

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BERNARDO F. NICOLAS, ACCUSED-APPELLANT.

G.R. NO. 170234. February 08, 2007

Ponente: CHICO-NAZARIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-170234/>

CHICO-NAZARIO, J.:

Assailed before Us is the decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 01191 dated 23 August 2005 which affirmed in toto the decision [2] of the Regional Trial Court (RTC) of Pasig City, Branch 164, in Criminal Case No. 11566-D, finding accused-appellant Bernardo Felizardo Nicolas, a.k.a. Bernie, guilty of violation of Section 5,[3] Article II of Republic Act No. 9165, otherwise known as Comprehensive Dangerous Drugs Act of 2002.

In an Information dated 7 August 2002, accused-appellant Bernardo Felizardo Nicolas, a.k.a. Bernie, was charged with Violation of Section 5, Article II of Republic Act No. 9165, the accusatory portion thereof reading:

On or about August 6, 2002, in Pasig City and within the jurisdiction of this Honorable Court, the accused, who is not being authorized by law, did, then and there willfully, unlawfully and feloniously sell, deliver and give away to PO2 Danilo S. Damasco, one (1) heat-sealed transparent plastic sachet containing 0.42 gram of white crystalline substance which was found positive to the test for methamphetamine hydrochloride (shabu), a dangerous drug, in violation of the said law.[4]

The case was raffled to Branch 164 of the RTC of Pasig City and docketed as Criminal Case No. 11566-D.

When arraigned on 30 September 2002, appellant, assisted by counsel de oficio, pleaded "Not Guilty" to the charge.[5] The Pre-Trial Conference of the case was terminated on the same day. Thereafter, the case was heard.

The prosecution presented two witnesses: PO2 Danilo S. Damasco[6] and SPO2 Dante Zipagan,[7] both members of the Station Drug Enforcement Unit of the Pasig Police Station. The testimony of Police Inspector Delfin A. Torregozo, Forensic Chemical Officer, Eastern Police District Crime Laboratory Office, was, however, dispensed with after both prosecution and defense stipulated that the specimen[8] submitted in court is the same one mentioned in the Request for Laboratory Examination[9] and in Chemistry Report No. D-1501-02E,[10] and that same was regularly examined by said forensic chemical officer.

For the defense, appellant[11] took the witness stand together with his common-law wife, Susan dela Cruz Villasoto,[12] and brother, Jose Nicolas.[13]

The diametrical versions of the People and the accused are narrated by the trial court as follows:

VERSION OF THE PEOPLE

On August 6, 2002, at about 9:30 o'clock in the evening, a confidential informant stepped inside the office of the Station Drug Enforcement Unit of the Pasig Police Station, Pasig City and informed SPO4 Numeriano S. De Lara, Officer In-Charge of that unit, that a certain alias Bernie was selling shabu at his place along Santiago Street, in Barangay Bagong Ilog, Pasig City. Immediately, SPO4 De Lara organized a team to conduct a

surveillance operation and the entrapment of alias Bernie, if warranted by the situation. The team was composed of PO2 Danilo S. Damasco, PO2 Montefalcon, PO2 Orig and SPO2 Zipagan who was the team leader. PO2 Damasco was designated to act as poseur-buyer in the buy-bust operation while the other police officers would serve as his back-ups to assist in the possible apprehension of alias Bernie. After a short briefing, the team of police operatives, including the confidential informant, proceeded to the target place at Santiago Street, Bagong Ilog, Pasig City. SPO2 Dante Zipagan, the team leader, instructed the confidential informant to first check and look for the whereabouts of alias Bernie. The informant, after five minutes, returned and informed the team that he found alias Bernie in front of his house and the team decided to proceed with the planned entrapment of alias Bernie. PO2 Damasco and the informant then walked towards the house of alias Bernie while the back-up police officers placed themselves strategically in different positions where they could see PO2 Damasco and the informant in the act of negotiating with alias Bernie. PO2 Damasco and the informant saw alias Bernie conversing with a male person in front of his house. After the informant greeted alias Bernie, he introduced PO2 Damasco to alias Bernie whose real name is Bernardo Nicolas, the accused herein, as a user of shabu and would like now to buy some Php500.00 worth of the substance from him. Alias Bernie, responded that he still had one piece of that stuff and was willing to sell it to poseur-buyer Damasco. Accused asked for the money which was pre-marked by Damasco with initials DSD (Exh. D-1) which stands for the name of Danilo S. Damasco. Damasco then handed the five hundred peso bill (Exh. D) to accused who accepted it. Accused, in return, gave Damasco one plastic sachet containing white crystalline substance which looked like that of shabu. For a moment, PO2 Damasco examined the plastic sachet and its content and then announced to the accused he was a police officer and arresting him for violation of the drugs law. Accused Bernardo Nicolas alias Bernie got shocked and surprised. As Damasco was holding the accused, the back-up officers arrived and assisted him in handling the accused. Damasco recovered the buy-bust money and the police team took him away to their station, where he was turned over to a police investigator together with the small plastic sachet of suspected shabu that Damasco had purchased from the accused. SPO4 Numeriano S. De Lara sent the small plastic sachet containing white crystalline substance which was then marked with EXH.-A BFN/080602 to the Eastern Police District Crime Laboratory Office at St. Francis St., Mandaluyong City, as per his letter memorandum dated August 6, 2002 (Exhs. B and B-1). The specimen was received at the EPD Crime Laboratory office by P/Insp. Delfin Torregoza, a Forensic Chemical Officer, who weighed and examined the specimen which he found to contain 0.42 gram of white crystalline substance which was tested positive for methamphetamine hydrochloride as per his Chemistry Report No. D-1501-02E (Exhs. C and C-1). Accused Bernardo F. Nicolas was consequently charged with Violation of Section 5, Article II of R.A. 9165.

