

THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SAIDAMIN MACABALANG Y MALAMAMA, APPELLANT.

G.R. NO. 168694. November 27, 2006

Ponente: TINGA, J.

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TINGA, J.:

Saidamin Macabalang y Malamama (appellant) was charged before the Regional Trial Court (RTC) for violation of Section 15, Republic Act (RA) No. 6425, in an Information which reads:

That on July 21, 1999 at or about 8:00 o'clock in the evening in Quezon City and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there knowingly, willfully, unlawfully and feloniously distribute, sell and deliver to a poseur buyer about One Thousand Nine Hundred Seventy-Two point Six (1,972.6) grams of METHYLAMPHETAMINE HYDROCHLORIDE, otherwise known as "Shabu," a regulated drug.

CONTRARY TO LAW.[1]

Upon arraignment, appellant pleaded not guilty. Trial ensued. On 7 August 2001, the RTC rendered a Decision[2] finding appellant guilty beyond reasonable doubt for the crime of selling shabu, sentencing him to suffer the penalty of reclusion perpetua and ordering him to pay a fine of P500,000.00.

The facts, establishing the case against the appellant, was testified to by the following: PO1 Christopher Guste (PO1 Guste), the poseur-buyer; PO1 Ronnie Fabia (PO1 Fabia), member of the buy-bust operation team; Chief Inspector Leonardo Suan (Inspector Suan), head of the buy-bust team; and Senior Inspector Sonia S. Lodovico, a Forensic Chemist.

On 21 July 1999, at around 9:00 o'clock in the morning, Inspector Suan, Deputy Chief of the Intelligence Division of Narcotics Command, received a report from a confidential informant that a certain Amin was looking for a buyer of shabu. Inspector Suan instructed his informant to contract with Amin for two (2) kilos of shabu.[3]

Two (2) hours later, a fourteen-man buy-bust team was formed by Inspector Suan, with PO1 Guste acting as poseur-buyer.[4]

After the briefing, Inspector Suan gave PO1 Guste two (2) genuine P1,000.00 bills, marked with letters "CG" and boodle money amounting to P1,000,000.00.[5]

At 6:00 o'clock in the evening of the same day, the team proceeded to the fourth level parking lot of SM City, North Avenue, Quezon City, the meeting place designated by appellant. They observed the area for two (2) hours and positioned themselves within the vicinity. PO1 Guste stayed outside the car with the informant while the others were inside their separate vehicles.[6]

Two hours thereafter, a Mitsubishi Lancer car, with Plate No. UTD 147, approached the parking lot. Appellant alighted from the car. PO1 Guste and the informant approached him and appropriate introductions were made.

Appellant then went to a green Toyota Corolla car, parked next to his car, bearing Plate No. WBH 491. He opened the rear compartment, took out a yellow box, and gave it to PO1 Guste. When appellant asked for the money, PO1 Guste invited the latter over into his own car, which was parked about ten (10) meters away. Upon reaching his car, PO1 Guste checked the contents of the box and found two (2) plastic bags containing white crystalline substance. He immediately gave the money to appellant and stepped out of the car. As a pre-arranged signal to his police companions to close in, PO1 Guste removed his cap. The rest of the team members converged to where PO1 Guste, the informant and appellant were situated, introduced themselves as policemen, and apprehended appellant.[7]

Appellant was brought to the Narcotics Command (Narcom) office at Camp Crame, Quezon City for investigation. PO1 Guste executed an affidavit narrating the incident. The carton containing shabu and the boodle money were turned over to the investigator. On the following day, the confiscated carton containing two (2) plastic bags was brought to the PNP Crime Laboratory, where they were examined by Forensic Chemist Sonia S. Lodovico. The test results confirmed that the white crystalline substance sold by appellant was shabu, weighing a total of 1,972.6 grams.[8]

In his defense, appellant presented a different version of the incident.

At around 8:00 o'clock in the evening of 21 July 1999, appellant, accompanied by Mamerto Duetes (Duetes), were at the parking lot of SM North Avenue, Quezon City to meet up with Mr. Lee Ong (Ong). Earlier that day, Ong borrowed Saidamin's vehicle, a Mitsubishi Lancer. Ong promised appellant to provide him with a woman to date with. Upon receiving a call from Ong, appellant and his companion proceeded to the fourth floor level of the SM Parking Area on board a Toyota Corolla car. Appellant parked beside the Mitsubishi Lancer driven by Ong. He got out of his car and went inside the Mitsubishi Lancer. Duetes, on the other hand, went to buy a cigarette. Appellant then asked Ong about the women they were going to date. Ong replied that he is going to get them and hurriedly left.[9]

