

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. MARIAM BANDANG Y SALAMAT, ADING SALAMAT & RAKIMA ABUBAKAR, APPELLANTS.

G.R. No. 151314. June 03, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

The commission of the offense of illegal sale of regulated drugs requires merely the consummation of the selling transaction. In a “buy-bust” operation, such as in the case at bar, what is important is the fact that the poseur-buyer received the shabu from the appellants and that the same was presented as evidence in Court. In short, proof of the transaction suffices.[1]

This is an appeal from the Decision[2] dated December 21, 2001 of the Regional Trial Court, Branch 18, Manila in Criminal Case No. 00-182559 finding Mariam Bandang, Ading Salamat and Rakima Abubakar, appellants, guilty beyond reasonable doubt of selling “shabu,” in violation of the Dangerous Drugs Act of 1972, as amended, and imposing upon them the penalty of reclusion perpetua and a fine of P500,000.00.

The Information filed against appellants reads:

“That on or about May 3, 2000, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping one another, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there willfully, unlawfully, knowingly and jointly sell or offer and/or attempt for sale, dispense, deliver, transport or distribute 100.43 gram; 100.83 gram; 102.80 gram; 100.70 gram; 107.21 gram; 102.92 gram and 101.65 gram or with a total weight of 716.54 grams of white crystalline substance contained in seven (7) transparent plastic sachet known as shabu containing methylamphetamine hydrochloride, which is a regulated drug.

Contrary to law.”

On May 31 2000, appellants, assisted by their counsel de parte, pleaded “not guilty”[3] to the charge. Thereafter, trial ensued. The prosecution presented two witnesses, namely: PO1 Olga Carpentero and PO2 Jigger Noceda.

The evidence for the prosecution established the following: In the morning of May 2, 2000, the Narcotics Group Intelligence Division of the Philippine National Police (PNP), in Camp Crame, Quezon City, was notified by an informant about the drug trafficking activities of appellants Mariam Bandang and Rakima Abubakar near the Arlegui Bridge, Quiapo, Manila. The PNP organized a team composed of PO1 Olga Carpentero, as the poseur-buyer, and Police Senior Inspector Crisostomo Mendoza, as the team leader, to conduct surveillance and buy-bust operation.[4] On the same day, PO1 Carpentero and the informant proceeded to Arlegui Bridge on board a car and were at the place between 3:00 to 5:00 in the afternoon. The informant introduced PO1 Carpentero to appellants as a prospective buyer of 700 grams of shabu. Appellants told PO1 Carpentero that it costs P490,000.00. When they asked her if she has the money, PO1 Carpentero replied that she will come back the following day with the money.[5] Appellants then told PO1 Carpentero to be at the place at around 5:30 in the

afternoon.[6]

PO1 Carpentero reported the incident to her superior who, in turn, organized two teams - the buy-bust team and the back-up team.[7] They prepared boodle money in two bundles consisting of cut papers. They then placed two five hundred genuine bills on top of each bundle, wrapped and placed them in a blue transparent plastic bag. PO1 Carpentero placed her initials on the two genuine five hundred peso bills.[8]

On May 3, 2000, at around 5:30 in the afternoon, the teams proceeded to Arlegui, Quiapo, Manila on board three vehicles. The informant went to the house of appellant Abubakar, leaving PO1 Carpentero alone in the car. After a little while, the three appellants came out of the house and went inside the parked car. They sat on the back seats, while the informant and PO1 Carpentero on the front seats.

Once inside the car, appellant Abubakar asked PO1 Carpentero if she has the money. When she said “yes,” appellant Bandang got the black shoulder bag from appellant Ading Salamat and gave it to PO1 Carpentero. She then opened the black shoulder bag and saw seven (7) transparent plastic sachets[9] containing white crystalline substance.[10] Thereupon, she handed the bundles of boodle money to appellant Abubakar and immediately pressed the button of the hazard lights of the car. The blinking of the hazard lights indicated that the deal was consummated. PO1 Carpentero then introduced herself as a police officer and arrested the three appellants. Simultaneously, the two teams rushed in and arrested[11] them and confiscated[12] the seven plastic sachets containing the white crystalline substance. PO2 Jigger Noceda recovered the boodle money from appellant Abubakar. Then the arresting police officers brought appellants to Camp Crame for investigation.[13] Thereafter, they were detained in the City Jail of Manila.[14] The substance, with a total weight of 716.54 grams, was submitted to the PNP Crime Laboratory for examination. It was positive for methylamphetamine hydrochloride or shabu.[15]

