PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ESTELA TUAN Y BALUDDA, ACCUSED-APPELLANT.

G.R. No. 176066. August 11, 2010

Ponente: LEONARDO-DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-176066/

LEONARDO-DE CASTRO, J.:

For review is the Decision[1] dated September 21, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00381, which affirmed with modification the Decision[2] dated April 9, 2002 of the Regional Trial Court (RTC), Branch 6, Baguio City, finding accused-appellant Estela Tuan y Baludda guilty in Criminal Case No. 17619-R, of illegal possession of marijuana under Article II, Section 8 of Republic Act No. 6425, otherwise known as "The Dangerous Drugs Act of 1972," as amended; and in Criminal Case No. 17620-R, of violating Presidential Decree No. 1866, otherwise known as the "Illegal Possession of Firearms," as amended.

On April 5, 2000, two separate Informations were filed before the RTC against accused-appellant for illegal possession of marijuana and illegal possession of firearm. The Informations read:

> Criminal Case No. 17619-R
>
> The undersigned Public Prosecutor accuses ESTELA TUAN Y BALUDDA of the crime of VIOLATION OF SEC. 8, ART. II OF REPUBLIC ACT 6425, AS AMENDED (Illegal Possession of Marijuana), committed as follows:
>
> That on or about 24[th] day of January 2000, at Barangay Gabriela Silang, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully and unlawfully have in her possession, custody, and control the following, to wit:
>
> a) Nine (9) bricks of dried Marijuana leaves with an approximate total weight of 18.750 kgs., and
>
> b) One (1) plastic bag containing dried Marijuana leaves weighing approximately .3 kg.
>
> without any authority of law to do so in violation of the above-cited provision of law.[3]
>
> Criminal Case No. 17620-R
>
> The undersigned Public Prosecutor accuses ESTELA TUAN Y BALUDDA of the crime of VIOLATION OF PRESIDENTIAL DECREE 1866, AS AMENDED (Illegal Possession of Firearm), committed as follows:
>
> That on or about the 24[th] day of January 2000, at Barangay Gabriela Silang, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully and unlawfully have in her possession, custody, and control one (1) Cal. .357 S & W revolver, a high-powered firearm, without any license, permit or authority duly issued by the government to possess or keep the same in violation of the above-cited law.[4]

Upon her arraignment on April 18, 2000, accused-appellant, assisted by her counsel de parte, pleaded "NOT GUILTY" to both charges.[5] Pre-trial and trial proper then ensued.

During trial, the prosecution presented four witnesses: Senior Police Officer (SPO) 1 Modesto F. Carrera (Carrera), Police Officer (PO) 2 Jaime Chavez (Chavez), SPO2 Fernando Fernandez (Fernandez), and Forensic Chemist II Marina Carina Madrigal (Madrigal).

The events, as recounted by the prosecution, are as follows:

At around nine o'clock in the morning on January 24, 2000, two male informants namely, Jerry Tudlong (Tudlong) and Frank Lad-ing (Lad-ing) arrived at the office of the 14[th] Regional CIDG (Criminal Investigation and Detention Group) at DPS Compound, Marcoville, Baguio City, and reported to SPO2 Fernandez, Chief of the Station Drug Enforcement Unit (SDEU), that a certain "Estela Tuan" had been selling marijuana at Barangay Gabriela Silang, Baguio City. Present at that time were Police Superintendent Isagani Neres, Regional Officer of the 14[th] Regional CIDG; Chief Inspector Reynaldo Piay, Deputy Regional Officer; and other police officers.[6]

SPO2 Fernandez set out to verify the report of Tudlong and Lad-ing. At around one o'clock in the afternoon of the same day, he gave Tudlong and Lad-ing P300.00 to buy marijuana, and then accompanied the two informants to the accused-appellant's house. Tudlong and Lad-ing entered accused-appellant's house, while SPO2 Fernandez waited at the adjacent house. After thirty minutes, Tudlong and Lad-ing came out of accused-appellant's house and showed SPO2 Fernandez the marijuana leaves they bought. After returning to the CIDG regional office, SPO2 Fernandez requested the laboratory examination of the leaves bought from accused-appellant. When said laboratory examination yielded positive results for marijuana, SPO2 Fernandez prepared an Application for Search Warrant for accused-appellant's house.