Soon thereafter, a white Sedan car was speeding towards appellant. It suddenly stopped in front of his car. Five (5) to six (6) armed persons got out from the car. Three (3) other cars followed and its occupants also stepped out of the car. Guns were poked at appellant and he was forcibly taken out of his car and made to board one of the vehicles of the Narcom operatives. Appellant was blindfolded, handcuffed, and brought to Camp Crame. Upon arrival, his cellular phone, wedding ring, checkbook, and wallet containing P2,000.00 and \$35.00 were taken from him by the Narcom operatives. He was then brought inside a room and a certain Captain Mendoza entered the room and offered him freedom in exchange for P2,000,000.00 and two (2) signed deeds of absolute sale over the vehicles confiscated from him. When appellant failed to produce the amount on the following day, he was presented to the press people and photographed with the shabu displayed beside him.[10]

Duetes testified for the defense that on 21 July 1999, he was asked by appellant to accompany him to meet some women that they are going to date. They went to the SM City carpark in Quezon City. He left appellant in the car to buy a cigarette. When he returned to the parking lot, he saw four (4) or five (5) armed men forcibly taking appellant from his car. Duetes got scared and hid behind the staircase. When he got home, he reported the incident to the cashier of the store where he works and asked the latter to inform the sister of appellant.[11]

The defense also presented Jovito Abad Mostrales (Mostrales), a security guard assigned at the SM Carpark Building, who witnessed the forcible taking of appellant. Mostrales told the court that he noticed a white car running against traffic and saw several armed men getting out of the said car. Three other cars followed and their occupants likewise alighted from these cars. They pointed their firearms on the appellant, took him out of his car, and brought him into one of their vehicles.[12] Upon evaluation of the evidence presented, the RTC rejected the

version of the defense. The trial court found the testimony of Duetes as fabricated and proceeded to disprove each and every point raised:

x x x x

(a) he [Duetes] testified that Saidamin asked him to accompany the former to SM City, Quezon City because "magchi-chick daw kami." Saidamin is married with his wife and kids living in Quiapo, Manila; while Mr. Duetes is a worker in Saidamin's sister's stall in Quiapo. It thus seems rather odd that Saidamin would invite a mere worker of his sister to join him in a romantic escapade for that would mean Saidamin would have to supply Duetes with and defray expenses for the chick that Duetes will be given and risk his extra-marital adventures being known to Saidamin's wife, children, sisters, and the like;

(b) Duetes' demeanor and appearance in court do not appear to be of one capable of engaging in extra martial adventures, together with Saidamin and businessman Lee Ong. Duetes speaks in a very soft-spoken, almost effeminate manner, not well-kempt in court in contrast to the accused, and his words in defense of Saidamin were not spoken with determination, as one would hear of a witness whose employer's brother has been kidnapped before the witness' very eyes.

(c) According to Mr. Duetes, he asked permission at 8:00 p.m. from Saidamin to leave him for a while in their car to buy cigarettes; he asked a guard at the carpark where he could buy cigarettes and when he was told it is far away, Mr. Duetes decided to return to Saidamin in their car. In that SM carpark, as testified to by the defense witness[,] SM security guard Jovito Mostrales, there are plenty of security guards and indeed, that is correct. Yet, despite the fact that the brother of his amo was "kidnapped" by armed men before his very eyes, Mr. Duetes made no attempt to talk to any of the security guards there who are equipped with the means to communicate with the authorities, or to report the "kidnapping" of Saidamin, who was his only companion in going to SM City, Quezon City, to anybody having to do with operations in that mall. This is rather odd.

What adds further oddity in Duetes' case is he never even attempted to call his employer or anyone in his employer's stall about the abduction of Saidamin. There are a lot of public and private telephones at SM City, Quezon City.

To top it all, Mr. Duetes was in no hurry to go home to Port Area, Manila where he lives and work. He went back to the Port Area in an unhurried way and instead of personally contacting his employer (Saidamin's sister) about the alleged kidnapping he witnessed, Mr. Duetes talked only to the cashier so the cashier can in turn report to Saidamin's sister about the alleged incident. Mr. Duetes' behaviour was contrary to what one would naturally expect under the circumstances;

(d) When asked by the State Prosecutor (Cielitolindo Luyun) who asked him to testify, Mr. Duetes' slow almost swallowed up answer was: "My boss because ako daw po ang nakakita." From this limped and limping answer, one can readily see that Mr. Duetes was instructed to testify and, as he does not perhaps at that point want to do further lying, or perhaps by way of a Freudian slip, he mentioned: "ako daw" which in Tagalog, and Mr. Duetes by his voice does not appear a Mindanaoan denizen, definitely connotes that he was merely instructed to testify.[13]

The trial court justified the security guard's testimony as pertaining only to "drama whose prior occurrence he failed to witness." [14] The court explained:

(e) While according to Mr. Duetes he never saw any vehicle following the white car where Saidamin was placed by the armed men, the other defense witness, SM guard Mostrales, testified that not one but several vehicles followed the white car with the armed men shouting: "Security guards!!! Tabi! Tabi!" and their vehicles were running with engines blaring like so many hollering metal trinkets.

x x x x

The court finds no incompatibility with his testimony and that of the police witnesses. It is admitted by the police that after the contraband exchange between Saidamin and PO1 Guste, another police officer (PO1 Fabia), on signal, swooped down on Saidamin and collared him while Saidamin was there inside the car used by PO1 Guste and then he was forcibly taken to a white car, with other policemen inside, which came in full rev.

