] that after the appellants were arrested, he later saw Villarosa inside room No. 3 with the operation group;[38] and, that he and Villarosa left the motel at the same time.[39] Moreover, Villarosa testified that there was no instance that she showed the shabu to Supt. Lopez in the motel as she was in a hurry to leave the room while she saw Supt. Lopez rushing to the room.[40] Yet, Supt. Lopez testified that Villarosa showed the shabu to him once in the motel and he examined the same.[41]

Even the testimonies of Supt. Lopez and SPO3 Rolando Sayson, the police officers who led in the arrest of the appellants, were inconsistent as to how appellants were arrested. SPO3 Sayson declared that after the last cellphone call of Villarosa, he and Lopez, who were the only ones inside room No. 27[42] immediately went to room No. 3,[43] and he arrested the three (3) appellants, namely: Wilson Lim, Jackilyn Santos and Antonio Sio[44] and Supt. Lopez arrested Danilo Sy.[45] Supt. Lopez, however, stated that when they went to room No. 3, he not only found the four (4) accused inside the room but also some members of their operatives.[46]

We have held that where the testimonies of two key witnesses cannot stand together, the inevitable conclusion is that one or both must be telling a lie, and their story a mere concoction.[47]

Consequently, the credibility of the testimonies of the prosecution witnesses that appellants were arrested in a buy-bust operation crumbles into disarray.

Under the afore-discussed facts and circumstances surrounding the arrests of appellants, we find more credible appellants' contention that what actually took place at around 4:00 p.m. of March 27, 1999 was not a buy-bust operation but a raid conducted in the Apollo motel. That a raid was conducted is bolstered by the following circumstances: (1) the number of police operatives who went to the motel, i.e., 3-4 teams with eight to ten persons per team,[48] was far too many for a mere buy-bust operation; (2) the admission of Supt. Lopez that the police operatives invited several persons who were not mentioned by PO2 Villarosa to have participated in the buy-bust operation, namely: the motel cashier Nenita Diosto, counter clerk security guard Rolando Tamundong, Wilburt Lim, brother of appellant Wilson Lim, and Wilburt's two classmates who were just waiting at the lobby, to shed light on the illegal activities of the appellants;[49] (3) the seizure of articles, namely: the three motor vehicles,

motorcycle, gun and other personal belongings of the appellants which had been the subject of several motions to release filed in the trial court by appellants' counsels, which were not in any way connected with the crime;[50] (4) the inclusion of Wilburt Lim, appellant Wilson Lim's brother, in the charges filed before the Department of Justice which was subsequently dismissed for insufficiency of evidence.[51]

All the above circumstances ineluctably obscure the version of the prosecution that appellants were arrested as a result of a buy-bust operation. There would have been no need for Supt. Lopez to invite the above-mentioned persons for any additional information if indeed appellants were caught in the act of selling shabu. Likewise, Supt. Lopez's arrest of Wilburt Lim, whose participation in the buy-bust operation was not established by the testimony of PO2 Villarosa, demolishes the prosecution's claim that there was a buy-bust operation. PO2 Villarosa, on cross-examination, affirmed her affidavit wherein she stated that on her way to her car after she already got the shabu, she saw Wilburt Lim arrive riding in a Mitsubishi Lancer car.[52] Why then should Wilburt be arrested and charged when he arrived after the alleged buy-bust operation? The only cogent reason therefor is that what was conducted by the police operatives was a raid whereby the latter rounded up everybody they found in the motel.

Thus, the trial court gravely erred in finding that appellants were arrested as a result of buy-bust operation.

It must be mentioned that appellant Danilo Sy, in his appellant's brief, had advanced the theory that "assuming the truth of the circumstances unfurled by the prosecution, where there was no proper introduction between him and PO2 Villarosa who went to Apollo motel with P6,000.00 mixed with boodle money which Villarosa allegedly showed to appellant and the other accused, PO2 Villarosa instigated them to commit a crime" is contradictory to his main defense of denial. Nevertheless, we find that the evidence for the prosecution, as we have discussed above, failed to produce a moral certainty in our minds to sustain appellant Danilo's conviction. If the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not meet the test of moral certainty, and is not sufficient to support a conviction.[53]

The next question is whether the arrests of the appellants were lawful and valid. The general rule as regards arrests, searches and seizures is that a warrant is needed in order to validly effect the same.[54] The Constitutional prohibition against unreasonable arrests, searches and seizure refers to those effected without a validly issued warrant,[55] subject to certain exceptions found in Section 5, Rule 113 of the Rules of Court, which reads:

"Section 5. Arrest without warrant; when lawful – A peace officer or a private person may, without a warrant, arrest a person:

- a) When, in his presence the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
- b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and
- c) When the person to be arrested is a prisoner who has escaped xxx." (emphasis ours)

Not one of the above exceptions attended the arrest of appellants. Hence, the raid conducted on the premises by the police without any search warrant or warrant of arrest was illegal. Since the warrantless arrests were invalid, the search conducted on the premises was not one which is incidental to a lawful warrantless arrest. Thus, the search in the motel, without the benefit of a search warrant, was clearly illegal and the shabu allegedly seized thereat are inadmissible in evidence against appellants.

In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved.[56] To justify

the conviction of the accused, the prosecution must adduce the quantum of evidence sufficient to overcome the constitutional presumption of innocence. The prosecution must stand or fall on its evidence and cannot draw strength from the weakness of the evidence of the accused. [57] Accordingly, when the guilt of the accused-appellants have not been proven with moral certainty, as in this case against appellants, it is our policy of long standing that their presumption of innocence must be favored and their exoneration be granted as a matter of right.