SPO2 Fernandez, together with Tudlong and Lad-ing, filed the Application for a Search Warrant before Judge Iluminada Cabato-Cortes (Judge Cortes) of the Municipal Trial Court in Cities (MTCC), Baguio City, Branch IV, at about one o'clock in the afternoon on January 25, 2000. Two hours later, at around three o'clock, Judge Cortes personally examined SPO2 Fernandez, Tudlong, and Lad-ing, after which, she issued a Search Warrant, being satisfied of the existence of probable cause. The Search Warrant read:

> TO ANY PEACE OFFICER:
>
> GREETINGS:
>
> It appearing to the satisfaction of the undersigned of the existence of facts upon which the application for Search Warrant is based, after personally examining by searching questions under oath SPO2 Fernando V. Fernandez of the CAR Criminal Investigation and Detection Group with office address at DPS Compound, Utility Road, Baguio City and his witnesses namely: Frank Lad-ing of Happy Hallow, Baguio City and Jerry Tudlong, of Barangay Kitma, Baguio City, after having been duly sworn to, who executed sworn statements and deposition as witneses, that there is a probable cause to believe that a Violation of R.A. 6425 as amended by R.A. 7659 has been committed and that there are good and sufficient reasons to believe that Estela Tuan, has in her possession and control at her resident at Brgy. Gabriela Silang, Baguio City, the following:
>
> - Undetermined Quantity of Marijuana Dried Leaves and/or Marijuana Hashish
>
> x x x x

which are subject of the offense which should be seized and brought to the undersigned.

You are hereby commanded to make an immediate search at anytime in the day the house of the accused Estela Tuan at Brgy. Gabriela Silang, Baguio City, and forthwith seize and take possession of the following:

> - Undetermined Quantity of Marijuana Dried Leaves and/or Marijuana Hashish
>
> x x x nothing follows x x x

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

and bring said items to the undersigned to be dealt with as the law directs.

This Search Warrant shall be valid for ten (10) days from date of issue, thereafter, it shall be void.

The officers must conduct the search and seize the above-mentioned personal items in the presence of the lawful occupant thereof or any member of her family or in the absence of the latter, in the presence of two witnesses of sufficient age and discretion residing in the same locality.

The officers seizing the items must give a detailed receipt for the same to the lawful occupant of the house in whose presence the search and seizure were made, or in the absence of such occupant, must, in the presence of the 2 witnesses mentioned, leave a receipt in the place in which the seized items were found; thereafter, deliver the items seized to the undersigned judge together with a true inventory thereof duly verified under oath.

Baguio City, Philippines, this 25[th] day of January, 2000.

(SGD)ILUMINADA CABATO-CORTES

Executive Judge

MTCC, Branch IV[7]

Upon receipt of the Search Warrant, SPO2 Fernandez, his team supervisor Police Senior Inspector Rodolfo Castel, SPO1 Carrera, Police Senior Inspector Ricarte Marquez and PO2 Chavez implemented the warrant. Before going to the accused-appellant's house, SPO2 Fernandez invited barangay officials to be present when the Search Warrant was to be served, but since no one was available, he requested one Eliza Pascual (Pascual), accused-appellant's neighbor, to come along.

The CIDG team thereafter proceeded to accused-appellant's house. Even though accused-appellant was not around, the CIDG team was allowed entry into the house by Magno Baludda (Magno), accused-appellant's father, after he was shown a copy of the Search Warrant. SPO2 Fernandez and Police Senior Inspector Ricarte Marquez guarded the surroundings of the house,[8] while SPO1 Carrera and PO2 Chavez searched inside.

SPO1 Carrera and PO2 Chavez began searching the rooms on the first floor in the presence of Magno and Pascual. They continued their search on the second floor. They saw a movable cabinet in accused-appellant's room, below which they found a brick of marijuana and a firearm. At around six o'clock that evening, accused-appellant arrived with her son. The police officers asked accused-appellant to open a built-in cabinet, in which they saw eight more bricks of marijuana.[9] PO2 Chavez issued a receipt for the items confiscated from accused-appellant[10] and a certification stating that the items were confiscated and recovered from the house and in accused-appellant's presence.

The nine bricks of marijuana were brought to the National Bureau of Investigation (NBI) for examination.

The defense, on the other hand, had an entirely different version of what transpired that day. It presented four witnesses, namely, accused-appellant herself; Beniasan Tuan (Beniasan), accused-appellant's husband; Magno, accused-appellant's father; and Mabini Maskay (Maskay), the Barangay Captain of Barangay Gabriela Silang.

