ANDY QUELNAN Y QUINO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 166061. July 06, 2007

Ponente: TINGA, J.

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TINGA, J.:

This petition for review seeks the reversal of the Decision[1] of the Court of Appeals in CA-G.R. CR No. 22001 dated 12 November 2004, affirming the Decision[2] of the Regional Trial Court (RTC), Branch 138, Makati City, in Criminal Case No. 96-1498, that found Andy Quelnan y Quino[3] (petitioner) guilty of violating Section 16, Article III of Republic Act (R.A.) No. 6425, as amended, otherwise known as The Dangerous Drugs Act of 1972.

The accusatory portion of the Information against petitioner reads:

> That on or about the 27[th] day of August, [sic] 1996, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control 27.7458 grams of Methamphetamine Hydrochloride (Shabu), a regulated drug.
>
> Contrary to law.[4]

During arraignment, petitioner pleaded not guilty. Trial on the merits ensued.

Witnesses[5] for the prosecution testified as to the following set of facts:

On 27 August 1996, a team from the Police Assistance and Reaction Against Crime (PARAC) of the Department of Interior and Local Government (DILG), composed of Chief Inspector Carlos Acosta, SPO4 Isagani Ilas, SPO2 Manubay, SPO2 Sanggalang, SPO2 Teodoro Sinag, SPO2 Mario Magno, SPO2 de Leon, SPO2 Cecil Fajardo, SPO3 Marcelo Alcancia, SPO3 Dennis Zarcal, and PO1 Eraldo Lectura,[6] was formed to implement a search warrant issued by the RTC of Manila on 26 August 1996.[7]

At around 3:00 p.m., the team proceeded to the Cityland Condominium in South Superhighway, Makati. Upon arrival, they went directly to the Security Office of said building to seek assistance in serving the warrant. Security Officer Celedonio Punsaran (Punsaran) accompanied the group and they proceeded to Unit 615.

At their knocking, a male person naked from the waist up opened the door.[8] He was later identified as petitioner. SPO2 Sinag presented the search warrant to petitioner.[9] Upon entry, the police operatives searched the unit, which was composed of a small room with a plywood divider separating the sala from the bedroom.[10] In the presence of petitioner and Punsaran, the group started searching the place and eventually found on top of the bedroom table three (3) pieces of transparent plastic sachets containing white crystalline substances later confirmed by the National Bureau of Investigation (NBI) forensic chemist as shabu, plastic tubings, weighing scales, an improvised burner, and empty transparent plastic sachets.[11] Thereafter, the group prepared a receipt of the properties seized and an Affidavit of Orderly Search allegedly signed by petitioner in their presence and that of Punsaran.[12]

Meanwhile, the group also went to Unit 418 of the same building to serve the warrant and search the place. The police operatives did not find any occupant in the room.

Petitioner was then brought to the PARAC office for investigation. The pieces of evidence gathered by the police operatives were brought to the NBI for examination. That same day, NBI Forensic Chemist Loreto F. Bravo issued a certification stating that upon examination, the specimen submitted yielded positive for methamphetamine hydrochloride.[13] The following day, the Arrest Report and Joint Affidavit of Apprehension were executed by the police operatives leading to the arrest and charging of petitioner for violation of Section 16, Article III of R.A. No. 6425.

In his defense, petitioner testified that he is a resident of 150 Legaspi Tower 300, 2600 Roxas Boulevard, Manila.[14] He also happens to be the registered owner of Unit 615 of Cityland Condominium in Makati City, which he leased to Sung Kok Lee (Lee) beginning May 1996.[15] On 27 August 1996, at around 3:00 p.m., petitioner went to Unit 615 to collect payment of rental from Lee. Upon knocking at the door, petitioner was greeted by the maid. The maid told him to wait for Lee inside the room while she went out to buy some refreshments. After a while, petitioner heard somebody knocking at the door and he opened it. He saw around 15 to 20 armed men who suddenly barged into the room. The officer in charge asked for a certain Bernard Kim and petitioner introduced himself as the owner of the condominium unit. The police operatives then proceeded to search the house for the next half hour while petitioner was waiting in the sala. Petitioner was also forced to sign some documents at gunpoint. Petitioner was then handcuffed and brought to the PARAC office. Two days later, he was brought to the Makati Prosecutor's Office for inquest and a case was subsequently filed against him.[16]