VERSION OF DEFENSE

x x x x

[Appellant] testified that on August 6, 2002 at about 10:00 o'clock in the evening, he was outside of his house conversing with his brother, Jose Nicolas, and a friend named Arnold Mendez. He had just came (sic) out of his house in order to close the billiard salon that he owned. As they were then huddled in animated conversation, two motor vehicles stopped in front of his billiard parlor, a car and a van. The passengers of the van alighted and one of them pointed a gun at him. As accused was not familiar with the men, he could not recognize them. He learned, later on, that the man who poked a gun at him was PO2 Danilo Damasco who was accompanied by other persons numbering about four or five of them. Damasco warned him not to move, holding and waiving in his hand a plastic sachet which Damasco said he bought from accused Bernardo Nicolas. The police officers then proceeded to put handcuffs on the hands of the accused, in spite of his protest denying anything to do with the plastic sachet of alleged shabu being displayed by Damasco. The police officers also handcuffed and arrested Arnold Mendez. Jose Nicolas did not allow himself to be arrested and handcuffed. When he sensed that he would be handcuffed, he immediately fled and ran into his house, locking himself in. Luckily for him, the police officers did not pursue him any longer. He just watched the incident by peeping through the window of his house. Accused Bernardo Nicolas alias Bernie and Arnold Mendez, were then forced into the police vehicle and taken to the police station, although Nicolas showed resistance which

forced the police officers to physically carry him into their vehicle. Accused Bernard Nicolas was then charged with Violation of Section 5, Article II, R.A. 9165.

Appellant denies the charge. He insists that there was no buy-bust operation and that the shabu (methamphetamine hydrochloride) allegedly sold by him to the poseur buyer was planted evidence. He claims that the trumped-up charge is a way of getting even with him because he, together with his wife, had filed a case before the National Police Commission (NAPOLCOM) for grave misconduct against several policemen (PO2 Joel Tapeç, PO1 Christopher Semana and five John Does) assigned at the Station Drug Enforcement Unit of the Pasig Police Station, for entering and robbing their house on 5 February 2002. He further claims that the policemen who arrested him for allegedly selling shabu were the John Does mentioned in the complaint he and his wife filed with the NAPOLCOM.

In its decision dated 8 October 2003, the trial court found appellant guilty beyond reasonable doubt of the crime charged and sentenced him to life imprisonment. The dispositive portion of the decision reads:

WHEREFORE, the court finds accused BERNARDO F. NICOLAS GUILTY beyond reasonable doubt, as principal of violation of Section 5, Article II, R.A. 9165 and hereby imposes upon him the penalty of life imprisonment and a fine of five hundred thousand pesos (P500.00),^[14] with the accessory penalties provided under Section 35 thereof.^[15]

From the decision, appellant filed a Notice of Appeal informing the court that he is appealing the same to the Court of Appeals.^[16] Though the Notice of Appeal specified that the decision is being appealed to the Court of Appeals, the trial court nonetheless forwarded the records of the case to the Supreme Court pursuant to Section 3, Rule 122 of the Rules of Court.^[17]