In her testimony, accused-appellant declared that she worked as a vendor at Hangar Market. Sometime in January 2000, while she was selling vegetables at Hangar Market, her son arrived with two police officers who asked her to go home because of a letter from the court.[11] At about six o'clock in the afternoon, she and her husband Beniasan reached their residence and found a green paper bag with marijuana in their sala. According to the police officers, they got the bag from a room on the first floor of accused-appellant's house. Accused-appellant explained that the room where the bag of marijuana was found was previously rented by boarders. The boarders

padlocked the room because they still had things inside and they had paid their rent up to the end of January 2000.[12] The police officers also informed accused-appellant that they got a gun from under a cabinet in the latter's room, which accused-appellant disputed since her room was always left open and it was where her children play.[13] Accused-appellant alleged that a Search Warrant was issued for her house because of a quarrel with her neighbor named Lourdes Estillore (Estillore). Accused-appellant filed a complaint for the demolition of Estillore's house which was constructed on the road.[14]

Beniasan supported the testimony of his wife, accused-appellant. He narrated that he and accused-appellant were at their Hangar Market stall when two police officers came and asked them to go home. Beniasan and accused-appellant arrived at their residence at around six o'clock in the evening and were shown the marijuana the police officers supposedly got from the first floor of the house. The police officers then made Beniasan sign a certification of the list of items purportedly confiscated from the house.[15]

Magno testified that he resided at the first floor of accused-appellant's residence. He was present when the search was conducted but denied that the Search Warrant was shown to him.[16] He attested that the confiscated items were found from the vacant room at the first floor of accused-appellant's house which was previously occupied by boarders. Said room was padlocked but was forced open by the police officers. In the course of the police officers' search, they pulled something from under the bed that was wrapped in green cellophane, but Magno did not know the contents thereof.[17] The police officers also searched the rooms of accused-appellant and her children at the second floor of the house, during which they allegedly found a gun under the cabinet in accused-appellant's room. Magno claimed that he did not personally witness the finding of the gun and was merely informed about it by the police officers.[18]

Maskay, the Barangay Captain of Barangay Gabriela Silang, Baguio City, was the last to testify for the defense. He corroborated accused-appellant's allegation that the latter had a quarrel with Estillore, and this could be the reason behind the filing of the present criminal cases. He further remembered that the members of the CIDG went to his office on January 24, 2000 to ask about the location of accused-appellant's house.[19]

The RTC, in its Decision dated April 9, 2002, found accused-appellant guilty as charged and adjudged thus:

> WHEREFORE, judgment is hereby rendered as follows:
>
> 1. In Criminal Case No. 17619-R, the Court finds the accused Estela Tuan guilty beyond reasonable doubt of the offense of illegal possession of marijuana (nine [9] bricks of dried marijuana leaves with an approximate weight of 18.750 kilograms and the one [1] plastic bag containing the dried marijuana weighing about .3 kilograms) in violation of Section 8, Article II of Republic Act No. 6425 as amended by Section 13 of Republic Act 7659 as charged in the information and sentences her to the penalty of reclusion perpetua and to pay a fine of P500,000.00 without subsidiary imprisonment in case of insolvency.
>
> The nine (9) bricks of dried marijuana leaves with an approximate weight of 18.750 kilograms and one (1) plastic bag containing dried marijuana leaves weighing approximately .3 kilograms (Exhibit F, F-1, F-1-A to F-1-J) are ordered confiscated and forfeited in favor of the State to be destroyed immediately in accordance with law.
>
> The accused Estela Tuan being a detention prisoner is entitled to be credited 4/5 of her preventive imprisonment in the service of her sentence in accordance with Article 29 of the Revised Penal Code; and
>
> 2. In Criminal Case No. 17620-R, the Court finds the accused Estela Tuan guilty beyond reasonable doubt of the offense of illegal possession of firearms (one [1] caliber .357 S & W revolver), a high powered firearm, without any license, permit or authority issued by the Government to keep the same in violation of Section 1, Republic Act No. 8294 which amended Section 1 of PD 1866 as charged in the information and hereby

> sentences her, applying the Indeterminate Sentence Law, to imprisonment ranging from 4 years 9 months and 10 days of prision correccional in its maximum period as Minimum to 6 years and 8 months of prision mayor in its minimum period as Maximum and a fine of P30,000.00 without subsidiary imprisonment in case of insolvency.
>
> The firearm caliber .357 S & W revolver without serial number is ordered forfeited in favor of the State to be disposed of immediately in accordance with law.
>
> The accused Estela Tuan being a detention prisoner is entitled to be credited 4/5 of her preventive imprisonment in the service of her sentence in accordance with Article 29 of the Revised Penal Code.[20]

The records of the two criminal cases were forwarded to this Court by the RTC, but the Court issued a Resolution[21] dated October 13, 2004 transferring said records to the Court of Appeals pursuant to People v. Mateo.[22]

On September 21, 2006, the Court of Appeals promulgated its Decision.

