

RONNIE AMBAIT Y SAURA, PETITIONER, VS. THE COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. No. 164909. April 30, 2008*

Ponente: QUISUMBING, J.

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This is an appeal to reverse and set aside the Decision [1] dated July 25, 2003 and the Resolution [2] dated August 11, 2004 of the Court of Appeals in CA-G.R. CR No. 26050. The appellate court affirmed the Decision [3] dated September 5, 2000 of the Regional Trial Court (RTC) of Bacolod City, Branch 41, in Criminal Case Nos. 95-17377 and 95-17378.

On September 5, 2000, the trial court found petitioner guilty beyond reasonable doubt of violation of Presidential Decree No. 1866, [4] Illegal Possession of Firearms, and violation of Section 16, [5] Article III of Republic Act No. 6425, the Dangerous Drugs Act of 1972, as amended by Batas Pambansa Blg. 179 [6] and Rep. Act No. 7659. [7]

Petitioner had been found, on October 13, 1995, to unlawfully possess one unlicensed/unauthorized Smith and Wesson revolver, caliber .38, and three rounds of live ammunition. On that same day, he was also found to have in his possession, one small sachet of methamphetamine hydrochloride, otherwise known as shabu, weighing more or less 0.10 gram without the corresponding license or prescription.

Affirming the trial court's decision, the Court of Appeals predicated its judgment on the following facts.

On October 13, 1995 just before midnight, Bacolod City PNP Chief Inspector Pedro Merced, SPO2 Freddie Natividad and SPO1 Arthur Yusay were on routine police patrol when an informant codenamed "Savio" tipped them that a certain Teddy Sta. Rita [8] of San Patricio, Banago District, Bacolod City was committing certain illegal activities within his residence. The patrol proceeded to the place reported by the informant. It was learned that the dwelling place was owned by one Nelia [9] Sta. Rita. [10]

Having been informed that petitioner Ronnie Ambait maintained an illegal gambling operation in the said house, the policemen conducted a surveillance and stake-out operation. Using an entrapment procedure, the group was expecting the informant to turn-over some jai-alai paraphernalia and bet collections to petitioner; thereupon they would swoop down on the latter. As the policemen watched the informant hand over the tally sheet and bet collections to a certain Barry, the latter handed the paraphernalia to petitioner who was sitting behind a table with an open compartment. [11] The policemen thereafter entered the house and found three persons namely, petitioner, Teddy Sta. Rita and a Eufan Serfino. Noticing a bulge in petitioner's pocket, SPO2 Natividad asked him to stand up and empty his pocket. Petitioner let out a brown coin purse containing a small sachet. SPO1 Yusay then frisked petitioner and found a .38 caliber revolver and three live ammunitions. Gambling paraphernalia and bets amounting to P1,799 were found on the table. [12]

Thereafter, Informations against petitioner were filed as follows:

In Criminal Case No. 95-17377:

x x x x

That on or about the 13[th] day of October, 1995, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, did, then and there wilfully, unlawfully and feloniously keep, possess, hold and carry in his possession one (1) Revolver Caliber .38 Smith and Wesson (homemade) without Serial Number with three (3) rounds of live ammunitions without license and/or authority duly and legally issued and obtained for that purpose, in violation of the aforementioned law.

Act contrary to law. [13]

In Criminal Case No. 95-17378:

x x x x

That on or about the 13[th] day of October, 1995, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused not being lawfully authorized to possess, prepare, administer or otherwise use any regulated drug, did, then and there wilfully, unlawfully and feloniously have in his possession and under his custody one (1) small sachet of methamphetamine hydrochloride, otherwise known as shabu, weighing more or less 0.10 gram without the corresponding license or prescription therefor.

Act contrary to law. [14]

During trial, SPO4 Vicente Jalocon of the Firearms and Explosive Unit of the Bacolod City PNP testified that petitioner was not a registered firearm holder and had no license to possess any firearm. [15] Forensic chemist Rhea Villavicencio of the Bacolod City PNP, another prosecution witness, testified that on October 14, 1995, the Chief of the Vice & Narcotic Division requested for laboratory examination of the following specimen in connection with the case namely: an improvised tooter and an aluminum foil containing 1.5 grams suspected to be “shabu” in a coin purse. In her report, she found that the specimen, particularly the one placed in the coin purse weighing 1.5 grams, was positive for shabu. [16]

On September 5, 2000, the trial court rendered its decision convicting the petitioner of the offenses charged. The dispositive portion of the decision states:

WHEREFORE, judgment is hereby rendered: (a) finding the accused guilty beyond reasonable doubt of the crime of Violation of P.D. 186[6], and sentenced to suffer imprisonment of four (4) months and one (1) day to six (6) years and a fine of P15,000.00 in Crim. Case No. 17377; and (b) finding the accused guilty beyond reasonable doubt of the crime of Violation of Sec. 16, Art. III of RA 6425, as amended by B.P. Blg. 179 and RA 7659, and is sentenced to suffer imprisonment of prision correc[c]ional, ranging from six (6) months and one (1) day to two (2) years and four (4) months, as minimum to four (4) months and [one] (1) day to six (6) years, as maximum.