The prosecution dispensed with the direct testimony of Cirox T. Omero, PNP forensic chemist, considering that the prosecution and the defense stipulated that: (1) he conducted the laboratory analysis of the 716.54 grams of white crystalline substance; (2) that he stated in his initial Laboratory Report[16] and his Chemistry Report No. D-1585-00[17] that the substance is positive for methylamphetamine hydrochloride or shabu, and; (3) the seven (7) plastic bags of shabu has been identified.[18] Nonetheless, Omero presented to the trial court the specimen and it was identified by PO1 Carpentero as the same white crystalline substance contained in a black shoulder bag handed to her by appellant Bandang.[19] Upon order of the trial court,[20] it was turned over to the PNP Crime Laboratory, through Omero, for safekeeping.

All the appellants raised the defenses of alibi and frame-up.

Appellant Bandang’s testimony is as follows: she is a manicurist and a former resident of Quiapo, Manila until she transferred to Taguig, Metro Manila in 1994. At the time of the incident, she was in a sidewalk store in Elizondo Street, Quiapo, Manila rendering manicure service to her old customers.[21] She was with her mother, appellant Ading Salamat, and her one year old child. On her way to another customer, she met appellant Abubakar.[22] At that point she saw two men being chased by another two. Then, the two men behind suddenly accosted and ordered appellants Bandang and Abubakar to board a vehicle.[23] Appellant Bandang shouted at her mother, who was a few meters away from her, to take care of her child. When her mother came near, they also dragged her inside the vehicle which sped away. The two men forced appellants to identify the two men being chased, but they could not do so. Thereafter, they were brought to Camp Crame.

When cross examined, appellant Bandang denied having met the prosecution witnesses before they arrested them (appellants) on May 3, 2000.[24] She also claimed that she saw appellant Abubakar for the second time when they were arrested.[25] She also narrated that they were arrested inside their house,[26] contrary to her direct testimony

that she was along a sidewalk at Elizondo, Quiapo.

Appellant Salamat corroborated the testimony of her daughter appellant Bandang.[27] When cross-examined, she declared that when she was arrested, she inadvertently left her grandchild on the sidewalk. The people there, however, were able to trace her residence, hence, they entrusted the child to her relatives.[28]

Appellant Abubakar gave the same version in the course of her testimony.[29]

On December 21, 2001, the trial court rendered its Decision, the dispositive portion of which reads:

“WHEREFORE, in light of the foregoing, herein accused Mariam Bandang y Salamat, @ Joharra, accused Ading Salamat y Guna and accused Rakima Abubakar y Usman (Abubacar) are hereby found guilty beyond reasonable doubt for the Violation of Section 15, Article III in relation to paragraphs (e), (f), (m), (o) of Section 2, Article I and in relation to Sections 20 & 21, Article IV of R.A. 6425, as amended by R.A. 7659. The three accused shall suffer the penalty of reclusion perpetua with the accessory penalties provided by law. They are ordered to pay a fine of P500,000.00

The preventive imprisonment of the accused since their arrest at the buy-bust operation held on May 3, 2000 should be credited in their favor.

Forensic Chemist-Police Inspector Cirox T. Omero of PNP Crime Laboratory, Camp Crame, Quezon City is hereby ordered to immediately submit the confiscated shabu weighing 716.54 grams of methylamphetamine hydrochloride to the Chairman of the Dangerous Drugs Board, Champ Building, Bonifacio Drive, Intramuros, Manila, for proper disposal pursuant to Paragraph (b), Section 36 of R.A. 6425, as amended.

Also send a copy of this decision to the Chairman of the Dangerous Drugs Board of the aforesaid address; the Warden of the City Jail, Manila; to Forensic – Chemist Cirox T. Omero of the PNP Laboratory Service, Camp Crame, Quezon City, and to Police Superintendent Pancho Adelberto M. Hubilla of PNP Narcotics Group, Camp Crame, Quezon City.