The Court of Appeals held that the contested search and consequent seizure of the marijuana bricks were done pursuant to the Search Warrant validly issued by the MTCC. There was no showing of procedural defects or lapses in the issuance of said Search Warrant as the records support that the issuing judge determined probable cause only after conducting the searching inquiry and personal examination of the applicant and the latter's witnesses, in compliance with the requirements of the Constitution. Hence, the appellate court affirmed the conviction of accused-appellant for illegal possession of marijuana.

The Court of Appeals, however, modified the appealed RTC judgment by acquitting accused-appellant of the charge for illegal possession of firearm. According to the appellate court, the records were bereft of evidence that the gun supposedly confiscated from accused-appellant was unlicensed. The absence of a firearm license was simply presumed by the police officers because the gun was a defective paltik with no serial number. That the said condition of the gun did not dispense with the need for the prosecution to establish that it was unlicensed through the testimony or certification of the appropriate officer from the Board of the Firearms and Explosives Bureau of the Philippine National Police.

In the end, the Court of Appeals decreed:

> WHEREFORE, premises considered, the instant appeal is PARTLY GRANTED. The assailed Decision of the RTC of Baguio City, Branch 6, dated April 9, 2002, is hereby MODIFIED such that the conviction of accused-appellant for Violation of Section 8, Art. II, RA 6425, as amended, is AFFIRMED while her conviction for Violation of PD 1866, as amended, is REVERSED and SET ASIDE. Accused-appellant is accordingly ACQUITTED of the latter offense.[23]

In its Resolution dated October 20, 2006, the Court of Appeals gave due course to accused-appellant's Partial Notice of Appeal and accordingly forwarded the records of the case to this Court.

This Court then issued a Resolution[24] dated February 28, 2007 directing the parties to file their respective supplemental briefs, if they so desired, within 30 days from notice. Accused-appellant[25] opted not to file a supplemental brief and manifested that she was adopting her arguments in the Appellant's Brief since the same had already assiduously discussed her innocence of the crime charged. The People[26] likewise manifested that it would no longer file a supplemental brief as the issues have all been addressed in its Appellee's Brief.

Accused-appellant raised the following assignment of errors in her Brief: [27]

> THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE INCREDIBLE AND CONTRADICTORY TESTIMONIES OF THE POLICE OFFICERS.

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

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DESPITE FAILURE OF THE PROSECUTION TO PROVE HER GUILT BEYOND REASONABLE DOUBT.

THE TRIAL COURT ERRED IN NOT CONSIDERING AS VOID THE SEARCH WARRANT ISSUED AGAINST THE ACCUSED-APPELLANT.

Given that accused-appellant was already acquitted of the charge of violation of Presidential Decree No. 1866 on the ground of reasonable doubt in Criminal Case No. 17620-R, her instant appeal relates only to her conviction for illegal possession of prohibited or regulated drugs in Criminal Case No. 17619-R. The Court can no longer pass upon the propriety of accused-appellant's acquittal in Criminal Case No. 17620-R because of the rule that a judgment acquitting the accused is final and immediately executory upon its promulgation, and that accordingly, the State may not seek its review without placing the accused in double jeopardy. Such acquittal is final and unappealable on the ground of double jeopardy whether it happens at the trial court or on appeal at the Court of Appeals.[28]

In a prosecution for violation of the Dangerous Drugs Law, such as Criminal Case No. 17619-R, a case becomes a contest of credibility of witnesses and their testimonies. In such a situation, this Court generally relies upon the assessment by the trial court, which had the distinct advantage of observing the conduct or demeanor of the witnesses while they were testifying. Hence, its factual findings are accorded respect - even finality - absent any showing that certain facts of weight and substance bearing on the elements of the crime have been overlooked, misapprehended or misapplied.[29]

The Court finds no reason to deviate from the general rule in the case at bar.

Illegal possession of prohibited or regulated drugs is committed when the following elements concur: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possesses the said drug.[30]

All the foregoing elements were duly proven to exist in Criminal Case No. 17619-R. The search conducted by SPO1 Carrera and PO2 Chavez in accused-appellant's house yielded nine bricks of marijuana. Marijuana is a prohibited drug, thus, accused-appellant's possession thereof could not have been authorized by law in any way. Accused-appellant evidently possessed the marijuana freely and consciously, even offering the same for sale. The bricks of marijuana were found in accused-appellant's residence over which she had complete control. In fact, some of the marijuana were found in accused-appellant's own room.

Accused-appellant challenges the judgment of the RTC, affirmed by the Court of Appeals, finding her guilty of illegal possession of marijuana, by pointing out certain inconsistencies in the testimonies of prosecution witnesses that supposedly manifested their lack of credibility, i.e., the date of the test buy and the manner by which the doors of the rooms of the house were opened.