In behalf of petitioner, Luis Alvarez, the administrator of Cityland Condominium, testified that Lee was the actual occupant of Unit 615 at the time petitioner was arrested.[17] Celso Fiesta, petitioner's driver, also stated in court that petitioner resides at Legaspi Tower. On 27 August 1996, he dropped petitioner off at Cityland Condominium between 1:00 and 2:00 p.m. Two and a half hours later, he went back to pick him up. As he was about to park the car, somebody poked a gun at him and introduced himself as PARAC. Fiesta was ordered to get out of the car and the PARAC team searched the vehicle. They found a gun and brought Fiesta to the DILG. He was released the following day.[18]

After trial, the RTC found petitioner guilty and sentenced him to suffer imprisonment of two (2) years, four (4) months and one (1) day of prision correccional as minimum to four (4) years, nine (9) months and ten (10) days of prision correccional as maximum.[19] In convicting petitioner, the trial court relied heavily on the clear, straightforward, and candid testimonies of the prosecution witnesses:

> They were all present when the search warrant was implemented at Unit 615 Cityland Condominium. No infirmity or flaw affecting their credibility exists. Further, the Court considered that they are public officers and there was no showing that they were motivated by ill-will testimonies or bad faith to falsely testify against the accused. There was no evidence of intent to harass the accused. The presumption of regularity in the performance of their functions can be fairly applied.[20]

On appeal, the Court of Appeals affirmed the trial court's ruling, modifying however the penalty to be imposed on petitioner in that he shall suffer the indeterminate penalty of six months of arresto mayor as minimum to three (3) years and six (6) months of prision correccional as maximum.[21]

Petitioner now seeks the reversal of said judgment. His conviction or acquittal rests on the validity of the warrantless arrest. The prosecution proffers that petitioner was caught in flagrante delicto in possession of the subject shabu justifying his warrantless arrest. Another crucial issue arises, that of the validity of the enforcement of the search warrant as basis for the presence of the police operatives in the Cityland Condominium unit.

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Therefore, these matters may be summarized into two issues for our resolution: whether the search warrant was properly enforced and whether petitioner was validly arrested without warrant.

The issue as to whether the search warrant was validly implemented necessitates a review of the tenor of the search warrant, vis-à-vis the conduct of the police operatives enforcing such warrant. Search Warrant No. 96-585 reads:

REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
NATIONAL CAPITAL JUDICIAL REGION

> PEOPLE OF THE PHILIPPINES,
> Plaintiff
>
> -versus - SEARCH WARRANT NO. 96-585
> FOR: VIOLATION OF R.A. 6425
> BERNARD LIM[22] (Dangerous Drug Act 1972)
> Room 615 Cityland Condominium
> South Superhighway, Makati City
> Respondent.
>
> SEARCH WARRANT
>
> TO ANY PEACE OFFICER:
> GREETINGS:
>
> It appearing to the satisfaction of the undersigned under examining under oath PNP SPO4 ISAGANI J. ILAS and his witness, that there are [sic] reasonable ground to believe that VIOLATION OF R.A. [No.] 6425 has been committed or is about to be committed and there are good and sufficient reasons to believe that still undetermined Quantity of Met[h]amphetamine Hydrochloride (Shabu) has [sic] in his possession and control.
>
> You are commanded to make an immediate search anytime of the day or night of the premises abovementioned and forthwith seize and take possession of the abovementioned MET[H]AMPHETAMINE HYDROCHLORIDE (SHABU) subject of the offense and bring to this Court said drugs and persons to be dealt with as the law may direct. You are further directed to submit return within ten (10) days from today.
>
> GIVEN UNDER MY HAND AND SEAL OF THIS COURT, this 26[th] day of August 1996 in Manila, Philippines.
>
> HON. WILLIAM M. BAYHON
> Executive Judge, RTC
> Branch XXIII, Manila
>
> NOTE: This Search Warrant shall be valid for ten (10) days from date of issue.[23]

Petitioner assails the improper enforcement of the search warrant in that despite the knowledge that petitioner was not the subject of such warrant, the police operatives proceeded anyway with the search and his resulting arrest. According to him, the Court of Appeals erred in declaring that where a search warrant is issued for the search of specifically described premises and not of a person, the omission of the name of the owner or occupant of such property in the warrant does not invalidate the same. Petitioner contends that this doctrine applies only if the search warrant does not indicate with all certainty the owner or occupant of the premises sought to be searched; on the contrary, the subject search warrant indicated with absolute clarity that the person subject thereof is Kim.

