

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

G.R. NO. 175783. September 03, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For Review is the Decision[1] of the Court of Appeals promulgated on 31 July 2006 in CA-G.R. CR-HC No. 01799 entitled, "People of the Philippines v. Bernardo Tuazon y Nicolas," affirming the Decision[2] dated 14 October 2002 of the Regional Trial Court (RTC), Antipolo City, Branch 71, in Criminal Case No. 99-16114, finding accused-appellant guilty beyond reasonable doubt of violation of Section 16, Article III of Republic Act No. 6425,[3] as amended.

The Information filed against appellant alleged:

The undersigned State Prosecutor accuses BERNARDO TUAZON y NICOLAS of the crime of Violation of Section 16, Article III, R.A. 6425, as amended, committed as follows:

That, on or about the 7[th] day of March, 1999, in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess any regulated drug, did then and there willfully, unlawfully and feloniously have in his possession, custody and control seven (7) heat- sealed transparent plastic bags each containing 97.92 grams, 95.46 grams, 40.47 grams, 5.36 grams, 5.41 grams, 2.95 grams and 3.17 grams for a total weight of 250.74 grams of white crystalline substance, which after the corresponding laboratory examination conducted gave positive result to the test for methylamphetamine hydrochloride also known as "shabu" a regulated drug, in violation of the above-cited law.[4]

Upon arraignment, appellant, duly assisted by counsel de oficio, pleaded not guilty.[5]

The prosecution's version of the case relied heavily on the testimony of PO3 Glenon Bueno (PO3 Bueno) who testified that in the morning of 7 March 1999, the Antipolo City Police Station received through telephone, a confidential information that a Gemini car bearing plate number PFC 411[6] would deliver an unspecified amount of shabu in Marville Subdivision, Antipolo City. Acting on said tip, Antipolo City Chief of Police Major Rene Quintana dispatched a team of policemen to the area to conduct a surveillance. When the team arrived in Marville Subdivision, they saw the said Gemini car and immediately flagged it down. The driver of the car pulled to a stop and opened a window of said vehicle giving the policemen the opportunity to identify themselves as members of the Antipolo City Police Station. It was then that PO1 Manuel Padlan (PO1 Padlan) saw a gun tucked on appellant's waist. PO1 Padlan inquired about the gun and appellant allegedly replied it did not belong to him nor could he produce any pertinent document relating to said firearm. This prompted PO3 Bueno to order appellant to get down from the car. As soon as appellant stepped down from the vehicle, PO3 Bueno saw five plastic sachets on the driver's seat, the contents of which appellant allegedly admitted to be shabu. Appellant was thereafter immediately brought to the police station.

In the Joint Affidavit executed by PO3 Bueno and PO1 Padlan, it was stated that when they frisked appellant, they discovered "2 big plastic bag (sic) and 5 medium size plastic (sic) and a 9 mm. pistol marked Parabellum bearing serial number C-9890 with one loaded magazine with eleven ammunition." [7]

The white crystalline substance confiscated from appellant was then forwarded to the Philippine National Police Crime Laboratory in Camp Crame, Quezon City for examination. The test conducted on the specimen turned over to the crime laboratory yielded the following:

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the test for Methylamphetamine Hydrochloride, a regulated drug. x x x.

CONCLUSION:

Specimens A-1 through A-7 contains Methylamphetamine Hydrochloride, a regulated drug. x x x. [8]

Expectedly, appellant presented a vastly different account of the events that led to his indictment. According to him, he used to work as a caretaker of "Curacha," a beer house/videoke bar located along Circumferential Road, Marville II Subdivision and owned by a certain Bong Reyes. On 6 March 1999, he reported for work at six o'clock in the evening. Later that night, unidentified men walked up to him. One of these men asked him regarding the ownership of the car parked outside the bar. He allegedly accompanied the men outside so he could confirm the identity of the owner of the car that the men were inquiring about. Thereupon, the men pointed to him a green colored Isuzu Gemini car which according to him was driven by his employer, Reyes. After revealing this information to the unidentified men, the latter purportedly pointed guns at him and ordered him to board an owner-type jeepney. The men allegedly asked him regarding the whereabouts of Reyes and threatened to include him in whatever trouble Reyes was in. A few hours passed and he was then brought to the police headquarters where he was asked regarding his address and the name of his employer. After two days, he was allegedly forced to admit that he was in fact the owner of the Gemini car as well as of the shabu and the gun recovered from said vehicle. He learned later on that he was charged with violations of Republic Act No. 6425 for illegal possession of shabu and Presidential Decree No. 1866 for illegal possession of firearm. The latter case was eventually dismissed. At the end of his direct examination, appellant reiterated that he should not have been the one charged with illegal possession of shabu, but Reyes who was driving the Gemini car.