On 22 November 2004, appellant filed an appellant's brief before the Supreme Court. On 31 March 2005, the Office of the Solicitor General filed the People's brief.^[18]

Since the penalty imposed by the trial court was life imprisonment, the case was remanded to the Court of Appeals for appropriate action and disposition pursuant to our ruling in *People v. Mateo*.^[19]

On 23 August 2005, the Court of Appeals rendered its decision affirming in full the decision of the trial court.^[20] Appellant filed a Notice of Appeal assailing the decision before the Supreme Court.^[21]

With the elevation of the records of the case to the Supreme Court, the parties were required to submit their respective supplemental briefs, if they so desire, within 30 days from notice.^[22] The parties opted not to file supplemental briefs on the ground that they have fully argued their positions in their respective briefs.^[23]

Appellant assigns as errors the following:

I.

THE TRIAL COURT GRAVELY ERRED IN GIVING FAITH AND CREDENCE TO THE UNRELIABLE TESTIMONIES OF THE PROSECUTION WITNESSES AND IN TOTALLY DISREGARDING THE VERSION OF THE DEFENSE.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

Appellant observed that (1) the policemen did not conduct surveillance first; (2) they did not have any agreement

as regards the money to be used in buying the shabu; and (3) they failed to talk about any signal to inform the back-up policemen that the transaction has been consummated. He contends that the absence of these things is unusual and that it made even more doubtful that the buy-bust operation really took place.

These observations will not purge him of the charge.

Settled is the rule that the absence of a prior surveillance or test-buy does not affect the legality of the buy-bust operation. There is no textbook method of conducting buy-bust operations. The Court has left to the discretion of police authorities the selection of effective means to apprehend drug dealers.[24] A prior surveillance, much less a lengthy one, is not necessary especially where the police operatives are accompanied by their informant during the entrapment.[25] Flexibility is a trait of good police work.[26] In the case at bar, the buy-bust operation was conducted without need of any prior surveillance for the reason that the informant accompanied the policemen to the person who is peddling the dangerous drugs.

Appellant faults the policemen because there was no agreement or discussion among themselves as regards the marked money and the pre-arranged signal.

From the records, it is clear that it was PO2 Damasco who prepared the marked money[27] as shown by his initials on the top right corner of the P500.00 bill that was used in purchasing the shabu from appellant.[28] The fact that the team leader and the other members of the team did not discuss or talk about the marked money does not necessarily mean that there was no buy-bust operation. As explained by SPO2 Zipagan, since PO2 Damasco was the designated poseur buyer it was the latter's discretion as to how to prepare the marked money. It is not required that all the members of the buy-bust team know how the marked money is to be produced and marked inasmuch as they have their respective roles to perform in the operation. As this Court sees it, the other members of the team left the matter of the marked money to one person - the poseur buyer - because it was he who was to deal directly with the drug pusher.

As to the absence of a pre-arranged signal, same is not fatal to the cause of the prosecution. The employment of a pre-arranged signal, or the lack of it, is not indispensable in a buy-bust operation. What determines if there was, indeed, a sale of dangerous drugs is proof of the concurrence of all the elements of the offense. A buy-bust operation is a form of entrapment which has repeatedly been accepted to be a valid means of arresting violators of the Dangerous Drugs Law.[29] The elements necessary for the prosecution of illegal sale of drugs are (1) the identity of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefore.[30] What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti.[31]

In the case under consideration, all these elements have been established. The witnesses for the prosecution clearly showed that the sale of the drugs actually happened and that the shabu subject of the sale was brought and identified in court. The poseur buyer (PO2 Damasco) categorically identified appellant as the seller of the shabu. His testimony was corroborated by SPO2 Zipagan. Per Chemistry Report No. D-1501-02E of Police Inspector Delfin A. Torregoza, the substance, weighing 0.42 gram, which was bought by PO2 Damasco from appellant in consideration of P500.00, was examined and found to be methamphetamine hydrochloride (shabu).

We quote the material portions of the testimony of the poseur buyer that detailed the apprehension of appellant, as follows:

A:

And we briefed and after a short briefing we proceeded to the alleged residence of Bernie and when we reached the place, I particularly saw the subject person in front of the alleged house.

Q:

You said we, whom are you referring to as those who went with you to the house of Bernie?

A:

The confidential informant.

Q:

After reaching the house of Bernie, what happened there?

A:

I saw the subject person in front of his alleged house talking to another male person.