This argument is misplaced. Section 4, Rule 126 of the Revised Rules of Criminal Procedure provides for the

requisites for the issuance of search warrant, to wit:

> SEC. 4. Requisites for issuing search warrant. — A search warrant shall not issue except upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the things to be seized which may be anywhere in the Philippines.

Nowhere in said rule or any other provision in the Revised Rules of Criminal Procedure is it required that the search warrant must name the person who occupies the described premises. In Uy v. Bureau of Internal Revenue,[24] the Court has definitively ruled that where the search warrant is issued for the search of specifically described premises only and not for the search of a person, the failure to name the owner or occupant of such property in the affidavit and search warrant does not invalidate the warrant; and where the name of the owner of the premises sought to be searched is incorrectly inserted in the search warrant, it is not a fatal defect if the legal description of the premises to be searched is otherwise correct so that no discretion is left to the officer making the search as to the place to be searched.

A cursory reading of the search warrant reveals that the police officers were ordered to make an immediate search of the premises mentioned and to seize and take possession of shabu. Furthermore, they were directed to bring "persons to be dealt with as the law may direct." While petitioner may not be the person subject of the search, the fact that he was caught in flagrante delicto necessitated his valid warrantless arrest. Therefore, the fact that petitioner's name was not indicated in the search warrant is immaterial.

Turning to the second issue, petitioner insists that his apprehension cannot be considered in flagrante delicto because he was not in possession of the forbidden drug.

In every prosecution for the illegal possession of shabu, the following essential elements must be established: (a) the accused is found in possession of a regulated drug; (b) the person is not authorized by law or by duly constituted authorities; and (c) the accused has knowledge that the said drug is a regulated drug.[25]

More importantly, the prosecution must prove that the accused had the intent to possess the drug. Possession, under the law, includes not only actual possession, but also constructive possession. Actual possession exists when the drug is in the immediate physical possession or control of the accused. On the other hand, constructive possession exists when the drug is under the dominion and control of the accused or when he has the right to exercise dominion and control over the place where it is found. Exclusive possession or control is not necessary. The fact of possession may be proved by direct or circumstantial evidence and any reasonable inference drawn therefrom. However, the prosecution must prove that the accused had knowledge of the existence and presence of the drug in the place under his control and dominion, as well as the character of the drug. Since knowledge by the accused of the existence and character of the drug in the place where he exercises dominion and control is an internal act, the same may be presumed from the fact that the dangerous drug is in the house or place over which the accused has control or dominion, or within such premises in the absence of any satisfactory explanation.[26]

For the trial court, the fact of possession was clearly and convincingly established by the prosecution, to wit:

> Prosecution has presented in Court the three (3) plastic sachet[s] containing 27.7458 grams of methamphetamine hydrochloride as well as all paraphernalia seized from the accused consisting of an improvised burner, two (2) pieces of weighing scale, plastic tubing, aluminum foil, empty transparent plastic sachets, Icom radio, Calculator, Cellular phone, disposable lighters, and two (2) pieces [of] blank cartridge. SPO4 Ilas and SPO2 Sinag clearly testified that they were found on top of a table in a room of [sic] Unit 615 in the afternoon of August 27, 1996 at a time when only the accused was inside the premises. Thus, the fact of possession was clearly and convincingly established.[27]

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The Court of Appeals pointed out that possession necessary for conviction of the offense of possession of controlled substances may be actual or constructive:

> Although the shabu was not found by the searching team on his person but in the bedroom of the subject premises, appellant is deemed in possession thereof since he was the only person in said premises. Moreover, at the time of entry of the searching team in the subject premises, appellant was half-naked from the waist up which, as the trial court correctly concluded, only "indicates extreme familiarity and gives the impression of he being at home" in the premises, of which he was the registered owner.[28]

Petitioner counters that he was in all his right to be in the leased premises because he had to collect the rentals due him from his tenant. He further argues that the shabu was allegedly found on top of the table inside the bedroom and not within the immediate location where he was positioned. When he was found half-naked by police operatives in another person's house, petitioner defends his act by invoking his "long bond of friendship" with Lee which made the former treat Lee's home like his own.[29]

In support of the appellate court's ruling, the Solicitor General maintained that petitioner was in constructive possession of the subject shabu by citing several circumstances showing petitioner's control and dominion over the same. First, the shabu was found on top of a table in Unit 615 of Cityland Condominium when and where only petitioner was present inside the premises. Second, petitioner introduced himself as the owner of the condominium. Third, petitioner admitted that he was at the subject premises allegedly to collect rentals from the lessee. Fourth, petitioner was found naked from the waist up by the police operatives upon entering Unit 615. The Solicitor General stresses that petitioner's actuation of being naked from the waist up while opening the door to greet visitors is natural only to someone who owns the premises.[30] Fifth, Unit 615 is a studio unit with a divider and a sala. There was no room with a door to be closed and locked which can prevent petitioner from having free access to the shabu found on the table.