However, the “shabu” presented in court, being a contraband, must be disposed of in accordance with law.

WHEREFORE, the decision of the Regional Trial Court of Caloocan City (Branch 129) is hereby REVERSED and SET ASIDE for failure of the prosecution to prove the guilt of the accused-appellants beyond reasonable doubt. Accused- appellants Wilson D. Lim, Danilo S. Sy, Jackilyn O. Santos and Antonio U. Sio are hereby ACQUITTED and ordered immediately RELEASED from detention, unless they are confined for any other lawful cause.

Their Jailers, the Bureau of Corrections, Muntinlupa City, for Danilo Sy, Wilson Lim and Antonio Sio and the Correctional Institution for Women, Mandaluyong City for Jackilyn Santos, are DIRECTED to implement this Decision immediately and to report to this Court their compliance herewith, within five (5) days from receipt of copy of herein decision.

The court a quo is directed to turn over the confiscated shabu to the Dangerous Drugs Board for destruction in accordance with law.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, and Corona, JJ., concur.

Puno, J., no part due to relationship to counsel.

[1] Docketed as Criminal Case No. C-56381; Original Records, pp. 344-372.

[2] Original Records, p. 1; Rollo, p. 26.

[3] Original Records, pp. 23-24.

[4] Ibid.

[5] Rollo, pp. 416-420.

[6] Brief for the appellant Danilo Sy, pp.83-84.

[7] TSN, September 23, 1999, pp. 7-21.

[8] TSN, September 23, 1999, p. 9; TSN, October 1, 1999, p. 6; TSN, September 30, 1999, p. 10, respectively.

[9] Brief for appellant Antonio U. Sio, Rollo, pp. 283-284.

[10] TSN, October 28, 1999, pp. 3-16.

[11] Original records, pp. 386-387.

[12] Brief for Appellant Danilo Sy, Rollo, pp. 80-81.

[13] Brief for Appellant Wilson D. Lim, Rollo, p. 213.

[14] Brief for Appellant Antonio U. Sio, Rollo, pp. 282-283.

[15] Brief for Appellant Jackilyn Santos, Rollo, p. 343.

[16] citing *People vs. Errojo*, 229 SCRA 49; *People vs. Gomez*, 229 SCRA 138.

[17] citing *People vs. San Gabriel*, 253 SCRA 84 ; *Del Mundo vs. CA*, 252 SCRA 432 ; *Lim vs. CA* 229 SCRA 616.

[18] *People vs. Alao*, 322 SCRA 380.

[19] TSN, June 23, 1999, p. 25.

[20] TSN, September 2, 1999, p. 3.

[21] Original Records, p.108.

[22] TSN, June 9, 1999, p.67.

[23] TSN, June 23, 1999, p. 13.

[24] Ibid, p. 26.

[25] Ibid, p. 81.

[26] Ibid, p. 7.

[27] TSN, p. 10, June 9, 1999.

[28] TSN, June 23, 1999, p.19.

[29] 234 SCRA 246, 252.

[30] Board Regulation No. 3, S 1979 as amended by Board Regulation No. 2, S.1990

Subject: Amendment of Board Regulation No. 7, series of 1974, prescribing the procedure in the custody of seized prohibited and regulated drugs, instruments, apparatuses, and articles specially designed for the use thereof.

xxxxxx

SECTION 1. All prohibited and regulated drugs, instruments, apparatuses and articles specially designed for the use thereof when unlawfully used or found in the possession of any person not authorized to have control and disposition of the same, or when found secreted or abandoned, shall be seized or confiscated by any national, provincial or local law enforcement agency. Any apprehending team having initial custody and control of said drugs and or/paraphernalia, should immediately after seizure or confiscation, have the same physically inventoried and photographed in the presence of the accused, if there be any, and /or his representative, who shall be required to sign the copies of the inventory and be given a copy thereof. Thereafter the seized drugs and paraphernalia shall be immediately brought to a properly equipped government laboratory for a qualitative and quantitative examination.

The apprehending team shall: (a) within forty-eight (48) hours from the seizure inform the Dangerous Drugs Board by telegram of said seizure, the nature and quantity thereof, and who has present custody of the same, and (b) submit to the Board a copy of the mission investigation report within fifteen within fifteen m completion of the investigation.

[31] TSN, July 2, 1999, p. 56.

[32] TSN, September 1, 1999, p. 66.

[33] People vs. Dismuke, 234 SCRA 51, 60.

[34] TSN, June 9, 1999, p. 66.

[35] Ibid, p. 30.

[36] Ibid, p. 35.

[37] TSN, September 1, 1999, p. 58.

[38] Ibid, p. 31.

[39] Ibid.

[40] TSN, June 23, 1999, pp. 29-30.

[41] Ibid, p. 32.

[42] TSN, August 4, 1999, p. 15.

[43] Ibid, p. 19.

[44] Ibid.

[45] Ibid, p.20.

- [46] September 1, 1999, p. 27.
- [47] People vs. Jubilag , 263 SCRA 604, 614.
- [48] TSN, June 9, 1999, p. 76.
- [49] TSN, September 1, 1999, p. 53.
- [50] Original Records, p. 62, 64-65; p. 81, 82.
- [51] Original records, pp. 3-6.
- [52] TSN, June 23, 1999, p. 21.
- [53] People vs. De los Santos, 314 SCRA 303, 327.
- [54] Art. III, Section 2, Constitution.
- [55] Malacat vs. CA, 283 SCRA 159 citing 1 Bernas 86 (1987)
- [56] Article III, Sec. 14 (2), 1987 Constitution.
- [57] People vs. Valdez, 341 SCRA 25 citing People vs. Acuno, 313 SCRA 667.

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.