The trial court found the evidence presented by the prosecution sufficient to support a guilty verdict and imposed upon appellant the penalty of reclusion perpetua and to pay a fine of P500,000.00. [9]

On 17 September 2003, we resolved to accept the appeal interposed by appellant, the records of the case having been forwarded to this Court by the RTC, Antipolo City, Branch 71. We also required the parties to file their respective briefs. [10]

In addition to the required brief, appellant filed a supplementary pleading in which he questioned the validity of his arrest and the admissibility of the evidence presented against him. He contends that at the time of his warrantless arrest, he was merely driving within Marville Subdivision. He had not committed, was not committing, and was not about to commit any crime which could have justified his apprehension. He goes on to argue that even if he had waived the issue regarding the validity of his arrest by his failure to raise the matter before entering his plea, such waiver did not affect the unlawfulness of the search and seizure conducted by the police. Appellant claims that as the confidential informant had been cooperating with the police for three weeks prior to his arrest, the authorities were already informed of his identity and his alleged illegal activities. They should have conducted a prior surveillance and then sought a search warrant from the court. Absent said warrant,

the shabu seized from him should be excluded from evidence. [11]

On 23 February 2005, we ordered the transfer of this case to the Court of Appeals conformably with our decision in *People v. Mateo*, which modified the pertinent provisions of the Rules of Court with respect to direct appeals from the RTCs to this Court of cases where the penalty imposed is death, reclusion perpetua, or life imprisonment.[12]

The Court of Appeals affirmed the findings and conclusion of the court a quo. The dispositive portion of the Court of Appeals' Decision states:

WHEREFORE, the October 14, 2002 Decision of the Regional Trial Court, Branch 71, Antipolo City, in Criminal Case No. 99-16114, is hereby AFFIRMED.[13]

In sustaining the trial court, the Court of Appeals found PO3 Bueno's testimony to be "clear and unequivocal"[14] and should therefore prevail over appellant's defense of denial.[15] The Court of Appeals likewise brushed aside appellant's contention that he was a victim of frame-up as this defense has been viewed with disfavor and has become a standard line of defense in most prosecutions arising from violations of the Dangerous Drugs Act.[16] It also took note of appellant's failure to give any credible reason why the police singled him out considering that they were strangers to one another prior to the date of the incident.[17]

Appellant is again before this Court pleading his innocence by making a lone assignment of error —

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR VIOLATION OF SECTION 16, ARTICLE III, REPUBLIC ACT 6425, AS AMENDED.[18]

Appellant contends that the trial court's reliance on the prosecution's evidence was erroneous considering that he, as a mere grade school graduate, could not have concocted his narration of the events that led to his arrest.[19] He also maintains that he was an easy target of police operatives, since he was a new employee in the videoke bar and was therefore unfamiliar with the people who frequented said establishment. In addition, he insists that the prosecution failed to meet the exacting test of moral certainty required for conviction and that the trial court should not have applied the presumption of regularity in the performance of duties on the part of the police officers. [20]

Appellant likewise points out the trial court's supposed failure to substantiate the factual and legal bases for his conviction. He notes that the court a quo's evaluation of the facts and evidence was contained in only two paragraphs and was utterly lacking in substantial discussion, in contravention of this Court's edict that the decisions must distinctly and clearly express their factual and legal bases.[21]

On 19 February 2007, we required the parties to file their respective supplemental briefs, if they so desired. On 17 April 2007, appellant filed a Manifestation stating that he would no longer file a supplemental brief as all relevant matters for his defense were already discussed in his previous pleadings.[22] The Office of the Solicitor General likewise manifested that it would no longer file a supplemental brief.[23]

The appeal must fail.