SO ORDERED.”[30]

Hence, this appeal, appellants ascribing to the trial court the following assignments of error:

By appellants Bandang and Salamat:

“I

THE COURT A QUO ERRED IN ACCORDING GREATER WEIGHT TO THE EVIDENCE ADDUCED BY THE PROSECUTION AND IN DISREGARDING ACCUSED-APPELLANTS’ ALIBI.

II

THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE THE INHERENT WEAKNESS OF THE PROSECUTION’S EVIDENCE.”[31]

By appellant Abubakar:

“I

THE COURT A QUO GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT HEREIN ALBEIT CLEAR FAILURE OF THE STATE TO PROVE THE CRIME CHARGED;

II

THE COURT A QUO GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT HEREIN ON THE BASIS SOLELY OF THE STIPULATION OF FACTS IN THE PRE-TRIAL ORDER OF JULY 6, 2000, WHICH PRE-TRIAL ORDER ALTHOUGH SIGNED BY ACCUSED-APPELLANT HEREIN WAS HOWEVER, NOT SIGNED BY COUNSEL.”[32]

The Solicitor General counters that: (a) all the elements of the crime of illegal sale of dangerous drugs were established by evidence beyond reasonable doubt; (b) that appellants’ defense of alibi and frame-up must fail because they did not present convincing evidence that it was physically impossible for them to be at the scene of the crime at the time it was committed; and (c) that the lack of signature of counsel for appellant Abubakar in the Stipulation of Facts between the parties is immaterial since the prosecution had adequately proven the offense charged.[33]

We affirm the assailed Decision.

I. Sufficiency of the Prosecution Evidence

In a prosecution for illegal sale of dangerous drugs, the following must be proven: (1) that the transaction or sale took place; (2) the corpus delicti or the illicit drug was presented as evidence;[34] and (3) that the buyer and seller were identified. A review of the records of this case reveals that the prosecution has proven all these elements.

A. The Fact of Sale was Established

The commission of the offense of illegal sale of dangerous drugs requires merely the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller.[35] In the present case, this was sufficiently proven by PO1 Carpentero, the poseur-buyer. She gave a detailed account of how the sale took place, from the initial negotiation to the eventual delivery of the dangerous drugs. On May 2, 2000, she and the informant closed the deal with appellants Bandang and Abubakar for the purchase of the 700 grams of shabu at P490,000.00; and that the next day, the three appellants delivered to her the 700 grams of shabu for which she paid them the boodle money. Definitely, the testimony of PO1 Carpentero as the poseur buyer clearly established the consummation of the sale. Settled is the rule that as long as the police officer went through the operation as a buyer and his offer was accepted by appellants and the dangerous drugs delivered to the former, the crime is considered consummated by the delivery of the goods.[36] We quote PO1 Carpentero’s clear and straightforward account of the transaction, thus:

“PROS. GURAY:

Q So what did you do on May 2, 2000?

A

I, together with the confidential informant proceeded to the place where the duo, one alias Joharra and Rakima operate their illegal transaction.

Q And where was that place.

A Near the Arlegui Bridge, sir.

Q And where is that Arlegui Bridge located?

A In Quiapo, sir.

xxx

Q What time did you reach that place?

A Between 3:00 to 5:00 p.m., sir.

xxx

Q

And upon arrival at Arlegui bridge in Quiapo, Manila, on that particular date on May 2, 2000, what happened next?

A

Our confidential informant went to the place of Rakima and when he came back, he had a companion, one alias Joharra and the one Rakima.

Q When the informant, together with this Rakima and Joharra arrived at the place, what happened next?

A Our confidential informant introduced me to them as a buyer.

Q

After the confidential informant introduced you as a buyer, what did Rakima and Joharra tell you, if any?

A

She said if I have money. First they asked how much I'm going to buy or purchase. Then I told them that I only have P500,000.00.

THE COURT:

Q Why did you say only?

A Because they said that one kilo of shabu is worth P700,000.00.

xxx

Q What is the quantity that you told the drug pusher that you are going to buy?

A I said that I am going to purchase three kilos of shabu.

xxx

Q And what was the reply?

A They said that the shabu costs P700,000.00 per kilo, sir.

xxx

Q What was your response?

A I told them that I'm going to buy only 700 grams of shabu because my money was only P500,000.00.

Q 700 grams?

A Yes, sir.