These alleged inconsistencies and contradictions pertain to minor details and are so inconsequential that they do not in any way affect the credibility of the witnesses nor detract from the established fact of illegal possession of marijuana by accused-appellant at her house. The Court has previously held that discrepancies and inconsistencies in the testimonies of witnesses referring to minor details, and not in actuality touching upon the central fact of the crime, do not impair their credibility. Testimonies of witnesses need only corroborate each other on important and relevant details concerning the principal occurrence.[31]

Inconsistencies as to minor details and collateral matters do not affect the credibility of the witnesses nor the veracity or weight of their testimonies. Such minor inconsistencies may even serve to strengthen their credibility

as they negate any suspicion that the testimonies have been rehearsed.[32]

Accused-appellant further questions the non-presentation as witnesses of Lad-ing and Tudlong, the informants, and Pascual, the neighbor who supposedly witnessed the implementation of the Search Warrant, during the joint trial of Criminal Case Nos. 17619-R and 17620-R before the RTC. This Court though is unconvinced that such non-presentation of witnesses is fatal to Criminal Case No. 17619-R.

The prosecution has the exclusive prerogative to determine whom to present as witnesses. The prosecution need not present each and every witness but only such as may be needed to meet the quantum of proof necessary to establish the guilt of the accused beyond reasonable doubt. The testimonies of the other witnesses may, therefore, be dispensed with if they are merely corroborative in nature. The Court has ruled that the non-presentation of corroborative witnesses does not constitute suppression of evidence and is not fatal to the prosecution's case.[33]

Although Criminal Case No. 17619-R involves illegal possession of marijuana, the following pronouncement of this Court in People v. Salazar,[34] relating to the illegal sale of the same drug, still rings true:

> Neither is her right to confront witnesses against her affected by the prosecution's failure to present the informer who pointed to her as a drug pusher. The presentation of an informant in an illegal drugs case is not essential for conviction nor is it indispensable for a successful prosecution because his testimony would be merely corroborative and cumulative. In a case involving the sale of illegal drugs, what should be proven beyond reasonable doubt is the fact of the sale itself. Hence, like the non-presentation of the marked money used in buying the contraband, the non-presentation of the informer on the witness stand would not necessarily create a hiatus in the prosecutions' evidence. (Emphasis ours.)

Lastly, accused-appellant insists that the items allegedly seized from her house are inadmissible as evidence because the Search Warrant issued for her house was invalid for failing to comply with the constitutional and statutory requirements. Accused-appellant specifically pointed out the following defects which made said Search Warrant void: (1) the informants, Lad-ing and Tudlong, made misrepresentation of facts in the Application for Search Warrant filed with the MTCC; (2) Judge Cortes of the MTCC failed to consider the informants' admission that they themselves were selling marijuana; and (3) the Search Warrant failed to particularly describe the place to be searched because the house was a two-storey building composed of several rooms.

The right of a person against unreasonable searches and seizure is recognized and protected by no less than the Constitution, particularly, Sections 2 and 3(2) of Article III which provide:

> 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.
>
> SEC. 3. x x x
>
> (2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding. (Emphases ours.)

Accordingly, Sections 4 and 5, Rule 126 of the Revised Rules on Criminal Procedure laid down the following requisites for the issuance of a valid search warrant:

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

> searched and the things to be seized which may be anywhere in the Philippines.
>
> SEC. 5. Examination of complainant; record. - The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he may produce on facts personally known to them and attach to the record their sworn statements, together with the affidavits submitted.

Therefore, the validity of the issuance of a search warrant rests upon the following factors: (1) it must be issued upon probable cause; (2) the probable cause must be determined by the judge himself and not by the applicant or any other person; (3) in the determination of probable cause, the judge must examine, under oath or affirmation, the complainant and such witnesses as the latter may produce; and (4) the warrant issued must particularly describe the place to be searched and persons or things to be seized.[35]

There is no dispute herein that the second and third factors for a validly issued search warrant were complied with, i.e., personal determination of probable cause by Judge Cortes; and examination, under oath or affirmation, of SPO2 Fernandez and the two informants, Lad-ing and Tudlong, by Judge Cortes. What is left for the Court to determine is compliance with the first and fourth factors, i.e., existence of probable cause; and particular description of the place to be searched and things to be seized.