The fact that the armed men in several cars kept on shouting to the SM guards "Tabi! Tabi!" in full hearing and full view, not only of those guards, but also of car drivers and car owners or drivers who were in the carpark level shows that there was no kidnapping that was made for, otherwise, a general alarm would have been raised, SM City, being full of trained security guards who can be expected to know how to deal with a crime taking place right in their commercial establishment.[15]

The trial court found incredible appellant's alibi that he went to the SM Carpark to meet with Ong, who was supposed to bring the pick-up girls for the following reasons:

- x x x x Indeed, how and where those pick-up girls or chicks will be obtained by Lee Ong, matters that are normally expected to be part of the topic conversation between philandering men if there [are] any such planned rendezvous as Saidamin projected, are sadly lacking in record.
- Saidamin's claim that he had a date with Lee Ong is not corroborated x x x x Lee Ong, who should be very interested in assisting Saidamin never appeared before the PNP, DOJ, or this court all these years.
- x x x x Saidamin testified that Lee Ong left but asked him to wait promising that he will just pick up the girls they were supposed to date with.

The court finds it abnormal that at such hour of the night, Lee Ong[,] who had a car with him[,] would not still have with him the girls he promised to Saidamin x x x x[16]

Appellant's counter-accusation of kidnapping was likewise rejected by the trial court. The court explained that if the Narcom agents merely wanted money, they would have instead sold the two (2) kilos of shabu for P2 million instead of kidnapping Saidamin.

Affirming the findings of the trial court, the Court of Appeals promulgated the assailed Decision[17] on 14 February 2005. The appellate court gave more weight to the evidence presented by the prosecution to establish the commission of the crime:

To dispose of the first argument, we reiterate the rule that in crimes involving sale of prohibited or regulated drugs such as shabu, what is only essential is for the prosecution to establish with moral certainty the existence of the following elements, viz: (1) the identity of the buyer and the seller, the object and the consideration[;] and (2) the delivery of the thing sold and the payment therefore. Here, the identity of the seller accused and buyer PO1 Guste, were established. Regarding the object and consideration of the crime, while the box and the plastic bags allegedly containing the drugs, and the boodle money which was to serve as consideration, were not subjected to fingerprint examination, the same would be of no moment. The illegal drugs (shabu) was duly presented before the trial court and the prosecution[;] through the testimonies of the Narcom agents, was able to present in a clear and convincing manner how the sale transaction took place. Thus, the failure to submit to the crime laboratory for fingerprinting purposes the seized box containing the shabu and the plastic bag containing the boodle money did not create a hiatus in the evidence for the prosecution. So long as the sale of the dangerous drugs is adequately proven and the drug itself was presented as evidence in court, the accused can already be convicted on the bases thereof.

On the appellant's second argument, [w]e find no material inconsistencies in the testimonies of the prosecution witnesses. In fact, the narration of PO1 Ronnie Fabia corroborates the testimony of PO1 Christopher Guste with respect to how the illegal sale of drugs took place. They complement with each other and thereby give a

complete picture of how the accused-appellant's illegal sale of drugs transpired and how the sale led to his apprehension in flagrante delicto. At the very least, said testimonies established beyond any tinge of doubt that at the time of his apprehension, the drugs were in appellant's possession and that he had no authority to possess and sell them.[18]

The appellate court sustained the regularity of the buy-bust operation conducted by Narcom agents, thus:

Anent the issue of irregularities that allegedly attended the buy-bust operation, [w]e find the same to be without merit. The failure to use genuine one million pesos worth of bills in the entrapment procedure as well as the authorities' failure to use ultraviolet fluorescent powder did not affect the validity of the buy-bust operation. Such are actually not mandatory. It is enough that the two genuine one thousand peso bills were marked by the poseur-buyer x x x x

Note that in this case, the accused-appellant was caught in a legit buy-bust operation. The prosecution witnesses were able to narrate before the trial court in a clear and convincing manner how they were able to apprehend the appellant. Inspector Suan even testified that reports about accused-appellant's involvement in the sale of illegal drugs were already received by them even before the subject entrapment took place. It was in fact because of such reports that he instructed their confidential informant to close a deal with the appellant and to meet him on a specified date for the exchange of the illegal drugs and the money.[19]

The Court of Appeals further debunked appellant's claim of kidnapping and extortion:

x x x x He submitted no plausible reason or ill motive on the part of the arresting officers a reason or motive that could have spurred the latter to collar him in particular. It have [sic] been held in numerous cases that extortion, often imputed to police officers, requires strong proof when offered as a defense, because of the presumption that public officers acted in the regular performance of their official duties.[20]

The appellate court upheld the validity of the arrest despite the absence of a warrant on the account that appellant was caught in flagrante delicto selling shabu.

In his present appeal, appellant lambasts the trial court's conclusion as purely conjectural and speculative, while impugning the legality of the buy-bust operation and claims that what instead took place was kidnapping. Appellant relies on the testimony of Duetes and the security guard to prove that no buy-bust operation was conducted.