In insisting that the trial court should not have given credence to the testimony of PO3 Bueno, appellant is basically making an issue about a witness's credibility. In this regard, we reiterate the rule that appellate courts will generally not disturb factual findings of the trial court since the latter has the unique opportunity to weigh conflicting testimonies, having heard the witnesses themselves and observed their deportment and manner of testifying.[24] Thus, unless attended with arbitrariness or plain disregard of pertinent facts or circumstances, the factual findings are accorded the highest degree of respect on appeal.[25] Our careful review of the records of this

case reveals that the trial court did not err in relying on the testimony of PO3 Bueno. In open court, PO3 Bueno recounted their encounter with appellant as follows:

PROS. LUNA:

Thank you, your honor.

Q: Mr. Witness, where were you assigned as police officer sometime in the month of March 1999?

WITNESS:

A: At the Antipolo Police Station, sir.

Q: Mr. Witness, do you know accused Bernardo Tuazon?

A: Yes, sir.

Q: How did you come to know him?

A: Because we arrested Bernardo Tuazon.

Q: If the accused in this case is present before this Court, will you please point him out?

A: He is that person wearing yellow T-shirt.

LEGAL RESEARCHER ACTING AS INTERPRETER:

The witness is pointing to a male person inside the courtroom when confronted give his name as Bernardo Tuazon.

PROS. LUNA:

Q: Do you recall where were you at about 12:10 in the morning of March 7, 1999?

WITNESS:

A: At the Antipolo Police Station, sir.

Q: What were you doing then at that time?

A: We were doing our duty as police investigator, sir.

Q: Who were your companions at that time?

A: PO1 Manuel Padlan, and CA Ronald Naval, sir.

Q: While performing your functions, do you remember any unusual incident at that time?

A: One of our confidential agents gave an information thru telephone, sir.

Q: About what?

A: About delivery of shabu of undetermined amount in the area of Marville Subdivision, Antipolo City, sir.

Q: Do you know that person involved or who is the person supposed to deliver an undetermined amount of "shabu"?

A: The asset did not say who will deliver the shabu but he only said on the telephone that the car is a Gemini bearing plate number PFC 411 who will deliver at said place.

Q: Upon receipt of said information what did you do next?

A: We informed our Chief of Police Major Rene Quintana, sir.

Q: What was the reaction of Major Quintana?

A: Our Chief of Police told us to do surveillance in the area.

Q: What did you do next?

A: We immediately recorded the dispatch and we boarded a marked vehicle and proceeded to the area in Marville Subdivision, sir.

Q: Where is this located?

A: In Barangay San Roque fronting along the highway in Antipolo City.

Q: Upon reaching that place what happened?

A: When we arrived in the subdivision we saw a Gemini car with plate number PFC 411, sir.

Q: If a picture of that car would be shown to you would you be able to identify it?

A: Yes, sir.

Q: I am showing to you a picture already marked as Exhibit B,. B-1 and B-2. What relation has this to the one you mentioned?

A: This is the car where the accused was then on board, sir.

Q: Upon seeing the car what did you do?

A: We immediately conduct a check point, sir.

Q: Specifically, what did you do?

A: We flagged down the vehicle, sir.

Q: What happened after flagging down the car?

A: When we flagged down the vehicle, we identified ourselves as police officers, sir.

Q: What was the reaction of the driver of the vehicle?

A: The driver opened the window and we identified ourselves as members of the Antipolo City Police Station, sir.

Q: What was the reaction of the driver?

A: When he opened the window, PO1 Padlan saw a gun tucked on his waist.

Q: What did you do next? In your case what did you do?

A: We identified ourselves as policem[e]n.

COURT:

Q: Did you know what Padlan did?

WITNESS:

A: Yes, sir.

Q: What did he do?

A: He questioned his gun and it turned out that there is no pertinent document for his gun.

Q: What do you mean "he was asked"? Who was asked?

A: The driver, Bernardo Tuazon, sir.

PROS. LUNA:

Q: What was the reaction of Bernardo Tuazon?

WITNESS:

A: He said that the gun is not his.

Q: Upon hearing that the gun was not owned by Bernardo Tuazon what did you do as police officer?

A: I ordered him to get down from the car.

COURT:

Q: After he got down from the car, what happened?

WITNESS:

A: I saw five (5) plastic bags on the driver's seat.

Q: Upon seeing that plastic bag what did you do?

A: I asked him the contents of that plastic and he replied that it contained shabu, sir.

Q: What did you do upon hearing the answer of the accused?

A: We immediately brought him to the headquarters together with the evidence, sir.

Q: What did you do with the "shabu"?