In People v. Aruta,[36] the Court defined probable cause as follows:

> Although probable cause eludes exact and concrete definition, it generally signifies a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that the person accused is guilty of the offense with which he is charged. It likewise refers to 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 item(s), article(s) or object(s) sought in connection with said offense or subject to seizure and destruction by law is in the place to be searched.
>
> It ought to be emphasized that in determining probable cause, the average man weighs facts and circumstances without resorting to the calibrations of our rules of evidence of which his knowledge is technically nil. Rather, he relies on the calculus of common sense which all reasonable men have in abundance. The same quantum of evidence is required in determining probable cause relative to search. Before a search warrant can be issued, it must be shown by substantial evidence that the items sought are in fact seizable by virtue of being connected with criminal activity, and that the items will be found in the place to be searched.

A magistrate's determination of probable cause for the issuance of a search warrant is paid great deference by a reviewing court, as long as there was substantial basis for that determination. Substantial basis means that the questions of the examining judge brought out such facts and circumstances as would lead a reasonably discreet and prudent man to believe that an offense has been committed, and the objects in connection with the offense sought to be seized are in the place sought to be searched.[37] Such substantial basis exists in this case.

Judge Cortes found probable cause for the issuance of the Search Warrant for accused-appellant's residence after said judge's personal examination of SPO2 Fernandez, the applicant; and Lad-ing and Tudlong, the informants.

SPO2 Fernandez based his Application for Search Warrant not only on the information relayed to him by Lad-ing and Tudlong. He also arranged for a test buy and conducted surveillance of accused-appellant. He testified before Judge Cortes:

> COURT:
>
> Q. You are applying for a Search Warrant and you alleged in your application that Estela Tuan of Brgy. Gabriela Silang, Baguio City, is in possession of dried marijuana leaves and marijuana hashish, how did you come to know about this matter?

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

A. Through the two male persons by the name of Frank Lad-ing and Jerry Tudlong, Your Honor.

Q. When did these two male persons report to your office?

A. January 22, Your Honor.

Q. This year?

A. Yes, your honor.

Q. To whom did they report?

A. To me personally, Your Honor.

Q. How did they report the matter?

A. They reported that a certain Estela Tuan is selling dried Marijuana leaves and marijuana hashish, Your Honor.

Q. What else?

A. She is not only selling marijuana but also selling vegetables at the Trading Post in La Trinidad, Your Honor.

Q. They just told you, she is selling marijuana and selling vegetables, that is already sufficient proof or sufficient probable cause she is in possession of marijuana, what else did they report?

A. That they are also selling marijuana in large volume at their house.

Q. What did you do when you asked them regarding that matter?

A. They had a test buy and they were able to buy some commodities yesterday, Your honor.

Q. Who bought?

A. Tudlong and Lad-ing, Your Honor.

Q. How did you go about it?

A. I accompanied the said persons and kept watch over them and gave them money after which, they were able to purchase and when they purchased the said items or drugs, they were even informed that if you wanted to sell then you could come and get. Your Honor.

COURT:

Q. Where is that P300.00?

A. It is with them, Your Honor.

Q. You did not entrap her?

A. No, Your Honor, because it is only a test buy.

Q: And that was January 22. Why did you not apply immediately for search warrant?

A: Because we still have to look at the area and see to it that there are really some buyers or people who would go and leave the place, Your Honor.

Q: What did you observe?

A: Well, there are persons who would go inside and after going inside, they would come out bringing along

with them something else.

Q: Did you not interview these people?

A: No, Your Honor. We did not bother.[38]

Lad-ing and Tudlong affirmed before Judge Cortes that they were the ones who informed SPO2 Fernandez that accused-appellant was keeping and selling marijuana at her house, and that they took part in the test buy.

Lad-ing narrated:

COURT:

Q: Mr. Lad-ing, you said that you are working at the Trading Post. What kind of work do you have there?

A: I am a middleman of the vegetable dealers, Your Honor.

COURT:

Q: Did you come to know of this person Estela Tuan?

A: Yes, Your Honor, because there was an incident wherein we were conducting our line of business when they came and joined us and we became partners, Your Honor.

Q: You said, they, how many of you?

A: A certain Jerry Tudlong, Estela Tuan and myself, Your Honor.

Q: In other words, Estela Tuan went with you and later on she became your partner in that business?

A: Yes, Your Honor.

Q: And so what happened when she became a partner of your business?

A: When we were about to divide our profit, we then went at their residence at Gabriela Silang, Baguio City, Your Honor.

Q: What happened?

A: While we then sitted ourselves at the sala, she told us that if we wanted to earn some more, she told us that she has in her possession marijuana which could be sold, Your Honor.

Q: And so, what happened?

A: After which, she showed the marijuana, Your Honor.

Q: Where was the marijuana?

A: It was placed in a cellophane, in a newspaper, Your Honor.

Q: How big?