The Court is not convinced.

For the successful prosecution of the illegal sale of shabu, the following elements must be established: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and the payment therefor. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence.[21] A buy-bust operation is a form of entrapment whereby ways and means are resorted to for the purpose of trapping and capturing the lawbreakers in the execution of their criminal plan.[22] The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.[23]

Appellant's defense fails in light of the positive identification by prosecution witnesses, which primarily consists of testimonies of police officers who bear the presumption of regularity in the performance of their duties.

PO1 Guste, who acted as the poseur-buyer, gave an unequivocal account of the sale that took place on 21 July 1999 leading to the arrest of appellant, thus:

FISCAL LUYUN:

Q

And after 2 hours, what happened next?

A

We saw a car coming and a man alighted from that vehicle and our confidential informant told us that it is Amin.

Q

What is that vehicle?

A

Mitsubishi Lancer with serial number UTD-147.

Q

What is your reaction when your informant told you that the man alighted from that [sic] car arrived?

A

We approached Amin.

Q

And then what happened when you approached Amin?

A

Our confidential informant said this is the buyer.

x x x x

Q

And what did he do with the box?

A

After he got the box[,] he gave it to us and proceeded towards to where we were and he said[,] "[W]here is the money[?]"

Q

And what was your reply, Mr. Witness?

A

I said it is in my car and I invited him to come with me.

Q

How far was your car from where he was standing?

A

More or less 10 meters.

Q

Did he go with you to your car?

A

Yes, sir.

Q

And what did you do inside the car?

A

When we both got in my car[,] I checked first the contents of the box.

Q

What are the contents of the box?

A

When I opened the box[,] I saw that there were 2 plastic bag [sic] containing white crystalline substance which I suspected to be shabu. I immediately gave him the money and went down from my car. I did not wait for him to check the money anymore.

Q

Where is that money placed?

A

[In] that white plastic bag.

Q

And what is the relation of that money which you gave to Amin?

A

The same money.

COURT:

Would you like to measure that[?]

FISCAL LUYUN:

We are measuring the boodle money about 2 inches and the other boodle money is a little less 2 inches.

ATTY. RATERTA:

Admitted.

FISCAL LUYUN:

Q

Could you please describe to us that carton you stated a while ago which is the subject Amin gave it to you?

A

It is color yellow and sealed with a tape.

Q

And the contents?

A

White crystalline substance we suspect as shabu.

Q

After you alighted from the car, what happened next?

A

I gave our pre-arranged signal which is by removing my cap.

Q

What is the significance of that signal?

A

That the transaction have [sic] been consummated.

Q

And when you gave that signal, what happened next?

A

Our backup [was] PO1 Tab[i]a immediately proceeded to the car where Amin positioned and apparently when I went out of the car[,] the back up also went out of his car and proceeded to us.

Q

And what happened after the backup approached you?

A

We introduced ourselves as narcotics agents and we informed him of his violation and my arresting officer apprised him of his constitutional rights.

Q

What happened to the subject when you arrested him?

A

We already put him inside our vehicle.[24]

x x x x

Q

What happened in your office?

A

We turned Amin to our investigator, the shabu and the boodle money.[25]

x x x x

Q

If that subject is around and if you will see him again, can you identify him?

A

Yes, sir.

Q

Please look around.

A

That man.

INTERPRETER:

Witness pointed to a person inside the courtroom who identified himself as Saidamin Macabalang.[26]

The poseur-buyer's testimony was substantially corroborated by PO1 Fabia, a member of the buy-bust team, who gave a similar account of the events that transpired in court, thus:

Q

When that subject Mitsubishi Lancer arrived, what did you observe [from] the occupants?

A

[A] [m]an alighted from that car and [was] immediately approached by PO1 Guste and our confidential informant.

Q

And what happened when Guste and your confidential informant approached the subject?

A

They were conversing and I noticed that they were introduced by the confidential informant.

Q

How do you know that Guste was introduced by the confidential informant?

A

By analyzing, sir.

Q

What happened next when [G]uste was introduced by the confidential informant to the subject?

A

A man went to another car and open[ed] the car and took a box colored yellow.

Q

Which part of the car?

A

Compartment, sir.

Q

How long was that car there in that area?

A

Since we arrived at the parking area it was already there.

Q

What did the subject do with the carton?

A

He handed it to our poseur buyer PO1 Guste.

Q

What happened when he handed that to the poseur buyer?

A

They talked for a while and then PO1 Guste together with a man went inside the car of our poseur buyer.

Q

What were they doing there?

A

I do not know.

Q

What did they do after that, what happened next when they went inside that car?

A

They were [sic] immediately alighted both from the car.

Q

And what did you do, if any when they alighted from the car.

A

I noticed our poseur buyer executed the pre-arranged signal.

Q

What is that pre-arranged signal?

A

By removing his hat on his head.

Q

And what is the significance of that by removing his hat?

A

It means that the transaction was already consummated.

Q

And what happened when Guste and your confidential informant approached the subject?

A

They were conversing and I noticed that they were introduced by the confidential informant.