A: We brought it to the PNP Crime Laboratory for examination, sir.

Q: What was the result of the examination, if you know?

A: It gave positive result to the tests for methylamphetamine hydrochloride sir.[26]

We agree with the Court of Appeals that the foregoing testimony of PO3 Bueno establishes beyond reasonable doubt appellant's culpability. His testimony regarding the circumstances that occurred in the early hours of 7 March 1999 — from the moment their office received a confidential tip from their informer up to the time they accosted appellant — deserved to be given significance as it came from the mouth of a law enforcement officer who enjoys the presumption of regularity in the performance of his duty. Police officers are presumed to have acted regularly in the performance of their official functions in the absence of clear and convincing proof to the contrary or that they were moved by ill-will.[27]

Appellant's bare-faced defense of denial cannot surmount the positive and affirmative testimony offered by the prosecution. It is well-settled that positive declarations of a prosecution witness prevail over the bare denials of an accused.[28] A defense of denial which is unsupported and unsubstantiated by clear and convincing evidence becomes negative and self-serving, deserving no weight in law and cannot be given greater evidentiary value over convincing, straightforward and probable testimony on affirmative matters.[29] Denial is an inherently weak defense which must be supported by strong evidence of non-culpability to merit credibility.[30]

We shall now resolve the issue raised by appellant regarding the admissibility of the physical evidence presented against him. No less than our Constitution recognizes the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures. This right is encapsulated in Article III, Section 2 of the Constitution which states:

SEC. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause 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 persons or things to be seized.

Complementing this provision is the so-called exclusionary rule embodied in Section 3(2) of the same article —

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

It is recognized, however, that these constitutional provisions against warrantless searches and seizures admit of certain exceptions, as follows: (1) warrantless search incidental to a lawful arrest recognized under Section 12, Rule 126 of the Rules of Court and by prevailing jurisprudence; (2) seizure of evidence in plain view; (3) search of a moving vehicle; (4) consented warrantless search; (5) customs search; (6) stop and frisk; and (7) exigent and emergency circumstances.[31]

In the case of *People v. Lo Ho Wing*,[32] this Court had the occasion to elucidate on the rationale for the exemption of searches of moving vehicles from the requirement of search warrant, thus:

[T]he rules governing search and seizure have over the years been steadily liberalized whenever a moving vehicle is the object of the search on the basis of practicality. This is so considering that before a warrant could be obtained, the place, things and persons to be searched must be described to the satisfaction of the issuing judge — a requirement which borders on the impossible in the case of smuggling effected by the use of a moving vehicle that can transport contraband from one place to another with impunity. We might add that a warrantless search of a moving vehicle is justified on the ground that "it is not practicable to secure a warrant because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought."

Nevertheless, the exception from securing a search warrant when it comes to moving vehicles does not give the police authorities unbridled discretion to conduct a warrantless search of an automobile. To do so would render the aforementioned constitutional stipulations inutile and expose the citizenry to indiscriminate police distrust which could amount to outright harassment. Surely, the policy consideration behind the exemption of search of moving vehicles does not encompass such arbitrariness on the part of the police authorities. In recognition of the possible abuse, jurisprudence dictates that at all times, it is required that probable cause exist in order to justify the warrantless search of a vehicle.[33]

In *Caballes v. Court of Appeals*,[34] the term "probable cause" was explained to mean —

[A] reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person accused is guilty of the offense with which he is charged; or the existence of such facts and circumstances which could lead a reasonably discreet and prudent man to believe that an offense has been committed and that the items, articles or objects sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched. The required probable cause that will justify a warrantless search and seizure is not determined by a fixed formula but is resolved according to the facts of the case.

When a vehicle is flagged down and subjected to an extensive search, such a warrantless search has been held to be valid as long as the officers conducting the search have reasonable or probable cause to believe prior to the search that they would find the instrumentality or evidence pertaining to a crime, in the vehicle to be searched.[35]

In this case, we hold that the police had probable cause to effect the warrantless search of the Gemini car driven by appellant. A confidential informer tipped them off that said car was going to deliver shabu at Marville Subdivision. Pursuing said lead, the Antipolo City police sent a team to Marville Subdivision to monitor said vehicle. The information provided by the informer turned out to be correct as, indeed, the Gemini car was spotted in the place where it was said to be bringing shabu. When they stopped the car, they saw a gun tucked in appellant's waist. Appellant did not have any document to support his possession of said firearm which all the more strengthened the police's suspicion. After he was told to step out of the car, they found on the driver's seat plastic sachets containing white powdery substance. These circumstances, taken together, are sufficient to establish probable cause for the warrantless search of the Gemini car and the eventual admission into evidence of the plastic packets against appellant.