Q How would you know that 700 grams would costs P500,000.00.

A No, sir. They cost P490,000.00.

xxx

Q You were told?

A Yes, sir.

Q That 700 grams would cost P490,000.00.

A Yes, sir.

PROS. GURAY:

Q And after telling them the amount of shabu that you would buy, what did they tell you, if any?

A They asked if I have the money in my possession.

Q And what did you tell them?

A I answered that I did not have the money. But I would go back the following day.

Q And did they agree?

A Yes, sir.

Q After that, where did you proceed?

A We proceeded at our office in Camp Crame, sir.

Q And what did you do there?

A I reported about the transaction, sir, to our chief.

Q And what did your chief instructed you to do, if any?

A

And he designated Police Senior Inspector Mendoza to make a team to form a back up team for the buy bust operation.

xxx

PROS. GURAY:

Q What time did you arrive at the target of operation?

A At around 5:30 in the afternoon.

Q

When you arrived at Arlegui, Quiapo, Manila, what particular place in that area did you position yourself?

A Near the bridge of Arlegui.

Q And who was with you in that particular place?

A None, sir. I'm the only one inside the car.

Q And who arrived with you in that place? Who was with in that place?

A Our back up team, sir.

THE COURT:

Q How about in the car that you rode in? Who was with you inside that car when you arrived in the area of operation?

A At first, sir, our driver and the confidential informant?

Q So there were three of you?

A Yes, sir.

Q This driver is also a police operative?

A Yes, sir.

Q And where did the back up team position themselves?

A At the distance that is visual to us.

Q You said that when you arrived at the place inside your car was the driver and your confidential informant. Where did they go after you arrived at the place?

A

After we arrived at the place of the operation, the driver parked our car and he alighted and joined the members of the back up team while the police informant went to the house of the suspected drug pushers.

PROS. GURAY:

Q And did the confidential informant come back afterwards?

A Yes, sir.

Q And who was with the confidential informant when that informant came back?

A Together with him was one alias Joharra and one Rakima and the old woman.

THE COURT:

Q So there was three with the informant?

A Yes, sir.

Q Namely?

A Alias Rakima, Mariam Bandang alias Joharra.

Q And the third?

A A woman, an old woman.

Q So all in all there were how many women?

A Three, sir.

Q All these persons were women?

A Yes, sir.

PROS. GURAY:

Q What were they carrying, if any?

A An old woman is carrying a bag, a black shoulder bag.

Q And when these three persons you mentioned arrived at the place were you positioned yourself, what happened next?

A When they arrived I asked them to enter the car.

Q And did they enter the car?

A Yes, sir.

THE COURT:

Q Where were you seated at the time?

A At the driver seat, sir.

PROS. GURAY:

Q Where did they position themselves?

A At the back seat.

Q How about he confidential informant? Where did he or she position himself or herself?

A Beside me, sir.

Q You mean to tell the court that the three occupied the back seat?

A Yes, sir.

Q When they were already inside the car what transpired next?

A Rakima asked me if I have the money.

Q What was your response?

A I told her that I have the money.

Q Then what transpired next?

A The one alias Joharra got the black shoulder bag from the old woman and she gave it to me.

Q And after the bag was handed to you, what did you do with the bag?

A

I opened it and I examined it and I saw seven transparent plastic bag or sachets containing white crystalline substance.

THE COURT:

Q Suspected shabu?

A Yes, sir.

PROS. GURAY:

Q

What happened with the money which you said was asked by Rakima if it was already with you?

A I showed her the money.

THE COURT:

Q

Wait. Wait. When did you show the money? Was it before or after the black shoulder bag was handed to you?

A After the shoulder bag was handed to me.

Q After you received the shoulder bag, you showed the money?

A Yes, sir. I examined first the contents of the bag.

Q Yes. And when you saw the suspected shabu inside, what did you do next?

A They asked for the money and they showed it to me and handed the xxx plastic sachets.

Q So before handling the boodle money, you showed it first to her?

A Yes, sir.

Q And you handed it to her?

A Yes, sir.

xxx

PROS. GURAY:

Q Then what transpired next after that?

A When the transaction was finished I pushed the hazard button.

xxx

PROS. GURAY:

Q And what did these blinking of hazard lights signify?

A To signify our pre-arranged signal, sir.