Q

How do you know that Guste was introduced by the confidential informant?

A

By analyzing, sir.

Q

What happened next when [G]uste was introduced by the confidential informant to the subject?

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I do not know.

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A

I noticed our poseur buyer executed the pre-arranged signal.

Q

What is that pre-arranged signal?

A

By removing his hat on his head.

Q

And what is the significance of that by removing his hat?

A

It means that the transaction was already consummated.

Q

What did you do?

A

I immediately rushed up the scene and held the subject on his left shoulder and since he was in possession of [a] white plastic bag containing buy[-]bust money and we announced that we are Narcom agents.

Q

If that person whom you arrested, if you will see him again, will you able to identify him?

A

Yes, sir.

Q

Please look around this courtroom and point to him.

A

That man seating beside the wall.

INTERPRETER

Witness pointed to a person inside the courtroom who identified himself as Saidamin Macabalang.[27]

Likewise, Inspector Suan, who headed the buy-bust operation, supported PO1 Guste and Fabia's statements on the following material points:

FISCAL LUYUN

Q

And what happened after two hours, Mr. Witness?

A

Alias Amin arrived on board the dark violet motor vehicle, sir.

x x x x

Q

And where or what did you observe on the occupants of that vehicle, Mr. Witness?

A

He alighted on the said vehicle, sir.

Q

What else did you observe when he alighted from the vehicle.

A

Our informant and PO1 Guste approached Amin, sir.

Q

What did you notice?

A

Our informant introduced and talking [sic] to Amin and PO1 Guste [was] introduced to Amin by our informant.

Q

After that introduction, what happened next?

A

After about a few minutes, [A]lias Amin proceeded to another car to get the box parked left his car.

Q

What did he do next?

A

He opened that box, sir.

Q

After that what did he do?

A

He took a box at the parked vehicle, sir.

Q

What did he do?

A

He proceeded to the place where PO1 Guste and the informant [was] positioned and handed the box to PO1 Guste.

Q

By the way Mr. Witness, could you describe to us that car where the subject got the box?

A

It is colored green, Toyota Corolla, sir.

Q

Well Mr. Witness, after the subject handed the box to the poseur-buyer[,] what else did they do?

A

Alias Amin and Guste proceeded to the car of Guste, sir.

Q

What did they doing [sic] there?

A

I don't know anymore.

Q

After that[,] what happened next?

A

After a few minutes[,] I heard from the radio "go, go, go" signal, sir.

Q

What is the significance of that ["]go, go, go["] signal?

A

What is the significance of that ["]go, go, go["] signal?

Q

What was the reaction then, when you heard that?

A

I proceeded to the place where Guste and [A]lias Amin located, sir.

Q

When you proceeded to that area, where they were, what did you see they [sic] doing?

A

I noticed that PO1 Fabia arrested alias Amin.

Q

And how about the box you are referring to?

A

So I asked Guste[,] {""}where is the stuff, the shabu[?]["] and he showed it to me.[28]

The testimonies of these police officers categorically proved the sale of shabu. Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies on the operation deserve full faith and credit.[29]

Appellant cites some irregularities attending the alleged buy-bust operation. First, the vehicles used by the police during the operation were not official government vehicles.[30] Second, the buy-bust money was not only personally produced by Inspector Suan. It was not even dusted with fluorescent powder.[31] Third, the police officers failed to verify the information given by the informant considering that it is the first time they heard of the appellant.[32] No surveillance was conducted.[33] Fourth, the police officers did not coordinate with the security detachment of the place where the buy-bust operation was conducted.[34] Fifth, the boxes allegedly containing the shabu and the plastic bags containing money were not subjected to fingerprint examination.[35] Sixth, after the buy-bust operation, the police did not make an inventory of the personal effects seized from appellant.[36]

The alleged irregularities pertain only to minor details which do not affect the guilt of appellant. The type of vehicle used by the police officers does not taint the valid character of the buy-bust operation. In *People v. De Guzman*, the conviction arising from the buy-bust operation was affirmed despite the use of private vehicles by the NBI agents.[37] In *People v. Bongalon*,[38] the fact that the buy-bust team used a private vehicle did not affect the outcome of the case against the accused for the illegal sale of shabu. Besides, the police officers explained that no motor vehicle is issued to the Narcom office. Inspector Suan testified:

FIS. LUYUN:

Q Likewise, on March 19, witness Ibrahim Hadji Ali testified that the vehicles or the plate number of the vehicles which you used in the buy[-]bust operation which the same vehicles were also pre-coordinated with the Police Station, Quezon City were not registered or were not owned by the PNP, what can you say about that?

A It is true[,] sir.

Q And why do you say that[,] Mr. Witness?