In any case, appellant failed to timely object to the admissibility of the evidence against him on the ground that the same was obtained through a warrantless search. His failure amounts to a waiver of the objection on the legality of the search and the admissibility of the evidence obtained by the police. It was only proper for the trial court to admit said evidence. [36]

Appellant also faults the trial court for its failure to abide by the Constitutional requirement that "(n)o decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based." [37] Again, we disagree.

Faithful adherence to the aforementioned constitutional provision is a vital component of due process and fair play.[38] The rule takes an even more important significance for the losing party who is entitled to know why he lost so that he may appeal to a higher court, if permitted, should he believe that the decision needs to be reversed. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is especially prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal.[39]

In this case, we find that the assailed decision of the trial court substantially complied with the requirements of the Constitution. The decision contained a summary of the facts of the case as presented by the prosecution and by the defense. It likewise contained an explanation as to why it found appellant guilty as charged. Admittedly, the decision is brief but to our mind, it sufficiently informed appellant as regards the bases for his conviction. It readily informs appellant that the trial court disregarded his defense of bare denial in favor of the presumption of regularity in the performance of duties enjoyed by police officers.

WHEREFORE, premises considered, the Decision of the Court of Appeals in CA-G.R. CR-HC No. 01799 dated 31 July 2006, finding appellant Bernardo Tuazon y Nicolas guilty beyond reasonable doubt of violation of Section 16, Article III of Republic Act No. 6425, as amended, is AFFIRMED. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Penned by Associate Justice Jose C. Mendoza with Associate Justices Elvi John S. Asuncion and Arturo G.

Tayag, concurring; rollo, pp. 3-12.

[2] Penned by Presiding Judge Felix S. Caballes. Records, pp. 84-89.

[3] Also known as "The Dangerous Drugs Act of 1972."

[4] Records, p. 1.

[5] Id. at 13.

[6] In the Joint Affidavit of PO3 Glenon Bueno and PO1 Manuel Padlan as well as the picture of the Gemini car marked as Exhibits "B," "B-1," and "B-2," the plate number of the car was identified as PMZ 411; id.

[7] Id.

[8] Folder of Exhibits, p. 3.

[9] Records, p. 89.

[10] CA rollo, p. 22.

[11] Id. at 88-104.

[12] Id. at 105.

[13] Rollo, p. 11.

[14] Id. at 7.

[15] Id. at 9.

[16] Id.

[17] Id. at 8.

[18] CA rollo, p. 32.

[19] Id. at 36-37.

[20] Id.

[21] Id. at 38-39.

[22] Rollo, pp. 14-15.

[23] Id. at 17-18.

[24] *People v. Baygar*, 376 Phil. 466, 473 (1999).

[25] *People v. Matito*, 468 Phil. 14, 24 (2004).

[26] TSN, 14 February 2000, pp. 3-7.

[27] *People v. Huang Zhen Hua*, G.R. No. 139301, 29 September 2004, 439 SCRA 350, 381, cited in *People v. Torres*, G.R. No. 170837, 12 September 2006, 501 SCRA 591, 609.

[28] *People v. Vargas*, 327 Phil. 387, 397 (1996).

[29] *People v. Gonzales*, 417 Phil. 342, 353 (2001).

[30] *People v. Hivela*, 373 Phil. 600, 605 (1999).

[31] *People v. Gonzales*, *supra* note 29 at 357.

[32] G.R. No. 88017, 21 January 1991, 193 SCRA 122, 128-129.

[33] *Caballes v. Court of Appeals*, 424 Phil. 263, 279 (2002).

[34] *Id.*

[35] *People v. Bagista*, G.R. No. 86218, 18 September 1992, 214 SCRA 63, 69.

[36] *Id.*

[37] 1987 Constitution, Article VIII, Section 14.

[38] *Yao v. Court of Appeals*, 398 Phil. 86, 105 (2000).

[39] *Nicos Industrial Corporation v. Court of Appeals*, G.R. No. 88709, 11 February 1992, 206 SCRA 127, 132.

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