THE COURT:

Q What did it signify?

A That the transaction was done, sir.

Q That the transaction was consummated?

A Yes, sir.

PROS. GURAY:

Q Then after that, what happened?

A Our arresting back up team rushed in and then they effect the arrest?

THE COURT:

Q How about you? What did you do?

A

I identified myself as a police officer and we are arresting them for violation of Dangerous Drugs Act.”[37]

The foregoing testimony was substantially corroborated by PO2 Noceda[38] and by PO2 Gabarda in his joint affidavit of apprehension.[39] Notwithstanding the searching cross-examination by the defense counsel, PO1 Carpentero and PO2 Noceda did not deviate from their direct testimonies. PO2 Noceda reinforced PO1 Carpentero’s testimony when he affirmed that he confiscated seven sachets containing white crystalline substance at the scene of the crime; and that he recovered the boddle money from appellants.

That appellants knew that what they sold and delivered to PO1 Carpentero were dangerous drugs is evident from the narration of both witnesses that when they asked appellants whether they have license to carry or sell shabu, the latter merely replied “no.”[40] They did not refute that the substance they delivered to PO1 Carpentero was shabu.

**B. The Corpus Delicti was
Presented in Court**

The seven sachets of shabu presented before the trial court as Exhibits “J-1” to “J-7” were positively identified by PO1 Carpentero as the very same shabu sold and delivered to her by appellants, thus:[41]

“x x x

PROS. GURAY:

For the record, Your Honor, the forensic chemist brought to court the specimen contained in a black shoulder bag which has been marked as Exhibit ‘J’ for the prosecution.

Q

For the record, may I now confront the witness with a shoulder bag and its contents. Madam Witness, will you step down and examine these small plastic bags or sachets containing white crystalline substances and tell the court what relation has these seven bags containing plastic sachets to the specimen which you said were handed to you by the accused in this case on May 3, 2000?

A

These are the ones that were inside the bag when alias Joharra handed to me. These are all the seven sachets contained in the bag that was handed to me.

PROS. GURAY:

For the record, these plastic bags had been marked already as Exhibits ‘J-1’, ‘J-2’, ‘J-3’ up to ‘J-7.’

Q

And will you please examine the black shoulder bag and tell us what relation has this with the shoulder bag which was handed to you by the accused?

A This bag is where they put the seven sachets, sir.

PROS. GURAY:

For the record, the black shoulder bag containing the seven plastic sachets which were earlier marked as Exhibit ‘J-1’ to ‘J-7’ has been already marked as Exhibit ‘J’ for the prosecution.”[42]

That the seven sachets of white crystalline were indeed shabu is shown by the Initial Laboratory Report and the

Chemistry Report No. D-1585-00,[43] prepared by Cirox T. Omero, PNP forensic chemist, which both yield “POSITIVE result to the test for Methylamphetamine hydrochloride.”

Appellant Abubakar submits that she was erroneously convicted because the parties’ Stipulation of Facts regarding the corpus delicti cannot be used against her considering that her counsel, Atty. Enriquez, did not sign it. We do not agree. First, her conviction is not based solely on the Stipulations of Facts. In *Fule vs. Court of Appeals*,[44] we ruled that while the omission of the signature of the accused and his counsel indeed renders a stipulation of facts inadmissible in evidence, the prosecution is not without remedy. What the prosecution should do is to submit evidence to establish the elements of the crime instead of relying solely on the supposed admission of the accused in the stipulation of facts. In the present case, this is what the prosecution did.

Appellant Abubakar now argues that the Initial Laboratory Report and the Chemistry Report No. D-1585-00 are inadmissible for being hearsay because Omero, the PNP forensic chemist, did not testify. This is a non-sequitur conclusion. In *People vs. Uy*,[45] we ruled that a forensic chemist is a public officer and as such, his report carries the presumption of regularity in the performance of his function and duties. Corollarily, under Section 44 of Rule 130, Revised Rules of Court, entries in official records made in the performance of official duty are prima facie evidence of the facts therein stated. Omero’s reports that the seven sachets of white crystalline substance were “positive for methylamphetamine hydrochloride” or shabu are, therefore, conclusive in the absence of evidence proving the contrary, as in this case.

