

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. MARCIAL G. EMPLEO, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 9, REGIONAL TRIAL COURT, DIPOLOG CITY AND DANTE MAH Y CABILIN, RE...

G.R. NO. 148547. September 27, 2006

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This petition for review on certiorari[1] seeks to reverse the Decision[2] promulgated on 19 June 2001 of the Court of Appeals in CA-G.R. SP No. 59269. The Court of Appeals affirmed the Resolution and Order of Judge Marcial G. Empleo ("Judge Empleo") of the Regional Trial Court of Dipolog City, Branch 9 ("trial court"), directing the prosecutor to amend the two Informations filed by filing only a single Information.

The Facts

On 6 October 1999, a search warrant[3] was issued for the search and seizure of shabu and paraphernalia at the room rented by private respondent Dante Mah ("private respondent") at the LS Lodge located at the corner of Quezon Avenue and Mabini Street in Dipolog City.

During the search, the police officers seized the following from private respondent's room:

- Thirty-two small plastic sachets containing white crystalline granules believed to be shabu, weighing 2 grams;
- Six big plastic sachets containing white crystalline granules believed to be shabu, weighing 4.4 grams;
- One roll/stick of dried Indian hemp ("marijuana") leaves weighing 0.2 gram; and
- One small plastic sachet containing white crystalline granules believed to be shabu, weighing 0.05 grams.[4]

Police Superintendent Virgilio T. Ranes, Dipolog City Chief of Police, filed two criminal complaints for violation of Section 8, Article II and Section 16, Article III of Republic Act No. 6425[5] (RA 6425), as amended, against private respondent. After preliminary investigation, State Prosecutor Rodrigo T. Eguia filed two Informations before the Regional Trial Court in Dipolog City:

Criminal Case No. 9272

INFORMATION

The undersigned Prosecutor of Region 9 accuses DANTE MAH y Cabilin of the crime of VIOLATION OF SECTION 16, ARTICLE III of R.A. 6425, as amended, committed as follows:

That on October 6, 1999 at 10:30, more or less at corner Quezon Avenue and Mabini Streets, Barra, Dipolog

City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that unauthorized possession and control of regulated drug is punishable by law, did then and there willfully, unlawfully and feloniously have in his possession and control Thirty Two (32) pieces small plastic sachets and six (6) pieces big plastic sachet containing Methamphetamine Hydrochloride, more popularly known as "shabu," weighing a total of 6.4 grams, without any legal authority to possess the same, in gross Violation of Section 16, Article III, of R.A. 6425, as amended.

CONTRARY TO LAW.[6]

Criminal Case No. 9279

INFORMATION

The undersigned State Prosecutor of Region 9 accuses DANTE MAH y Cabilin alias "Dodoy Mah" of the crime of "Violation of Section 8, Article II of Republic Act No. 6425, as amended", committed as follows:

That on October 6, 1999 at 10:30 in the morning, more or less, at corner Quezon Avenue and Mabini Streets, Barra, Dipolog City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that possession and use of prohibited drugs is punishable by law, did then and there willfully, unlawfully and feloniously have in his possession and control One (1) roll/stick dried marijuana leaves, without legal authority to possess the same, in gross Violation of Section 8, Article II of Republic Act No. 6425, as amended.

CONTRARY TO LAW.[7]

Upon his arraignment on 28 October 1999, private respondent pleaded not guilty to the two charges.

On 17 February 2000, private respondent filed a motion[8] to dismiss Criminal Case No. 9279. Private respondent alleged that the single act of possession of drugs committed at the same time and at the same place cannot be the subject of two separate Informations. Since the prosecution already filed Criminal Case No. 9272, then the filing of Criminal Case No. 9279 is tantamount to splitting a single cause of action into two separate cases.