A Because the government has no motor vehicle issued to us and we have a mobility problem and to avoid that the operation be burned out, we used a plate number to the previous recovered vehicle[,] your Honor.[39]

It is not surprising for Inspector Suan to use his own money during the buy-bust operation. Nor should it be construed as highly irregular. It must be recalled that Inspector Suan formed a team on the same the intended buy-bust operation was to take place. The briefing was held at 11:00 in the morning and lasted for about an hour. With less than nine (9) hours before the scheduled meeting with appellant, the buy-bust operation team hardly had time to prepare, much less ask for the production of genuine bills to be used for the operation. At any rate, the use of Inspector Suan's money does not adversely affect the case against appellant.

The failure of Narcom agents to use fluorescent powder on the boodle money does not indicate a failure in the buy-bust operation. It has been held that the use of fluorescent powder is not indispensable in such operations.[40] There is no requirement that the police must apply fluorescent powder to the buy-bust money to prove the commission of the offense. What is material is the delivery of the prohibited drug to the buyer which, in this case, was sufficiently proved by the prosecution through the testimony of the poseur-buyer and the presentation of the article itself before the court.[41] Besides, the money was already marked by the poseur-buyer with his initials, "CG." [42] Neither is fingerprinting a requirement in buy-bust operations. There is no law or rule of evidence requiring the use of fluorescent powder or the taking of the culprit's fingerprints from the bag containing the shabu.[43]

Appellant belabors the failure of the police officers to conduct surveillance prior to the operation. No surveillance of the area or the subject of the entrapment is necessary where the police officers have a reasonable ground to believe that the informer and the information given were reliable, and that a crime is indeed being perpetrated. The buy-bust operation is formed by the police officers precisely to test the veracity of the tip and in order to apprehend the perpetrator, if he in fact commits the offense, before he further endangers society. It is congruent to the very characteristic of prohibited drugs—i.e., their being easily concealed and transferred without threat of detection in small and handy quantities,—allows its sale, use and delivery with relative facility.[44]

While the confidential nature of the buy-bust operation might have prevented the police officers from coordinating with the security administration of SM Carpark, it was however established that they were in close coordination with the Central Police District, as evidenced by the pre-operational coordination sheet[45] dated 21 July 1999. This was revealed during the direct examination of Inspector Suan, viz:

FIS. LUYUN:

Q And after those preparation[s], [are there] any other preparation in connection with that intended buy-bust operation?

A So I instructed PO1 Alfredo Baloy to prepare for the pre-operational sheet for that said operation.

Q Did he comply with your instruction?

A Yes[,] sir.

Q Did he in fact coordinate with the other police station?

A Yes[,] sir, he coordinated with the Central Police District.

Q Do you have proof to that effect, Mr. Witness?

A I have sir, the original copy of the coordination sheet.[46]

Appellant harps on the failure of police officers to make an inventory of the personal effects seized from him. According to appellant, the inventory becomes relevant in light of his accusation that a certain Mendoza, presumably Capt. Mendoza of the Narcotics Command, tore a check from his checkbook, forged his signature, and sought to encash it against appellant's account.[47]

The alleged acts imputed by appellant against Capt. Mendoza were not supported by credible evidence. He failed to establish that Noel Mendoza and Capt. Crisostomo Mendoza were one and the same person. In fact, appellant only knew of Capt. Mendoza's name through a police officer guarding him. Furthermore, appellant was not able to substantiate his allegation of forgery attributed to any of the police officers involved in the buy-bust operation or during the investigation proper.

Appellant initially admitted that the checkbook seized from him was intact,[48] only to retract it later on and claim that a sheet was possibly torn from the checkbook.[49] Appellant also claims that he made a stop-payment

order causing the check to be dishonored. It was, however, proven that the check was drawn against an unclear deposit,[50] as a consequence of which, the check was returned and it was reflected on Noel Mendoza's Statement of Account.[51] Furthermore, Noel Mendoza's account, which evidently contains a large sum of money,[52] belittles appellant's accusation that a measly amount of P120,000.00 was sought to be encashed from a stolen check. These glaring inconsistent statements related to by appellant further fuels suspicions of fabrication.

For failure of appellant to support his claim of stolen check, the absence of an inventory of personal effects seized from appellant becomes immaterial to the legitimacy of the buy-bust operation. Once again, the presumption of regularity on the part of the police officers prevails over these bare assertions.

The evidence for the prosecution is further reinforced by the Physical Science Report[53] submitted by Sonia S. Lodovico, a forensic chemist, confirming the contents of the two (2) plastic bags delivered by appellant as shabu. She testified, thus:

FIS. LUYUN:

Q Madam Witness, after identifying all the markings in this evidence, Madam Witness, what did you do, if any?

A I opened the transparent plastic bag and proceeded for examination. First is physical examination, physical test which is the ocular inspection of the specimen including the weight and physical appearance and the second one is the chemical examination which is the simon reagent test, sir.

x x x x

Q When you said you weight [sic], did you actually weight [sic] the specimen, Madam Witness?

A Yes, sir.

Q And these are in the bag like for example this Exhibit I there are [sic] indicated weight 981.2 grams and this is the weight excluding the transparent plastic bag?

A Yes, your Honor.

Q And the same is also in Exhibit J, Madam Witness?

A Yes, sir.

Q Now let us now go to chemical examination[,] Madam Witness. Please describe to us the procedure followed in chemical examination.