Second, it must be stressed that Atty. Enriquez raises his objection to the Initial Laboratory Report and Chemistry Report No. D-1585-00 only now. He should have objected to their admissibility at the time they were being offered. Otherwise, the objection shall be considered waived and such evidence will form part of the records of the case as competent and admissible evidence.[46] The familiar rule in this jurisdiction is that the admissibility of certain documents, if not urged before the court below, cannot be raised for the first time on appeal.

C. Positive Identification of the Appellants as the Sellers

PO1 Carpentero and PO2 Noceda positively identified appellants as the peddlers of the confiscated shabu. PO1 Carpentero testified:

Q

Madam Witness, who among the three accused handed to you this bag containing the plastic sachets?

A

One alias Joharra.

And again, will you point to the person alias Joharra if she is in the court room?

The one wearing a red shirt.

THE COURT:

Q

Witness pointing to a woman who answered by the name of (stop), pangalan?

A

Mariam Bandang po, sir.

Q

And you testified earlier that before these specimen contained in a black shoulder bag was handed to you by alias Joharra who gave her name as Mariam Bandang, she left for a few minutes with another suspect. Who was that suspect who was with Joharra when they left for a few minutes?

A

When she came back, sir, she has another old lady, sir.

Q

My question is, when she left before the third lady who, was with them? Who was with Joharra?

A

One alias Rakima, sir.

Q

And will you please point to Rakima if she is in court?

A

Siya po.

THE COURT:

Q

Yung tinuro tumayo. Witness pointing to another woman who answered by the name of (stop), among pangalan?

ACCUSED ABUBAKAR:

Rakima Abubakar po.

xxx

PROS. GURAY:

Q

And you also testified that after Rakima and Joharra left for a few minutes, they came back with another woman and this woman you said was the one carrying the black shoulder bag. If that woman is in court, will you be able to point to her?

A The old woman there, sir.

THE COURT:

Yung tinuro tumayo. Pangalan po ninyo?

ACCUSED SALAMAT:

Ading Salamat po.

THE COURT:

Witness pointing to an old woman who answered by the name of Ading Salamat. Maupo ka na.

xxx”[47]

PO2 Noceda also identified appellants, thus:

“PROS. GURAY:

Q

Mr. Witness, you earlier told the Court that you were part of the buy bust operation that was conducted on May 3, 2000. Who were the target of your buy bust operation?

A A certain Joharra and Rakima, sir.

Q If that Joharra and Rakima are in court, will you be able to recognize them?

A Yes, sir.

Q Will you be able to point to Rakima?

A Siya po.

THE COURT:

Yung tinuro tumayo. Witness pointing to a woman who answered by the name of? Anong pangalan mo?

ACCUSED RAKIMA:

Rakima Abubakar po.

PROS. GURAY:

Q And if this Alias Joharra is in court, will you please point to her?

THE COURT:

Yung tinuro tumayo. Witness pointing to another woman who answered by the name of? Pangalan?

ACCUSED BANDANG:

Mariam Bandang po.

THE COURT:

Sige, maupo ka na.”[48]

All the elements necessary for the conviction of appellants for illegal sale of dangerous drugs have been proved by the prosecution, thus:

(1) The shabu was in fact delivered by appellants to PO1 Carpentero, the police poseur-buyer.[49]

(2) The object of the sale was the 716.54 grams of shabu valued at P490,000.00.[50]

(3) The buyer was PO1 Carpentero and the sellers were herein appellants.[51]

II. The Defenses of Frame-up, Denial and Alibi

In a last ditch effort to secure an acquittal, appellants claim that they were victims of frame-up[52] and extortion. Appellants’ defense must fail. For a police officer to frame them up, he must have known them prior to the incident.[53] This is not the situation here. The informant had to introduce PO1 Carpentero to appellants before she could negotiate with them the sale of shabu. Appellants themselves admitted that prior to their arrest, they did

not know the police officers.

Furthermore, appellants failed to show any motive why PO1 Carpentero and PO2 Noceda would falsely impute a serious crime against them. Without proof of such motive, the presumption of regularity in the performance of official duty and the findings of the trial court on the credibility of witnesses shall prevail over their self-serving and uncorroborated claim of having been framed.[54] Like alibi, we view the defense of frame-up with disfavor as it can easily be concocted and it is one of the most hackneyed line of defense in dangerous drug cases.[55] For this claim to prosper, the defense must therefore adduce clear and convincing evidence.[56] In this aspect, appellants miserably failed.