Q:

What was the general condition of that place outside the house of Bernie when you saw him?

A:

Dim light, sir.

Q:

After you first saw Bernie talking with somebody else, what did you do?

A:

The confidential informant greeted alias Bernie and after greeting said person the other male person he was talking to went farther from us and they conversed.

Q:

And after that conversation between your informant and Bernie, what happened?

A:

The confidential informant introduced me as a shabu user and as a customer.

Q:

How far were you from Bernie when you were introduced?

A:

Only two (sic) away.

Q:

Less than a meter?

A:

Yes, sir.

Q:

What was the response of Bernie as you were introduced as a shabu user?

A:

He checked my personality first and he asked me if I will get the stuff, he asked me in tagalog, kukuha ka ba?

Q:

And what did you tell him?

A:

I answered him, kung mayroon kukuha ako.

Q:

And what was his answer?

A:

He answered me that, mayroon kaya tamang-tama kasi isa na lang itong natitira sa akin panggamit ko sana.

Q:

At that very moment, after you were told by Bernie isa na lang ang natitira, what did you?

A:

I asked him kung puwede pang bilhin and then he told me, isa na lang ito panggamit ko, magkano ba ang kukunin mo?

Q:

What was your answer?

A:

I told him, P500.00 worth.

Q:

And what is [his] reply?

A:

Okay, ibibigay ko na lang sa inyo.

Q:

And what happened next?

A:

He asked my payment first.

Q:

And what did you do after he asked your payment?

A:

I gave him the pre-marked money.

Q:

What (sic) that bill made off?

A:

P500.00 bill.

Q:

Where did you put that marking in that bill?

A:

I put the marking on the upper right portion of the bill inside the 500.

Q:

What are the markings did you put there?

A:

I put my initials DSD.

Q:

Now after you gave him that P500.00 marked money, what else happened?

A:

After he received the pre-marked money then he gave me one (1) plastic sachet containing white crystalline substance after receiving said I examined the plastic sachet.

Q:

After that examination of yours, what did you do?

A:

After a brief examination immediately I introduced myself as a police officer and subsequently, arrested alias Bernie.

Q:

After you introduced yourself as a police officer, what was the reaction of alias Bernie?

A:

He was shocked, sir.

Q:

Did he tell you anything?

A:

None, sir.

Q:

And what did you do after arresting him immediately?

A:

After informing his constitutional right I recovered the pre-marked money.

Q:

You mean, you frisked him, Mr. Witness?

A:

Yes, sir.

Q:

What else did you recover from him aside from the mark money?

A:

Nothing more.[32]

Appellant tries to discredit PO2 Damasco and SPO2 Zipagan by showing an inconsistency in their testimonies regarding the condition of the scene of the incident. He points out that PO2 Damasco stressed that the place was dark while SPO2 Zipagan said that the area was well-lighted.[33]

After going over the testimonies of the two police operatives, we find no inconsistency in their testimonies. When asked about the general condition of the place outside the house of appellant, PO2 Damasco answered "dim light." [34] On the other hand, SPO2 Zipagan said the place was "a lighted area." [35] PO2 Damasco did not say that the place was dark nor did SPO2 Zipagan say that the place was well-lighted. What is clear is that the place was lighted. Thus, since both witnesses said that the place was lighted, the inconsistency is more apparent than

real. Even assuming *ad arguendo* that this can be considered an inconsistency, same is trivial to adversely affect their credibility.

We now go to appellant's contention that the policemen who arrested him were impelled by improper motive. He argues that he was merely talking to his brother and a friend when the policemen suddenly arrived and insisted that he had sold shabu to PO2 Damasco. He claims that the charge against him was driven by the policemen's desire to get even with him for filing a case for grave misconduct against the said policemen with the NAPOLCOM. He added that the trial court should have considered the motive as to why he was charged and that the possibility of vengeance is not remote.

