ANISAH IMPAL SANGCA, PETITIONER, VS. THE CITY PROSECUTOR OF CEBU CITY AND THE PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 58, CEBU CITY, RESPONDENTS.

G.R. No. 175864. June 08, 2007

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-175864/

YNARES-SANTIAGO, J.:

On January 4, 2007, petitioner Anisah Impal Sangca filed the instant petition praying for the issuance of a writ of habeas corpus and the release of Lovely Impal Adam who was detained in the Cebu City Jail for alleged violation of Section 5, Article 2 of Republic Act (R.A.) No. 9165, otherwise known as the Dangerous Drugs Act of 2002.

The facts are as follows:

In the first week of July 2006, the Philippine Drug Enforcement Agency (PDEA), Regional Office VII, received information that Adam was engaged in illegal drug trafficking activities in Cebu City and neighboring cities and municipalities. After evaluating the information, Police Chief Inspector Josefino Ligan, PDEA VII Asst. Regional Director for Administration/Operation, together with FO1 Rayford A. Yap and PO2 Dindo M. Tuliao, planned an entrapment operation.

The events leading to the arrest of Adam, as summarized in the Resolution of the Department of Justice dated November 10, 2006, are as follows:

> On July 7, 2006, at about 2:00 P.M., Yap and Tuliao were able to contact the informant and inquired from him if he was really sincere with his words and the latter replied affirmatively. Ligan immediately composed a team and planned for an entrapment operation against respondent and her cohorts. A short briefing was conducted where Yap was tasked to receive the shabu while Tuliao would be the back up and at the same time the arresting officer. They prepared a Pre-Operation Report and the same was coordinated with the Tactical Operation Center of Cebu City Police Office. The pre-arranged signal in the operation was that Yap would miscall them once the transaction is consummated. x x x
>
> On or about 9:30 P.M. of the same day, the team, including Yap, Tuliao and the informant, proceeded to Fuente Osmeña, Cebu City for the said purpose. Upon arrival thereat, Yap and the informant proceeded to Pizza Hut while Tuliao stayed behind near the parking area and so with the members of the team closely watching them. When Yap and the informant entered Pizza Hut, respondent was already there waiting for them. They immediately approached her and the informant introduced Yap to respondent as his former customer. They had a short conversation and Yap asked respondent if she has with her the item. Respondent told him that it is in her car at the parking area. Respondent asked where the money is. Yap told her no problem as long as she has the item, he will give her the money. Respondent instructed Yap to go with her at the parking area so that she could give it to him and there, she got inside her car. She took the shabu inside the compartment of her Toyota Fortuner with plate number YCX 965 and handed to him one (1) packed medium size of heat sealed transparent plastic sachet filled with white crystalline substance believed to be shabu. Upon receiving the said item, Yap pressed it to determine if it was really shabu or not and when he noticed that it

was shabu, he immediately miscalled the members of the team informing them that the transaction was consummated and subsequently held respondent. He then introduced himself as PDEA 7 operative. Tuliao, who was just at the side of the car, assisted Yap in apprehending the suspect. They also seized her cellular phone and the Toyota Fortuner which she used in delivering and transporting illegal drugs. Thereafter, they informed her that she is under arrest for violation of Section 5, Article II, RA 9165 and likewise apprised her of the Miranda Doctrine in the language she knew and understood but she opted to remain silent. After which, they asked her name and she introduced herself as Lovely Adam y Impal, 29 years old, married, businesswoman and a resident of Celiron, Iligan City. They brought her along with the confiscated items to their office for proper disposition. Later on, they found out that the item that Yap bought from respondent, marked "LA" dated 07-07-06 with Yap's signature, weighing 50.27 grams which was submitted before the PNP Crime Laboratory for chemical analysis, yielded positive results for the presence of Methamphetamine Hydrochloride or Shabu, a dangerous drug.

Respondent denies the charge against her. She claims that she is a trader of ready to wear clothing. As such, she frequently travels to different Asian countries to buy goods for sale in Cebu and in Mindanao. She supplies various boutiques in Cebu City, including Salad Dressing at SM, D. Blaz., Beauty Land and Lovely's Closet. She also operates a beauty parlor in Talamban.