Appellants' defense of denial and alibi must likewise fail. As between their mere denial and their positive identification by the prosecution witnesses, the trial court did not err in according weight to the latter. For the defense of alibi to prosper, the accused must show that he was in another place at such a period of time and that it was physically impossible for him to be at the place where the crime was committed at the time of its commission.[57] These requirements of time and place must be strictly met.[58] Appellants failed to establish that it was physically impossible for them to be at Arlegui Bridge, Quiapo, Manila on May 3, 2000 at about 5:30 o'clock in the afternoon. What is clear from the evidence is that they were at Elizondo Street, Quiapo, Manila, a stone's throw away from Arlegui. It bears emphasis that their testimonies as to their whereabouts during their arrest were inconsistent. Appellant Bandang narrated during her direct testimony that she and appellant Abubakar were in a sidewalk store in Elizondo Street, Quiapo, Manila when they were suddenly accosted by the police officers. On cross-examination, she contradicted herself and claimed that she and appellant Abubakar were arrested inside their house.[59] For her part, appellant Salamat stated that the police forcibly dragged her and her daughter, appellant Bandang, inside a vehicle and it was only then that she saw appellant Abubakar.[60] Meanwhile, both appellants Salamat and Abubakar were silent on appellant Bandang's claim that the apprehending policemen demanded hush money from them. Undoubtedly, the inconsistencies in appellants' testimonies weaken their defense. They reveal concocted stories and a web of lies.

III. Presence Of Conspiracy

We also affirm the trial court's finding that there was conspiracy among the three appellants. Their conduct during the entrapment reveals a common design or a community of interest among them.[61] The clear fact is that they acted in concert in committing the crime, thus: (a) appellant Salamat carried the black shoulder bag containing the seven sachets of shabu; (b) appellant Abubakar asked PO1 Carpentero if she was ready with the money; (c) appellant Bandang handed the black shoulder bag to PO1 Carpentero; and (d) appellant Abubakar received the boodle money from PO1 Carpentero. All these acts clearly demonstrate the presence of conspiracy. The existence of a conspiracy need not be proved by direct evidence because it may be inferred from the parties' conduct indicating a common understanding among themselves with respect to the commission of the crime.

IV. Penalty

The penalty prescribed under Section 15 of Article III, in relation to Section 20 and 21 of Article IV, of R.A. No. 6425, as amended by R.A. No. 7659, for unauthorized sale of 200 grams or more of shabu or methylamphetamine hydrochloride is reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos. In the case at bar, as the penalty of reclusion perpetua to death consists of two (2) indivisible penalties, appellants were correctly meted the lesser penalty of reclusion perpetua, with the accessory penalties provided by law, conformably with Article 63 (2) of the Revised Penal Code that when there are neither mitigating nor aggravating circumstances in the commission of the crime, the lesser penalty shall be applied.

As regards the fine imposed by the trial court, it has been held that courts may fix any amount within the limits

established by law; and in fixing the amount in each case, attention shall be given, not only to the mitigating and aggravating circumstances, but more particularly to the wealth or means of the culprit.[62] In view of the quantity of shabu confiscated in this case, we find no reason to disturb the trial court's imposition of fine in the amount of P500,000.00.

WHEREFORE, the instant petition is DENIED. The assailed Decision of the Regional Trial Court, Branch 18, Manila, in Criminal Case No. 00-182559 is AFFIRMED.

Costs de officio.

SO ORDERED.

Vitug, (Chairman), Corona, and Carpio-Morales, JJ., concur.

[1] People vs. Catan, G.R. No. 92928, January 21, 1992, 205 SCRA 325.

[2] Penned by Judge Edelwina Catubig Pastoral.

[3] Records at 32.

[4] Transcript of Stenographic Notes (TSN), August 15, 2000 at 5-6.

[5] Id. at 8-9.

[6] Id. at 9.

[7] Id. at 8-9.

[8] Exhibits "C-1" and "C-2"; "C-1-A" and "C-2-A"; id. at 10-12.

[9] Exhibits "J-1" to "J-7", id.

[10] TSN, August 15, 2000 at 14.