This Court is convinced that petitioner's control and dominion over the shabu found on top of the table were sufficiently established by his questionable presence in Unit 615. Petitioner's explanation that he went to Lee's unit to collect rentals and was left by the maid to fend for himself while the latter went out to buy refreshments is highly suspicious. The maid never came back. The maid's testimony would have corroborated that of petitioner's.

Despite the presentation of the testimonies of Cityland Condominium Administrator Luis Alvarez and other witnesses tending to prove that petitioner is the owner and lessor of Unit 615 and his actual place of residence is in Legaspi Tower, such pieces of evidence do not necessarily prove that petitioner did not have access and control over the subject premises. In fact, petitioner's overt act of getting half-naked while opening the door establishes intimate familiarity with and over his surroundings. Petitioner seeks to justify such act by invoking his "long bond of friendship" with Lee. This was, however, belied by the testimony of the building administrator which showed that Lee was a mere walk-in applicant and he began renting Unit 615 only on 1 May 1996, barely three (3) months before petitioner was apprehended.[31]

Petitioner, in fact, affirmed this fact in his earlier testimony that he allowed Lee, whom he barely knew, to occupy the unit with only one month rental deposit:

> Q:
>
> Is it your practice to go personally to that unit to receive the rental?
>
> A:
>
> Yes, sir.
>
> Q:

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That's your practice?

A:

Yes, sir.

Q:

How much is the lease price?

A:

P6,500.00.

Q:

Payable monthly?

A:

At the second week of the month.

Q:

For what month was that rental where [sic] you were suppose to collect?

A:

June and July[,] your Honor.

Q:

Is it not a practice[,] Mr. Witness[,] that now lessee should pay the deposit and a few months in advance?

A:

Yes, but he promise he does not have any money and to produce later on.[sic]

Q:

Which rental he is going to pay?

A:

The deposit and the monthly rental.

Q:

What you are saying [sic] when he entered the premises of this property he does not paid [sic] anything?

A:

He just paid for the month of May.

Q:

What you are saying you entered into a lease contract with a person you do not know during the said month, that he entered the unit he was not able to pay you even the deposit [sic]?

A:

He paid me just one month.

Q:

And you agreed?

A:

Yes, sir. [H]e promised to pay later on. [32]

Equally doubtful is the existence of the lease contract allegedly executed between petitioner and Lee which purportedly validates the presence of the former in Unit 615, which was to collect rentals from the latter. As the Solicitor General correctly observed, the lease agreement is undated and unnotarized.[33] During cross-examination, the building administrator who presented a copy of the lease agreement could not even remember when the contract was executed.[34] Petitioner also testified that the rentals are payable at the second week of each month.[35] His statement is inconsistent with his avowed effort to collect payment in the last week of the month, particularly on 27 August 1996.

We further find the Solicitor General's conclusion that petitioner was privy to the existence of the shabu on top of the table credible because the unit was a small room with a piece of plywood dividing the sala and the bedroom. With petitioner seemingly comfortable in moving about the unit, the shabu and other paraphernalia could not have escaped his vision.

Even more telling are the testimonies of the police operatives who conducted the search and subsequent arrest of petitioner. Inspector Acosta testified that his team conducted a search on Unit 615 and found petitioner inside the room alone and that the search resulted in the discovery of the shabu, to wit:

Q:

In connection with your duties then as the member of the PARAC[,] do you recall if there was any occasion if you meet a certain person whose name [was] Andy Quelman?

A:

Yes, sir.

Q:

During what occasion did you meet this person?

A:

During [sic] when we conducted the search of the Cityland Condominium[,] South Superhighway[,] Makati City.

Q:

If this person Andy Quelman is present in this Courtroom[,] can you point him out in the Court?

COURT:

Will you step down on the witness stand and tap on his shoulder?

A:

Yes, your Honor.

COURT:

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Make of record that the witness stepped down on the witness stand and tapped the shoulder of a person seated on the gallery who when asked of his name answered his name as Andy Quelman.