A: A dimension of 10 x 4 inches, Your Honor.

Q: With that size, where did she show you the box of this cellophane?

A: At the place where we were sitted at the receiving room, Your Honor.

Q: In other words, she went to get it and then presented or showed it to you?

A: Yes, Your Honor.

Q: Where did she go, if you know?

A: Because at the sala, there is a certain room located at the side that is the place where she got the same, Your Honor.

Q: Where is this house of Estela Tuan located, is it along the road or inside the road or what?

A: It is near the road but you have to walk in a little distance, Your Honor.

Q: Will you describe the place where Estela Tuan is residing?

A: Well, it is a two storey house, the walls are made of galvanized iron Sheets, Your Honor.

COURT:

Q: Do you know who are staying there?

A: I do not know who is living with her, however, that is her residence, Your Honor.

Q: How many times did you go there?

A: It was my second time to go at that time we were sent by PO Fernandez to purchase marijuana, Your Honor.

Q: Where is the marijuana now?

A: It is in the possession of PO Fernandez, Your Honor.

Q: Where is the marijuana placed?

A: In a newspaper, Your Honor.

Q: What happened next?

A: We handed to her the amount of P300.00, your Honor.

Q: And she gave you that marijuana?

A: Yes, Your Honor.

x x x x

Q: How many rooms are there in the first floor of the house of Estela Tuan?

A: Three rooms, Your Honor, it has a dining room and beside the place is the receiving room where we sitted ourselves, Your Honor.

Q: When you already bought marijuana from her, what did she tell you, if any?

A; Well, if we would be interested to buy more, I still have stocks here, Your Honor.[39]

Tudlong recounted in more detail what happened during the test buy:

COURT:

Q: My question is, when she told you that she has some substance for sale for profit and you mentioned marijuana, did you talk immediately with Frank or what did you do?

A: We reported the matter to the Criminal Investigation and Detection Group, your Honor.

x x x x

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

Q: What time?

A: We went to the office at 9:00 - 9:30 o'clock in the morning, Your Honor.

Q: When you went there, what did you do?

A: The amount of P300.00 was given to Frank and we were instructed to purchase, Your Honor.

Q: Did you go?

A: Yes, Your Honor.

x x x x

Q: Will you tell what happened when you went to the house of the woman?

A: Well, we were allowed to go inside the house after which, we were made to sit down at the receiving area or sala, Your Honor.

Q: When you went there, you were allowed to enter immediately?

A: Yes, Your Honor.

Q: Who allowed you to enter?

A: The female person, Your Honor.

Q: What happened when you were asked to be sitted?

A: During that time, Frank and the female person were the ones conferring, Your Honor.

Q: Did you hear what they were talking about?

A: That Frank was purchasing marijuana, Your Honor.

Q: What did the woman tell you?

A: After we handed the money, a plastic which was transparent, was then handed to Frank, it was a plastic and there was a newspaper inside, Your Honor.

x x x x

Q: So, you did not actually see what is in the newspaper?

A: No, Your Honor, however, I know that that is marijuana.

Q: Why?

A: Because that was our purpose, to buy marijuana, Your Honor.

Q: And you have not gotten marijuana without Estela Tuan informing you?

A: Yes, Your Honor.

Q: Will you tell us what kind of materials were used in the house of Estela Tuan?

A: Two storey, the walls are made of GI sheets, Your Honor.

Q: Is the house beside the road or do you have to walk?

A: It is near the road. Upon reaching the road, you still have to walk a short distance, Your Honor.

Q: Where did Estela Tuan get the newspaper placed in a transparent plastic?

A: She got it from a room because were then made to wait at the sala, Your Honor.

Q: Did she tell you how much she can sell marijuana?

A: She told us, Your Honor.

Q: What?

A: Well, the marijuana that we purchased was worth P300.00[.] However, we could divide it into two small packs and we could sell it at P20.00 per piece so that you can also have some gain.

COURT:

Q: After that, to whom did you sell?

A: We did not sell the marijuana, Your Honor.

Q: I thought you are going to sell marijuana and so you went there?

A: We were just instructed by PO Fernandez to verify what we are telling him was true, Your Honor.[40]

Accused-appellant's contention that MTCC Judge Cortes failed to consider the informants' admission that they themselves were selling marijuana is utterly without merit. First, even after carefully reviewing the testimonies of Lad-ing and Tudlong before Judge Cortes, this Court did not find a categorical admission by either of the two informants that they themselves were selling marijuana. In fact, Tudlong expressly denied that he and Lad-ing sold the marijuana, having only bought the same from the accused-appellant for the test buy. Moreover, even if the informants were also selling marijuana, it would not have affected the validity of the Search Warrant for accused-appellant's house. The criminal liabilities of accused-appellant and the informants would be separate and distinct. The investigation and prosecution of one could proceed independently of the other.