A In the chemical test, I got the representative sample only at the transparent plastic bag at random sir.

Q How do you do it?

A I got the representative sample in the transparent plastic bag by quartering and also at random to represent at representative sample sir, and had it put in the spot plate and additional of simon reagent. I put it in the spot plate and dropped simon reagent and after that, it turns blue color which indicates the methylamphetamine hydrochloride.

x x x x

Q Now, after those thorough examination[,] Madam Witness, the physical and chemical examination, other examination you conducted in this specimen?

A I proceeded for confirmatory examination to confirm the last examination sir, which I used the chromatographic thin layer test, sir.

Q And please tell us the thin layer chromatographic test, Madam Witness?

A Again I got the representative sample in the specimen in quartering method also at random and spotting on the spot plate side by side which I used the standard and question one and put it on the tank, development tank

and I found out that the standard methamphetamine and the specimen submitted which is the question one is identical to each other sir. So, I am very sure 100% the entire sample is methylamphetamine hydrochloride, sir.

COURT:

The first and second examination were the same substance that you used in the 3rd examination?

A No, I have to get another representative sample because the sample that was ready used in other examination was already dissolved so I have to get another sample, sir.

Q Now Madam Witness, after conducting those physical, chemical and confirmatory and it concluded, after the test gave positive result for methylamphetamine hydrochloride, how do you call now this specimen[,] Madam Witness?

A It was Methylamphetamine hydrochloride or shabu, sir.[54]

Appellant casts doubt on the examination conducted by the forensic chemist, as proof of the exact quantity of shabu allegedly confiscated from him. Appellant asserts that the tests merely established the presence of shabu but did not determine its exact percentage.[55] He insists that a quantitative examination should have at least been undertaken to determine the exact quantity of shabu. Consequently, as appellant argues, the penalty of reclusion perpetua imposed upon him, which was derived from the quantity of the regulated drugs involved, is without basis.

We have consistently held in numerous cases that a sample taken from one of the packages is logically presumed to be representative of the entire contents of the package unless proven otherwise by appellant.[56]

Indubitably, appellant was caught in flagrante delicto in selling shabu, leading to his valid arrest without warrant. This fact was proven by the prosecution beyond the reasonable doubt.

Appellant avers that the evidence allegedly taken from him is inadmissible on the ground that he signed the receipt of the property seized without the assistance of counsel.[57]

Admittedly, it is settled that the signature of the accused in the "Receipt of Property Seized" is inadmissible in evidence if it was obtained without the assistance of counsel. The signature of the accused on such a receipt is a declaration against his interest and a tacit admission of the crime charged.[58] However, while it is true that appellant signed receipt of the property seized unassisted by counsel, this only renders inadmissible the receipt itself.

In fact, in the case at bar, the evidentiary value of the Receipt of Property Seized is irrelevant in light of the ample evidence proving appellant's guilt beyond reasonable doubt. The prosecution was able to prove that a valid buy-bust operation was conducted to entrap appellant. The testimony of the poseur-buyer clearly established that the sale of shabu by appellant was consummated. The corpus delicti, which is the shabu, was presented in court and confirmed by the other members of the buy-bust team. They acknowledged that they were the same drugs placed in two (2) plastic bags seized from appellant.

Besides, the prosecution did not present in evidence any receipt of property seized relating to the shabu confiscated from the appellant. Appellant may have testified as to having signed such receipt, but it was not introduced in evidence. What was presented before the Court was a receipt attesting to the seizure from the appellant of two vehicles he was in possession at that time of his arrest, and not that of a shabu in question. Considering that appellant is charged with the sale of shabu, and not of those vehicles, any irregularity that would have attended the signing of the receipt would bear no relevance to the crime for which appellant was charged.

We thus affirm the finding of guilt pronounced by the RTC and the CA. We now turn to the proper imposable penalty.

Section 15 in relation to Section 20 of the Dangerous Drugs Act, as amended by Republic Act No. 7659 relevantly provides:

SEC. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs.—The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug.

x x x x

SEC. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or instruments of the Crime.—The penalties for offenses under Sections 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:

x x x x

3. 200 grams or more of shabu or methylamphetamine hydrochloride;

x x x x

Following Section 20 in relation to Section 15, the sale of 200 grams or more of shabu is punishable by reclusion perpetua. Taking into consideration the report of the forensic chemist with respect to the quantity of shabu taken from appellant amounting to 1,972.6 grams, we affirm the penalties imposed by the trial court.

WHEREFORE, the Decision of the Regional Trial Court of Quezon City dated 7 August 2001 in Criminal Case No. 99-85546 finding appellant guilty beyond reasonable doubt as principal in violating Section 15, RA 6425, as amended for selling shabu and sentencing him to reclusion perpetua and to pay a fine of P500,000.00, is hereby AFFIRMED.

SO ORDERED.

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

[1]CA rollo, p. 9.

[2]Id. at 31-42. Penned by Judge Jaime N. Salazar, Jr.

[3] TSN, 13 December 1999, pp. 11-12.