Q:

You said that you conducted a search, when was this?

A:

August 27, 1996.

Q:

What time?

A:

3:00 o'clock in the afternoon.

Q:

Where did you conduct the search?

A:

At room 615 Cityland Condominium[,] South Superhighway[,] Makati City.

x x x x

Q:

By what authority did you conduct your search at room or [U]nit 615 Cityland Condominium[,] South Superhighway[,] Makati City.

A:

We are armed with [a] search warrant.

Q:

Issued by whom?

A:

The RTC Judge Hon. Bayhon, City of Manila.

x x x x

Q:

So upon arriving at the 6th floor what did you do, or what did you do?

A:

We knocked at the door of [R]oom 615.

Q:

And what happened next?

A:

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Somebody opened the door.

Q:

And after the door was opened[,] what did you and your team do next?

A:

We presented our search warrant.

Q:

To whom?

COURT:

Would you know who open[ed] the door?

A:

Yes, sir.

PROSECUTOR GARVIDA:

Q:

Who?

A:

Andy Quelman.

PROSECUTOR GARVIDA:

Q:

Can you describe[,] Mr. Witness[,] the appearance of Mr. Andy Quelman when he opened the door?

A:

He is half[-]naked wearing pants.

Q:

What about the upper body?

A:

Naked.

Q:

Upon presenting the search warrant[,] what did you do next?

A:

We proceeded to the room to conduct the search.

x x x x

Q:

You said you proceeded to conduct the search. [W]hat was Mr. Quelman doing while you are conducting the search?

A:

He was sitting at the table inside the room.

x x x x

A:

First we proceeded to his room and I saw Mr. Quelman sitting at his table. Later on we found at his table all the paraphernalia.

Q:

Can you enumerate to this Court what[,] if any[,] did you find [sic] during the search?

A:

We found 3 transparent plastic containing white crystalline substance.

Q:

Where did you find [sic]?

A:

Atop the table.

x x x x

Q:

What did you do with Mr. Quelman after you found these items which you [have] just enumerated?

A:

We bring [sic] Andy Quelman to our office. [36]

The foregoing testimony was substantially corroborated by SPO4 Isagani Ilas and SPO1 Teodoro Sinag who were both part of the arresting team. These witnesses positively identified petitioner as the occupant of Unit 615 at the time the search was conducted and that he was caught in flagrante delicto when the shabu was found in his constructive possession.

The trial court placed great weight on the testimonies of these police officers and accorded them the presumption of regularity in the performance of their functions.[37] The prosecution of drug cases largely depends on the credibility of the police officers. The factual findings of the trial court especially those 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 no speculative, arbitrary, and unsupported conclusions can be gleaned from such findings. The evaluation of the credibility of witnesses and their testimonies is best undertaken by the trial court because of its unique opportunity to observe the witnesses' deportment, demeanor, conduct, and attitude under grilling examination.[38] In this case, the RTC was upheld by the Court of Appeals. Petitioner has not convinced this Court of the existence of any of the recognized exceptions[39] to the conclusiveness of the findings of fact of the trial and appellate courts.

In sum, petitioner's unlawful possession, as exhibited by his control and dominion over the shabu found on top of

the table, was duly established by the following evidence: his presence in Unit 615 at the time of his arrest;[40] his representation to the police that he was the owner of the unit;[41] his half-naked state when he opened the door, strongly implying that he had stayed in the house longer than he claimed to be; and finally, the fact that the shabu was found on top of a table beside the bed which appears to be within sight of petitioner as there was a mere divider between the sala and bedroom.[42]

Having caught petitioner in flagrante delicto, the police operatives are obligated to apprehend him even without a warrant of arrest.

We shall now determine the imposable penalty. Both the lower courts erred as to the respective penalties they imposed. Section 16, Article III of R.A. No. 6425, as amended, provides that if the quantity of the regulated drug involved, in this case, shabu, is less than 200 grams, the penalty to be imposed shall range from prision correccional to reclusion perpetua. Since petitioner was charged with the possession of 27.7458 grams of shabu, the imposable penalty is prision correccional.[43] Applying the Indeterminate Sentence Law, the petitioner is sentenced to suffer an indeterminate penalty ranging from four (4) months and one (1) day of arresto mayor in its medium period as minimum, to three (3) years of prision correccional in its medium period as maximum.