[11] Exhibit "B", Records at 7-8; Exhibits "D", "E", "F", Records at 9-11.

[12] Exhibit "G", Records at 12-13.

[13] TSN, August 15, 2000 at 15-16.

[14] Records at 45.

[15] Exhibit "H", id. at 14; Exhibit "K", id. at 35.

[16] Id.

[17] Exhibit "K", Records at 35.

[18] Exhibit "J-1" – "J-7", Records at 38-39.

[19] TSN, September 15, 2000 at 3.

[20] Order dated September 15, 2000; TSN, September 15, 2000 at 11.

[21] TSN, February 21, 2001 at 24.

[22] Id. at 5-11.

[23] Id. at 13.

[24] Id. at 20-21.

[25] Id. at 28.

[26] TSN, April 10, 2001 at 3.

[27] TSN, April 20, 2001 at 4-6.

[28] TSN, April 27, 2001 at 3.

[29] TSN, May 11, 2001 at 2-4.

[30] Records at 125-131.

[31] Rollo at 87-88.

[32] Id. at 56.

[33] Id. at 117-154.

[34] People vs. Rosdia Hajili, et al., G.R. Nos. 149872-73, March 14, 2003, citing People vs. Chen Tiz Chang, 325 SCRA 776 (2000); People vs. Padasin, G.R. No. 143671, February 14, 2003, 397 SCRA 417, citing People vs. Boco, 309 SCRA 42 (1999); and People vs. Batoctoy, et al., G.R. Nos. 137458-59, April 24, 2003, citing People vs. Tan, 381 SCRA 74 (2002).

[35] People vs. Simon, 234 SCRA 555 (1994).

[36] People vs. Flores, G.R. No. 80914, April 6, 1995, 243 SCRA 374.

[37] TSN, August 15, 2000 at 5-17.

[38] TSN, September 22, 2000 and October 13, 2000.

[39] Exhibit "B", Records at 7-8.

[40] TSN, September 15, 2000 at 16 and TSN, October 13, 2000 at 11.

[41] TSN, September 15, 2000 at 3.

[42] Id. at 3-4.

[43] Exhibit "K", Records at 35.

[44] G.R. No. L-79094, June 22, 1988, 162 SCRA 446.

[45] G.R. No. 128046, March 7, 2000, 327 SCRA 335.

[46] Republic vs. Court of Appeals, et al., G.R. No. 116372, January 18, 2001, 349 SCRA 451, citing Chua vs. Court of Appeals, 301 SCRA 356 (1999).

[47] TSN, September 15, 2000 at 3-4.

[48] TSN, October 13, 2000 at 4-5.

[49] TSN, September 15, 2000 at 14.

[50] TSN, August 15, 2000 at 8-9.

[51] *Id.* at 8-9, 20; TSN, October 13, 2000 at 5 & 13.

[52] Appellant's Brief at 9; Rollo at 95.

[53] *People vs. Saludes*, G.R. No. 144157, June 10, 2003.

[54] *People vs. Macalaba*, G.R. Nos. 146284-86, January 20, 2003, 395 SCRA 461; *People vs. Saludes*, *id.*, citing *People vs. Bongalon*, 374 SCRA 289 (2002) and *People vs. Johnson*, 348 SCRA 526 (2001); *People vs. Uy*, G.R. No. 128046, March 7, 2000, 327 SCRA 335.

[55] *People vs. Saludes*, *supra*; *People vs. Hajili, et al.*, *supra*, citing *People vs. Chen Tiz Chang*, *supra*.

[56] *People vs. De Leon*, G.R. Nos. 132484-85, November 15, 2002, 391 SCRA 682.

[57] *People vs. Azugue*, G.R. No. 110098, February 26, 1997, 268 SCRA 711.

[58] *People vs. Dela Cruz*, G.R. No. 108180, February 8, 1994, 229 SCRA 754.

[59] TSN, April 10, 2001 at 3.

[60] *Id.* at 4-6.

[61] *People vs. San Andres*, 326 SCRA 223 (2000); *People vs. Alagon*, G.R. Nos. 126536-37, February 10, 2000, 325 SCRA 297; *People vs. Blanco*, G.R. No. 124078, February 1, 2000, 324 SCRA 280.

[62] Article 66, Revised Penal Code.

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