[4]Id. at 14-15.

[5]TSN, 22 November 1999, pp. 2931.

[6] Id. at 37-39.

[7]Id. at 39-47.

[8]Records, Vol. 1, p. 106.

[9] CA rollo, p. 53.

[10]Id. at 53-55.

[11]TSN, 19 June 2000, pp. 10-19.

[12] TSN, 22 May 2000, pp. 11-20.

[13]CA rollo, pp. 102-103.

[14] Id. at 103.

[15]Id.

[16]CA rollo, p. 104.

[17] Rollo, pp. 3-32. Presided by Associate Justice Vicente S.E. Veloso, and concurred in by Associate Justices Roberto A. Barrios and Amelita G. Tolentino.

[18]Rollo, pp. 24-25.

[19] Id. at 25-28.

[20] Id. at 27-28.

[21] People v. Razul, G.R. No. 146470, 22 November 2002, 392 SCRA 552, 560, citing People v. Gonzales, 430 Phil. 504, 513 (2002); People v. Bongalon, 425 Phil. 96, 117 (2002); People v. Lacap, 420 Phil. 153, 175 (2001); People v. Tan, 401 Phil. 259, 269 (2000); People v. Zheng Bai Hui, 393 Phil. 68, 131 (2000).

[22] People v. Valencia, 439 Phil. 561, 567 (2002), citing People v. Medenilla, 355 SCRA 172 (2001); People v. Lee, G.R. No. 140919, 354 SCRA 745 (2001); People v. Mustapa, G.R. No. 141244, 352 SCRA 252 (2001).

[23] Supra note 12.

[24] TSN, 22 November 1999, pp. 39-47.

[25]Id. at 50.

[26] Id. at 51.

[27] TSN, 6 December 1999, pp. 9-14.

[28]TSN, 13 December 1999, pp. 23-30.

[29] People v. De Guzman, G.R. No. 151205, 9 June 2004, 431 SCRA 516, 522, citing People v. Eugenio, 395 SCRA 317 (2003); People v. Padasin, 445 Phil. 448, 456 (2003), citing People v. Valencia, G.R. No. 143032, October 14, 2002 citing People v. Medenilla, 355 SCRA 172 (2001), People v. Lee, 354 SCRA 745 (2001), People v. Mustapa, 352 SCRA 252 (2001).

[30] Rollo, p. 60.

[31] Id. at 62.

[32]Id. at 63.

[33]Id.

[34]CA rollo, p. 65.

[35] Id.

[36]Rollo, p. 66.

[37] Supra note 21 at p. 518.

[38]425 Phil. 96, 104-105 (2002).

[39] TSN, 10 July 2001, p. 3.

[40] *People v. Wu Tuan Yuan*, G.R. No. 150663, 5 February 2004, 422 SCRA 182, 194, citing *People v. Hui*, G.R. No. 127580, 22 August 2000, 338 SCRA 420.

[41] *People v. So*, 421 Phil. 929, 939 (2001).

[42] TSN, 22 November 1999, p. 31.

[43] *Supra* note 31.

[44] *People v. Castiller*, G.R. No. 87783, 6 August 1990, 188 SCRA 376, 384.

[45] Records, Vol. 2, p. 459.

[46] TSN, 13 December 1999, pp. 17-19.

[47] CA rollo, p. 67.

[48] TSN, 11 December 2000, p. 17.

[49] *Id.* at 23.

[50] TSN, 9 October 2000, p. 30.

[51] Records, Vol. 2, pp. 60-62.

[52] *Id.*

[53] *Supra* note 8.

[54] TSN, 17 January 2000, pp. 23-34.

[55] *Id.* at 89.

[56] *People v. Medenilla*, G.R. Nos. 131638-39, 26 March 2001, 355 SCRA 172, 190, citing *People v. Barita*, G.R. No. 123541, 8 February 2000, 325 SCRA 22; *People v. Zheng Bai Hui*, 393 Phil. 68, 141 (2000), citing *People v. Tang Wai Lan*, 276 SCRA 24 (1997); *People v. Ting*, G.R. Nos. 130568-69, 21 March 2000, citing *People v. Tang Wai Lan*, G.R. Nos. 118736-37, 23 July 1997, 276 SCRA 24.

[57] Rollo, p. 65.

[58] *Juarez v. People*, G.R. No. 135406, 11 July 2000, citing *People v. Lacbanes*, 270 SCRA 193, 203 (1997); *People v. Bandin*, 226 SCRA 299, 303 (1993); *People v. Mirantes*, 209 SCRA 179, 186 (1992); *People v. Mauyao*, 207 SCRA 732, 740 (1992); *People v. De Las Marinas*, 196 SCRA 504, 510 (1991); *People v. De Guzman*, 194 SCRA 601, 605 (1991); *People v. Castro*, G.R. No. 106583, 19 June 1997; *People v. Morico*, G.R. No. 92660, 14 July 1995, citing *People v. Mauyao*, 207 SCRA 732 (1992); *People v. Bandin*, G.R. 104494, 10 September 1993.

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