SO ORDERED. [17]

On appeal, the Court of Appeals in its Decision dated July 25, 2003 affirmed the decision of the trial court.

WHEREFORE, finding no reversible error in the assailed Decision, the same is AFFIRMED.

SO ORDERED. [18]

A motion for reconsideration filed by the petitioner was also denied. Hence, this petition.

Petitioner cites the following grounds for the allowance of the petition:

I.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN GIVING FULL FAITH AND CREDIT TO THE TESTIMONIES OF PROSECUTION WITNESSES DESPITE THE GLARING INCONSISTENCIES AND IMPROBABILITIES THEREIN.

II.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE FINDINGS OF FACT OF THE TRIAL COURT ARE SUPPORTED BY THE EVIDENCE ON RECORD.

III.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE GUN, LIVE AMMUNITIONS AND SHABU THAT WERE CONFISCATED FROM PETITIONER ARE ADMISSIBLE IN EVIDENCE.

IV.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE SEARCH AND SEIZURE OF THE GUN, AMMUNITIONS AND SHABU FROM PETITIONER WAS INCIDENTAL TO A LAWFUL ARREST AND THE SEIZURE WAS MADE IN PLAIN VIEW.

V.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN ADOPTING THE THEORY THAT PETITIONER WAS CAUGHT IN FLAGRANTE DELICTO OF THE OFFENSE OF ILLEGAL GAMBLING.

VI.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT EXONERATING PETITIONER OF ILLEGAL POSSESSION OF FIREARMS IN VIEW OF THE AMENDMENTS INTRODUCED BY R.A. [NO.] 8294.

VII.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT FINDING THAT THE PROSECUTION MISERABLY FAILED TO PROVE THE GUILT OF THE PETITIONER BEYOND REASONABLE DOUBT. [19]

Simply put, the issues for disposition are: (1) Did the Court of Appeals err in giving full faith and credit to the testimonies of the prosecution witnesses? and (2) Was the evidence seized admissible in evidence?

On the first issue, petitioner avers that the court a quo erred in giving full faith and credence to the testimonies of prosecution witnesses which are replete with inconsistencies and discrepancies. Respondents counter that the inconsistencies were minor details which do not impair the credibility of the witnesses.

We reiterate the doctrine that the trial court's assessment of a witness' credibility will not be disturbed on appeal, in the absence of palpable error or grave abuse of discretion on the part of the trial judge. [20] As a rule, the findings of the trial court on the credibility of witnesses and their testimonies are entitled to the highest respect and will not be disturbed on appeal, absent any clear showing that it overlooked, misunderstood or misapplied some weighty and substantial facts or circumstances that would have affected the result of the case. Having seen and heard the witnesses themselves and observed their behavior and manner of testifying, the trial court is deemed to have been in a better position to weigh the evidence. [21] Well-settled is the rule that findings of trial courts which are factual in nature and which revolve on matters of credibility of witnesses deserve to be respected when

no glaring errors bordering on a gross misapprehension of the facts, or where no speculative, arbitrary and unsupported conclusions, can be gleaned from such findings. [22] Moreover, having been affirmed by the Court of Appeals, the trial court's findings carry even more weight. In the appeal before us, we find no reason to deviate from the rule.

Moreover, the inconsistencies mentioned by the petitioner can be characterized as minor. Petitioner points to alleged inconsistencies and discrepancies in the testimonies of SPO2 Natividad and SPO1 Yusay who, on the one hand, testified that they confined their search and seizure operation on the ground floor of the house, and that the unlicensed gun and the shabu were taken from the petitioner; and the testimony of Chief Inspector Merced who, on the other hand, testified that the raiding team went up the second floor of the house then came down with sachets of shabu. We agree with the Court of Appeals that such inconsistencies are minor matters and that the testimonies dovetail on material points. [23] The inconsistency does not impugn the fact that the gun, ammunition and shabu were all recovered and retrieved from the petitioner when he was confronted and frisked at the ground floor. Minor inconsistencies, far from detracting from the veracity of the testimony, even enhance the credibility of the witnesses, for they remove any suspicion that the testimony was contrived or rehearsed. [24]

On the second issue, petitioner contends that the conduct of the police officers cannot be justified under the exception to the rules against warrantless search and seizure. Respondents counter that the evidence were seized as a result of a lawful search and seizure made in plain view and as an incident to a lawful arrest of petitioner who was caught in flagrante delicto committing the crime of illegal gambling.