WHEREFORE, the instant petition is DENIED and the assailed Court of Appeals Decision in CA-G.R. CR No. 22001 is AFFIRMED with MODIFICATION in that petitioner ANDY QUELNAN y QUINO is sentenced to suffer an indeterminate penalty of imprisonment ranging from Four (4) Months and One (1) Day of arresto mayor in its medium period as minimum to Three (3) Years of prision correccional in its medium period as maximum.

SO ORDERED.

Carpio, (Acting Chairperson), Carpio-Morales, and Velasco, Jr., JJ., concur.
Quisumbing, J., (Chairperson), on official leave.

[1] Penned by Associate Justice Edgardo P. Cruz, and concurred in by Associate Justices Godardo A. Jacinto and Jose C. Mendoza.

[2] Penned by Judge Sixto Marella, Jr.

[3] Also identified in the records as Andy Quelman y Quinoy.

[4] Records, p. 1.

[5] The following witnesses testified for the prosecution: Inspector Carlos Acosta, SPO4 Isagani Ilas, SPO2 Teodoro L. Sinag, and NBI Forensic Chemist Loreto Bravo.

[6] TSN, 13 January 1997, p. 11.

[7] Records, p. 81.

[8] TSN, 9 December 1996, pp. 15-17.

[9] TSN, 13 January 1997, p. 14.

[10] Id. at 67-69.

[11] Id. at 57-60.

[12] TSN, 9 December 1996, pp. 21-23.

[13] Records, p. 12.

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[14] TSN, 21 July 1997, p. 2.

[15] Id. at 15-16.

[16] Id. at 3-10.

[17] TSN, 14 August 1997, p. 10.

[18] TSN, 6 October 1997, pp. 3-6.

[19] CA rollo, pp. 27-28.

[20] Id. at 26.

[21] Rollo, p. 34.

[22] While the search warrant indicates Bernard Lim as respondent, it appears that there is a typographical error in that Lim should have been spelled as "Kim."

[23] Records, p. 81.

[24] 397 Phil. 892, 908-909 (2000).

[25] Abuan v. People, G.R. No. 168773, 27 October 2006, 505 SCRA 799; People v. Torres, G.R. No. 170837, 12 September 2006, 501 SCRA 591, 610.

[26] People v. Tira, G.R. No. 139615, 28 May 2004, 430 SCRA 134, 152, citing People v. Ramos, 186 SCRA 184 (1990).

[27] CA rollo, p. 26.

[28] Rollo, p. 31.

[29] Id. at 10-13.

[30] Id. at 50-55.

[31] TSN, 14 August 1997, p. 10.

[32] TSN, 21 July 1997, pp. 17-18.

[33] Rollo, p. 57.

[34] TSN, 14 August 1997, p. 15.

[35] TSN, 21 July 1997, p. 18.

[36] TSN, 9 December 1996, pp. 6-28.

[37] CA rollo, p. 26.

[38] People v. Miguel, G.R. No. 173795, 4 April 2007.

[39] These are some of the recognized exceptions:

> "1) when the factual findings of the Court of Appeals and the trial court are contradictory;
> 2) when the findings are grounded entirely on speculation, surmises, or conjectures;
> 3) when the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd, or impossible;

4) when there is grave abuse of discretion in the appreciation of facts;
5) when the appellate court, in making its findings, goes beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee;
6) when the judgment of the Court of Appeals is premised on a misapprehension of facts;
7) when the Court of Appeals fails to notice certain relevant facts which, if properly considered, will justify a different conclusion;
8) when the findings of fact are themselves conflicting;
9) when the findings of fact are conclusions without citation of the specific evidence on which they are based; and
10) when the findings of fact of the Court of Appeals are premised on the absence of evidence but such findings are contradicted by the evidence on record." (Fuentes v. Court of Appeals, 335 Phil. 1163, 1168 (1997); Geronimo v. Court of Appeals, G.R. No. 105540, 5 July 1993, 224 SCRA 494, 498-499; Angelo v. Court of Appeals, G.R. No. 83392, 26 June 1992, 210 SCRA 402.

[40] TSN, 9 December 1996, p. 16.

[41] TSN, 21 July 1997, p. 6.

[42] TSN, 13 January 1997, pp. 15-17.

[43] Following the computation in People v. Tira, supra note 26, as follows:

QUANTITY
IMPOSABLE PENALTY

Less than one (1) gram to 49.25 grams prision correccional

49.26 grams to 98.50 grams prision mayor

98.51 grams to 147.75 grams reclusion temporal

147.76 grams to 199 grams reclusion perpetua

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