Respondent claims that on July 7, 2006, at around 10:00 in the evening, she was at Pizza Hut, Fuente Osmeña Boulevard, together with her four children and their "yayas". A friend of hers, Ana, had called her earlier in the day saying that she would pay off her loan to her (respondent) at Pizza Hut that evening. Ana arrived a short time later. They were eating when Ana received a call over her cellphone. From the gist of it, Ana was talking to a certain Rose. Respondent did not mind them because the conversation was only between Ana and Rose. A short time later, a woman, who was introduced to her by Ana as a certain Rose, arrived. Ana and Rose then proceeded to talk with each other, and respondent did not mind them. A while after, respondent saw Ana hand over a parcel to Rose, and the latter, on the other hand, hand a green bag to Ana. Rose then left. As respondent was about to leave, Ana requested that she be allowed to hitch a ride and respondent agreed. When they were outside, respondent noticed a vehicle blocking her car, making it impossible for her to back out into the road, without hitting the car. She then beeped her car. Instead of moving their car, one of the men went down and thereafter, entered her vehicle and demanded for the bag that was allegedly given to Ana by Rose. Respondent told them to ask Ana since they claimed that it was given to Ana. However, the men pointed their guns at respondent, including her children, claiming that they were elements of PDEA and they were placing her under arrest for illegal drug trafficking. They then grabbed respondent's green bag and from then on, she was never able to recover the contents thereof, including the bag itself. Thereafter, respondent was brought to the PDEA office where a certain Ryan Rubi was also booked for alleged drug trafficking. During her conversation with Ryan Rubi, she found out that he was arrested a few hours earlier likewise by the PDEA, and during his alleged arrest, he was required to produce a drug trafficker in exchange for his release. Having been unable to produce any, he was charged. The name of Rose cropped up, and he said that during his arrest, the police officers informed him that they were after Rose. His wife was out to raise money for his release, or to produce a drug trafficker so that he can be released. It was further ascertained by Ryan Rubi that this Rose was actually arrested by the police officers but was conditionally released on condition that she would produce someone who would take her place. Thereafter, he claimed that he overheard them refer to a certain Ana, who said that she would also produce respondent to take her place. The circumstances of respondent's arrest and that of the said Ryan Rubi are closely intertwined. In the police blotter, the vehicle pertaining to respondent, which is the Toyota Fortuner was ascribed to Ryan Rubi, while the latter's vehicle was ascribed to her. x x x[1]

The inquest prosecutor recommended the dismissal of the case but was disapproved by the City Prosecutor. Consequently, an information charging Adam with violation of Section 5, Article 2 of R.A. No. 9165 was filed and docketed as Criminal Case No. CBU-77562 before the Regional Trial Court of Cebu City, Branch 58.

On petition for review before the Department of Justice, Secretary Raul M. Gonzalez found no probable cause to

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

hold Adam liable for the offense charged, to wit:

> A very thorough and careful scrutiny of the records, particularly the affidavit of arrest, reveals that no payment was ever made by the police officers for the supposed object of the buy-bust operations. The police officers have not even alleged in their affidavits that payment was made to respondent in exchange for the shabu. No buy-bust money was ever presented. The certificate of inventory does not show any buy-bust money. These stick out like a sore thumb in the case at bar.
>
> Suffice it to say that one of the essential elements to be established in the prosecution of the drug "buy-bust" cases, that is, "the delivery of the thing sold and the payment therefore" is wanting. It was aptly said in the case of People v. Alilin, 206 SCRA 773, that: "To sustain a conviction for selling prohibited drugs, the same must be clearly and unmistakably established."[2]

The Justice Secretary directed the City Prosecutor of Cebu City to withdraw the information.[3] PDEA filed a motion for reconsideration but was denied by the Justice Secretary on December 8, 2006.[4]

In his Comment, Judge Gabriel T. Ingles, Presiding Judge of the Regional Trial Court of Cebu City, Branch 58, stated that at the hearing of the motion to withdraw information on January 5, 2007, it was found that:

> In the affidavit of FO1 Rayford A. Yap and PO2 Dindo M. Tuliao, there is indeed no mention of their preparation of a buy bust money before, during or after their briefing prior to the alleged buy bust operation, nor is there any mention of the price or consideration of the sale. What is merely stated is that they had enough money.
>
> x x x x
>
> Further convincing this court that there was no buy bust money prepared are the following:
>
> a) In the "Pre-Operation Report" dated July 7, 2006, bearing Control Number 07-07-2006-03, there is no mention of the buy-bust money in the operational requirements;
>
> b) In the "Excerpt From the Records of the PDEA 7 Blotter/Logbook bearing the same date and entry number 02422;
>
> c) In another "Excerpt From the Records of the PDEA 7 Blotter/Logbook bearing the same date and entry number 02422 there is a mention in "Facts of the Case" the recovery of "3 bundles of boodle money with two (2) pieces of genuine five hundred peso bills wrapped with newspaper and packed with packaging tape." However, while the name of the suspect is indicated in this excerpt is Lovely Adam y Impal and the evidence enumerated are as follows:
>
> 1) one (1) medium size of heat sealed transparent plastic sachet filled with crystalline substance believed to be shabu;
>
> 2) one (1) unit Nokia cellphone;
>
> 3) one (1) unit Toyota Fortuner with plate number XCX 956 registered under the name of Lovely Adam;"
>
> the narration of the facts of the case in said excerpt also included the following statement: "Likewise, the apprehending officers seized one (1) unit cellular phone (Sony Erickson) and the Mitsubishi Lancer with plate number GHC color black registered under the name of Roberto Rubi, which was used by the aforementioned suspects in transporting illegal drugs."
>
> This Roberto Rubi could not have been arrested together with accused herein because there is no mention of such fact in the Affidavit of Officers Yap and Tuliao.
>
> In fact, the head of the arresting team of herein accused Josefino D. Liga[n] filed a Motion to Withdraw Said

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

> Excerpt because there was an inadvertent interchange of facts in another case obviously against Mr. Rubi.
>
> The problem, however, is that from the Excerpts presented, it is not clear to this court to which case the mention of boodle money applies. This court cannot merely assume or conclude that the boodle money has reference to the case of herein accused because as stated, nowhere in the separate affidavits of office[r]s Tuliao and Yap can one find any mention of such. It is not even mentioned in the other "Excerpt" also dated July 10, 2006 also submitted by the PDEA.[5]

Finding that Adam could not be held liable for the crime charged, Judge Ingles issued an Order on January 26, 2007 granting the Motion to Withdraw Information and ordering the release of the accused, unless otherwise held for another valid ground. The dispositive portion of the Order reads:

> Accordingly, the "Motion to Withdraw Information" is hereby GRANTED and the accused is ordered immediately released unless another valid ground exists for her continued detention.
>
> The prosecution and/or PDEA are/is ordered to turn over to this court within three (3) days from receipt hereof the dangerous drug described in the information which shall in turn be confiscated in favor of the state for proper disposition unless the prosecution intends to refile or file another case against the accused which it deems appropriate as double jeopardy has not attached.
>
> SO ORDERED.[6]

A writ of habeas corpus extends to all cases of illegal confinement or detention in which any person is deprived of his liberty, or in which the rightful custody of any person is withheld from the person entitled to it. Its essential object and purpose is to inquire into all manner of involuntary restraint and to relieve a person from it if such restraint is illegal. The singular function of a petition for habeas corpus is to protect and secure the basic freedom of physical liberty.[7]

In the instant case, records show that Adam has been released upon order of the trial judge on January 26, 2007. Therefore, the petition has become moot.[8]

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

---

[1] Rollo, pp. 8-11.

[2] Id. at 12.

[3] Id. at 14.

[4] Id. at 10.

[5] Id. at 21-24.

[6] Id. at 25.

[7] In Re: Arguelles, Jr. v. Balajadia, Jr., G.R. No. 167211, March 14, 2006, 484 SCRA 653, 657.

[8] Id.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

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.