We find appellant's imputation of ill motive on the police officers to be unsubstantiated by clear and convincing evidence. We agree in the trial court's ruling when it said:

The evidence does not show that Damasco and Zipagan were moved by ill-will in testifying against the accused. There was no ill feeling or personal animosity existing between the police officers and the accused at the time of the latter's arrest. It is true that accused Bernardo F. Nicolas and his common-law wife Susan Dela Cruz Villasoto filed an administrative case against PO2 Joel Tapeç and PO1 Christopher Semana, both of the Pasig City Police Station for grave misconduct before the National Police Commission which is docketed as ADM CASE No. 2003-008 (NCR). But the filing of this case against Tapeç and Semana is not enough reason for Damasco and Zipagan to fabricate or plant evidence against the accused. There was absolutely no reason at all for them to risk their lives and career to go and plant evidence against the accused which is in violation of Section 29 of R.A. 9165 that imposes upon any person found guilty of planting any dangerous drug regardless of quantity and purity, the penalty of death. These police officers are presumed to know this law and the court believes that these police officers do not wish to lose their lives by fabricating evidence against innocent individuals. Accused Bernardo Nicolas, naturally, was expected to deny the accusation against him, for admission would automatically result in conviction. The testimony of his common-law wife, Susan Dela Cruz Villasoto is not much of help to the accused's defense. Since she did not witness what transpired when accused went out of the house in the evening of August 6, 2002. All that she substantially testified to was that she heard shouting outside of their house and saw three persons forcibly carrying her husband to the other side of the road. (TSN, July 7, 2003, p. 4). Witness Jose F. Nicolas, to the mind of the court is not a credible witness. He claimed he was present at the time accused was arrested. He said he fled in order to avoid being handcuffed and arrested by the police when his brother alias Bernie was arrested. He did not even visit his brother in jail. He talked to him only on August 25, 2003 to discuss with him his testimony in court. (TSN, September 15, 2003, p. 13). Being accused's close relative, Jose Nicolas is expected to testify favorably in behalf of the accused whose testimony, of course, is not sufficient to overthrow the strength and weight of the testimonies of the police officers Damasco and Zipagan. [36]

We likewise find appellant's declaration that the policemen who arrested him were the very same ones who robbed his house on 5 February 2002 to be a mere afterthought in order that he may justify his claim of improper motive on the part of the policemen. How convenient, indeed, it is for him to make such a declaration. From the time of the alleged break-in in his house on 5 February 2002 until the time he was arrested on 6 August 2002 for selling shabu, he never lifted a finger to try and find out the identities of the alleged five John Does mentioned in his complaint with the NAPOLCOM. He could have easily gone to the Station Drug Enforcement Unit of the Pasig Police Station, but this he did not do. Only when he was arrested during an entrapment operation did he make such a claim. The timing thereof renders such declaration very dubious and unreliable.

Appellant's contention that he was framed-up is made even more suspect by the fact that the statement [37]of his common-law wife that he had gone out of the house for only two minutes when the policemen arrived and took him away is belied by the statement [38]of his brother that he had been outside the house for 30 minutes and was talking with his brother and Arnold Mendez when the policemen arrived.

Frame-up, like alibi, is generally viewed with caution by this Court, because it is easy to contrive and difficult to disprove. Moreover, it is a common and standard line of defense in prosecutions of violations of the Dangerous Drugs Act.[39] For this claim to prosper, the defense must adduce clear and convincing evidence to overcome the presumption that government officials have performed their duties in a regular and proper manner.[40] In the case at bar, the presumption remained uncontradicted because the defense failed to present clear and convincing evidence that the police officers did not properly perform their duty or that they were inspired by an improper motive.

Prosecutions involving illegal drugs largely depend on the credibility of the police officers who conducted the buy-bust operation. Considering that this Court has access only to the cold and impersonal records of the proceedings, it generally relies upon the assessment of the trial court, which had the distinct advantage of observing the conduct and demeanor of the witnesses during trial. Hence, factual findings of the trial courts are accorded respect absent any showing that certain facts of weights and substance bearing on the elements of the crime have been overlooked, misapprehended or misapplied.[41] We have no reason to deviate from this rule. We affirm the factual findings of the trial court as affirmed by the Court of Appeals. The evidence presented by the prosecution proves to a moral certainty petitioner's guilt of the crime of selling dangerous drugs.

The sale of shabu is penalized under Section 5, Article II of Republic Act No. 9165. Said section reads:

SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

Under said law, the sale of any dangerous drug, regardless of its quantity and purity, is punishable by life imprisonment to death and a fine of P500,000.00 to P10,000,000.00. For selling 0.42 gram of shabu to PO2 Damasco, the trial court, as sustained by the Court of Appeals, imposed the penalty of life imprisonment and a fine of P500,000.00 in accordance with Article 63(2) [42] of the Revised Penal Code.