The prosecution opposed the motion, claiming that unauthorized possession of marijuana and shabu are punishable under Section 8, Article II and Section 16, Article III of RA 6425. Hence, these acts constitute two separate and distinct offenses with separate penalties.[9]

In a Resolution[10] dated 3 April 2000, Judge Empleo directed the prosecutor to file only a single Information. The Resolution reads in part:

It is to be noted that the stuffs, "SHABU" and Marijuana Leaves are all prohibited and regulated drugs. But what is important is that the search and seizure was done at one time, the same place and at one occasion. Hence, there could be no two crimes committed, regardless of the two kinds of prohibited/regulated drugs that were confiscated from the accused. There is in this case a clear case of splitting one single criminal act into two separate crimes.

Considering, however, that the penalty of this kind of offenses are based on the number of grams of the regulated/prohibited drugs, instead of having these cases dismissed, the Office of the City Prosecutor of Dipolog City is hereby directed to amend its information by filing one single information.[11]

The prosecution filed a motion for reconsideration,[12] arguing that violation of any of the provisions of RA 6425 constitutes a separate and distinct offense. The prosecution maintained that private respondent cannot be charged with violating Articles II and III of RA 6425 in one Information because that would be tantamount to charging him with more than one offense in a single Information. The trial court denied the motion in an Order[13] dated 2

May 2000.

Petitioner filed a petition for certiorari with the Court of Appeals, which dismissed the petition. Hence this petition.

Meanwhile, in an Order[14] dated 12 May 2000, the trial court suspended further proceedings in Criminal Case Nos. 9272 and 9279 pending resolution of the petition. However, in a Resolution[15] dated 27 April 2004, the trial court, upon private respondent's motion, dismissed Criminal Case Nos. 9272 and 9279 for unreasonable delay in the prosecution of the cases which is violative of the right of the accused to speedy trial.[16] Upon the prosecution's motion for reconsideration, the trial court issued an Order[17]

dated 17 June 2004, setting aside its Resolution dated 27 April 2004 and reinstating Criminal Case Nos. 9272 and 9279, with the proceedings still suspended pending outcome of the appeal in the Supreme Court.

The Ruling of the Court of Appeals

In a Decision promulgated on 19 June 2001, the Court of Appeals affirmed the Order and Resolution of the trial court. The Court of Appeals held that the filing of only one Information is proper because only one violation was committed - possession of dangerous drugs as penalized by RA 6425. The Court of Appeals ruled that:

In the case at bar, such intent to possess is the possession of a dangerous drug, however, without regard to the kind of substance involve[d], since both pertain to dangerous drugs, provided it will be duly established during trial, it shall make the accused liable for a violation of the Dangerous Drugs Act. As the possession of the dangerous drugs happened at the same time, same occasion, same place, it cannot be denied that only one violation [was] committed under the Dangerous Drugs Act, which is the possession of dangerous drugs. It is not controverted that at the time of the apprehension, what was found in his possession were [a] "marijuana" and "shabu." We shall not discount the fact that the circumstances surrounding the search and seizure point to none other but a single intent to possess a dangerous drug; not to mention that there is only one occasion, as compared to other cases wherein the alleged offense happened on different occasions, that with respect to the latter situation clearly it may not be said [that] there is only one intent. It can be inferred from the action of the accused and the surrounding circumstances that there was clearly one act intended by the former to perpetrate; it is apparent, that the accused seems to have a single intention, which is his intention to possess the said dangerous drugs. Thus, not just because it involves two different kinds of dangerous drugs make the said act to constitute two offenses. As has been repeatedly said by this Court, dangerous drugs refer to both prohibited and regulated drug.

x x x x

Petitioner contends that since there are two acts of possession, one is possession of a prohibited drug and the other is possession of a regulated drug, for that reason, there are two separate offenses that the accused may be held liable for. Petitioner puts forward the argument that it is immaterial that the "marijuana" and "shabu" were seized in the same place and on the same occasion. Petitioner further asserts that since two separate provisions of the Dangerous Drugs Act were violated, concomitantly, herein private respondent may be held liable for two distinct crimes under the said law. We hold otherwise. A careful look into the Dangerous Drugs Act would show that it specified the manner of commission of the particular acts that would amount to a violation of the said law, and one of which is the possession or use of a prohibited or regulated drug. Although the law has provided for two separate articles covering the possession or use of a prohibited and a regulated drug, it does not mean that there are two separate offenses that it speaks of. What the Dangerous Drugs Act penalizes is the specific act of possession or use of dangerous drugs, among others, regardless of the fact that it is a prohibited or a regulated drug.[18] (Emphasis in the original)

The Issue

The main issue in this case is whether the prosecution should file only one Information for illegal possession of

shabu and marijuana.