The police officers led by Chief Inspector Merced conducted a lawful entrapment operation on the petitioner who was reportedly the operator of the said illegal gambling operation. Police officers arrested petitioner while petitioner's companions got away. When SPO2 Natividad noticed a conspicuous bulge in the petitioner's pocket, he asked him to show its contents. Petitioner yielded a brown coin purse which contained a sachet of shabu. After a frisking made on the person of the petitioner, an unlicensed gun with three bullets were also confiscated. Patently, the warrantless search and seizure of the unlicensed gun, ammunition and shabu was lawfully made in plain view and as an incident to a lawful arrest. [25]

The interdiction against warrantless searches and seizures is not absolute. The recognized exceptions established by jurisprudence are (1) search of moving vehicles; (2) seizure in plain view; (3) customs searches; (4) waiver or consented searches; (5) stop and frisk situations; and (6) search incidental to a lawful arrest. [26]

Patently, the warrantless search and seizure of the incriminating objects found in the possession of petitioner falls under the exceptions enumerated. Therefore, their admissibility in evidence cannot be questioned.

WHEREFORE, the Decision dated July 25, 2003 and the Resolution dated August 11, 2004 of the Court of Appeals in CA-G.R. CR No. 26050, denying the motion for reconsideration are AFFIRMED.

SO ORDERED.

Carpio-Morales, Tinga, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 73-85. Penned by Associate Justice Portia Aliño-Hormachuelos, with Associate Justices Edgardo P. Cruz and Noel G. Tijam concurring.

[2] Id. at 99-100.

[3] Id. at 48-65-A. Penned by Judge Ray Alan T. Drilon.

[4] CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION, OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF AND FOR RELEVANT PURPOSES, done on June 29, 1983.

[5] SEC. 16. Possession or Use of Regulated Drugs. – The penalty of imprisonment ranging from six years and one day to twelve years and a fine ranging from six thousand to twelve thousand pesos shall be imposed upon any person who shall possess or use any regulated drug without the corresponding license or prescription.

[6] AN ACT FURTHER AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED SIXTY-FOUR HUNDRED AND TWENTY-FIVE, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES, approved on March 2, 1982.

[7] AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES, approved on December 13, 1993.

[8] Also known as “Teddy De Arroz” in other parts of the records.

[9] Also known as “Nelly” in other parts of the records.

[10] Rollo, p. 75.

[11] Id. at 75-76.

[12] Id. at 76.

[13] Records (Criminal Case No. 95-17377), p. 2.

[14] Records (Criminal Case No. 95-17378), p. 1.

[15] TSN, May 16, 1996, pp. 6-7.

[16] TSN, February 14, 1996, pp. 6, 12-14 (Rhea Villavicencio).

[17] Rollo, p. 65-A.

[18] Id. at 85.

[19] Id. at 16-17.

[20] *People v. Oliver*, G.R. No. 123099, February 11, 1999, 303 SCRA 72, 79.

[21] *People v. Fabia*, G.R. No. 134764, June 26, 2001, 359 SCRA 656, 664.

[22] *People v. Mirafuentes*, G.R. Nos. 135850-52, January 16, 2001, 349 SCRA 204, 214; *People v. Flores*, G.R. No. 116524, January 18, 1996, 252 SCRA 31, 39; *People v. Bahuyan*, G.R. No. 105842, November 24, 1994, 238 SCRA 330, 345; *People v. Sanchez*, G.R. Nos. 98402-04, November 16, 1995, 250 SCRA 14, 22.

[23] Rollo, p. 83.

[24] *People v. Bustamante*, G.R. Nos. 140724-26, February 12, 2003, 397 SCRA 326, 341.

[25] *People v. Elamparo*, G.R. No. 121572, March 31, 2000, 329 SCRA 404, 413, held that objects inadvertently

falling in the plain view of an officer who has the right to be in the position to have that view are subject to seizure and may be introduced in evidence, citing *People v. Doria*, G.R. No. 125299, January 22, 1999, 301 SCRA 668, 710-711.

[26] *People v. Canton*, G.R. No. 148825, December 27, 2002, 394 SCRA 478, 485.

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