Section 98 of Republic Act No. 9165, however, provides for the limited application of the provisions of the Revised Penal Code on said law. This Section reads:

SEC. 98. Limited Applicability of the Revised Penal Code. - Notwithstanding any law, rule or regulation to the contrary, the provisions of the Revised Penal Code (Act No. 3815), as amended, shall not apply to the provisions of this Act, except in the case of minor offenders. Where the offender is a minor, the penalty for acts punishable by life imprisonment to death provided herein shall be reclusion perpetua to death. (Underscoring supplied.)

With the aforesaid section, the provisions of the Revised Penal Code shall no longer apply to the provisions of the Drugs law except when the offender is a minor. Thus, Article 63(2) of the Revised Penal Code shall not be used in the determination of the penalty to be imposed on the accused. Since Section 98 of the Drugs Law contains the word "shall," the non-applicability of the Revised Penal Code provisions is mandatory, subject only to the exception in case the offender is a minor.

In the imposition of the proper penalty, the courts, taking into account the circumstances attendant in the commission of the offense, are given the discretion to impose either life imprisonment or death, and the fine as provided for by law. In light, however, of the effectivity of Republic Act No. 9346 entitled, "An Act Prohibiting the Imposition of Death Penalty in the Philippines," the imposition of the supreme penalty of death has been

prohibited. Consequently, the penalty to be meted on appellant shall only be life imprisonment and fine. Hence, the penalty of life imprisonment and a fine of P500,000.00 were properly imposed on the accused-appellant.

WHEREFORE, premises considered, the instant appeal is DISMISSED. The decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01191 dated 23 August 2005 which affirmed in toto the decision of the Regional Trial Court of Pasig City, Branch 164, in Criminal Case No. 11566-D, finding accused-appellant Bernardo Felizardo Nicolas, a.k.a. Bernie, guilty of violation of Section 5, Article II of Republic Act No. 9165, is hereby AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice (now Presiding Justice) Ruben T. Reyes with Associate Justices Josefina Guevara-Salonga and Fernanda Lampas Peralta, concurring. Rollo, pp. 100-118.

[2] Records, pp. 89-94.

[3] Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transporation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.

[4] Records, p. 1.

[5] Id. at 16.

[6] TSN, 16 December 2002 and 3 February 2003.

[7] TSN, 3 March 2003.

[8] Exhibit E-1.

[9] Exhibit B-1; Records, p. 52.

[10] Exhibit C-1; Records, p. 54.

[11] TSN, 26 May and 29 May 2003.

[12] TSN, 7 July 2003.

[13] TSN, 15 September 2003.

[14] Should read P500,000.00.

[15] Records, p. 93.

[16] Id. at 96.

[17] SEC. 3. How appeal taken. -

x x x x

(c) The appeal to the Supreme Court in cases where the penalty imposed by the Regional Trial Court is reclusion perpetua or life imprisonment, or where a lesser penalty is imposed but for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, reclusion perpetua, or life imprisonment is imposed shall be by filing a notice of appeal in accordance with paragraph (a) of this section.

- [18] Rollo, pp. 70-92.
- [19] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [20] Rollo, p. 118.
- [21] Id. at 125.
- [22] Id. at 22.
- [23] Id. at 23-24, 26-27.
- [24] People v. Li Yin Chu, G.R. No. 143793, 17 February 2004, 423 SCRA 158, 169.
- [25] People v. Gonzales, 430 Phil. 504, 514 (2002).
- [26] People v. Cadley, G.R. No. 150735, 15 March 2004, 425 SCRA 493, 500.
- [27] Exh. D; Records, pp. 55-56.
- [28] TSN, 16 December 2002, pp. 6-7.
- [29] People v. Corpuz, 442 Phil. 405, 414 (2002).
- [30] People v. Adam, 459 Phil. 676, 684 (2003).
- [31] People v. Padasin, 445 Phil. 448, 461 (2003).
- [32] TSN, 16 December 2002, pp. 5-7.
- [33] Appellant's Brief, p. 10; rollo, p. 56.
- [34] TSN, 16 December 2002, p. 5.
- [35] TSN, 3 March 2003, p. 7.
- [36] Records, pp. 92-93.
- [37] TSN, 7 July 2003, pp. 13-14.
- [38] TSN, 15 September 2003, p. 3.
- [39] People v. Eugenio, 443 Phil. 411, 419 (2003).
- [40] People v. Zheng Bai Hui, 393 Phil. 68, 135 (2000).
- [41] People v. Ahmad, G.R. No. 148048, 15 January 2004, 419 SCRA 677, 685.
- [42] ART. 63. Rules for the application of indivisible penalties.

x x x

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.