The Ruling of the Court

The petition is meritorious.

The Court of Appeals affirmed the Order and Resolution of the trial court that the prosecution should file only one Information. The Court of Appeals held that where possession of both prohibited and regulated drugs occurs at the same time, on the same occasion, and in the same place, only one offense is committed under RA 6425, which is possession of dangerous drugs.

We cannot subscribe to the appellate court's ruling. Such interpretation dilutes the severity of the crimes committed. RA 6425 does not prescribe a single punishment for the various offenses enumerated in the law. On the contrary, RA 6425 enumerates the punishable acts and its corresponding penalty. RA 6425 also specifies the particular drugs and the corresponding quantity in the imposition of penalty. For instance, under Section 20 of RA 6425, as amended, the minimum quantity of marijuana and shabu for purposes of imposing the maximum penalties are not the same. For marijuana, the quantity must be 750 grams or more while for shabu, it is 200 grams or more.

The prosecution was correct in filing two separate Informations for the crimes of illegal possession of shabu and illegal possession of marijuana. Clearly, the Legislature did not intend to lump these two separate crimes into just one crime of "possession of dangerous drugs." Otherwise, there would be no need to specify the different kinds of drugs and the corresponding quantity in the application of the appropriate penalty. Multiple offenses can be committed under RA 6425 even if the crimes are committed in the same place, at the same time, and by the same person. Thus, this Court has upheld rulings of the lower courts convicting an accused charged with two separate crimes of illegal possession of shabu and illegal possession of marijuana, even if the crimes were committed at the same time and in the same place.[19]

Besides, in *People v. Tira*, we have already ruled that illegal possession of shabu and marijuana constitutes two separate crimes and therefore, two Informations should be filed. We held:

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."

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.[20]

Just like Tira, this case involves illegal possession of both shabu and marijuana. Hence, it was only proper for the prosecution to file two separate Informations since there were two distinct and separate crimes involved. This is in accordance with the rule that a complaint or information must charge only one offense, except when the law prescribes a single punishment for various offenses.[21]

WHEREFORE, we SET ASIDE the Decision promulgated on 19 June 2001 of the Court of Appeals. We ANNUL the Resolution and the Order, dated 3 April 2000 and 2 May 2000, respectively, of the Regional Trial Court of Dipolog City, Branch 9. We ORDER Judge Marcial G. Empleo to continue with the proceedings in Criminal Case Nos. 9272 and 9279.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Teodoro P. Regino, with Associate Justices Mercedes Gozo-Dadole and Josefina Guevara-Salonga, concurring.

[3] Rollo, p. 47.

[4] Id. at 51.

[5] Known as "The Dangerous Drugs Act of 1972."

[6] Rollo, p. 52.

[7] Id. at 54.

[8] Id. at 57-60.

[9] Id. at 61-62.

[10] Id. at 63-66.

[11] Id. at 65-66.

[12] Records, pp. 27-28.

[13] Rollo, p. 68.

[14] Records, p. 32.

[15] Id. at 104-106.

[16] The trial court noted that private respondent has been detained since 6 October 1999. The trial court stated that there is no showing whether the prosecution indeed elevated the case to the Supreme Court.

[17] Records, pp. 148-150.

[18] Rollo, pp. 39-41.

[19] See *Gutang v. People*, 390 Phil. 805 (2000); *People v. Crespo*, 352 Phil. 57 (1998).

[20] G.R. No. 139615, 28 May 2004, 430 SCRA 134, 153-154.

[21] See Rules of Court, Rule 110, Sec. 13.

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