Equally without merit is accused-appellant's assertion that the Search Warrant did not describe with particularity the place to be searched.

A description of the place to be searched is sufficient if the officer serving the warrant can, with reasonable effort, ascertain and identify the place intended and distinguish it from other places in the community. A designation or description that points out the place to be searched to the exclusion of all others, and on inquiry unerringly leads the peace officers to it, satisfies the constitutional requirement of definiteness.[41] In the case at bar, the address and description of the place to be searched in the Search Warrant was specific enough. There was only one house located at the stated address, which was accused-appellant's residence, consisting of a structure with two floors and composed of several rooms.

In view of the foregoing, the Court upholds the validity of the Search Warrant for accused-appellant's house issued by MTCC Judge Cortes, and any items seized as a result of the search conducted by virtue thereof, may be presented as evidence against the accused-appellant.

Since it is beyond any cavil of doubt that the accused-appellant is, indeed, guilty of violation of Article II, Section 8 of Republic Act No. 6425, as amended, the Court shall now consider the appropriate penalty to be imposed upon her.

Article II, Section 8, in relation to Section 20(3), of Republic Act No. 6425, as amended, provides:

> SEC. 8. Possession or Use of Prohibited 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 possess or use any prohibited drug subject to the provisions of Section 20 hereof. (As amended by R.A. 7659)
>
> 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:
>
> - 40 grams or more of opium;
>
> - 40 grams or more of morphine;
>
> - 200 grams or more of shabu or methylamphetamine hydrochloride;
>
> - 40 grams or more of heroin;
>
> - 750 grams or more of Indian hemp or marijuana;
>
> - 50 grams or more of marijuana resin or marijuana resin oil;
>
> - 40 grams or more of cocaine or cocaine hydrocholoride; or
>
> - In the case of other dangerous drugs, the quantity of which is far beyond therapeutic requirements, as determined and promulgated by the Dangerous Drugs Board, after public consultations/hearings conducted for the purpose. (Emphasis supplied.)

Pursuant to Article II, Section 8 of Republic Act No. 6425, as amended, illegal possession of 750 grams or more of the prohibited drug marijuana is punishable by reclusion perpetua to death. Accused-appellant had in her possession a total of 19,050 grams of marijuana, for which she was properly sentenced to reclusion perpetua by the RTC, affirmed by the Court of Appeals.

In the same vein, the fine of P500,000.00 imposed upon accused-appellant by the RTC, affirmed by the Court of Appeals, is also correct, as the same is still within the range of fines imposable on any person who possessed prohibited drugs without any authority, under Article II, Section 8 of Republic Act No. 6425, as amended.

WHEREFORE, premises considered, the Decision dated September 21, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00381, is hereby AFFIRMED in toto. No costs.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin,[*] Del Castillo, and Perez, JJ., concur.

---

[*] Per Special Order No. 876 dated August 2, 2010.

[1] Penned by Associate Justice Estela M. Perlas-Bernabe with Associate Justices Renato C. Dacudao and Rosmari D. Carandang, concurring; rollo, pp. 3-13.

[2] Penned by Judge Ruben C. Ayson (now Court of Appeals Justice); CA rollo, pp. 129-152.

[3] CA rollo, p. 14.

[4] Id. at 16.

[5] Records, p. 11.

[6] TSN, September 29, 2000, p. 4.

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

[7]Records, pp. 80-81.

[8]TSN, September 29, 2000, p. 16.

[9] TSN, February 5, 2001, pp. 14-16.

[10] Id. at 19.

[11] TSN, November 27, 2001, pp. 2- 3.

[12] Id. at 4-5.

[13] Id. at 6.

[14] Id. at 9-11.

[15] TSN, September 26, 2001, pp. 3-10.

[16] TSN, October 25, 2001, p. 7.

[17] Id. at 9, 15.

[18] Id. at 10.

[19] TSN, January 21, 2002, p. 10.

[20] CA rollo, pp. 150-152.

[21] Rollo, p. 106.

[22] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[23] Rollo, p. 12.

[24] Id. at 14.

[25] Id. at 39-40.

[26] Id. at 17.

[27] Id. at 29-38.

[28] People v. Sandiganbayan, G.R. Nos. 168188-89, June 16, 2006, 491 SCRA 185, 206.

[29] People v. Corpuz, 442 Phil. 405, 415 (2002).

[30] People v. Lagata, 452 Phil. 846, 853 (2003).

[31] People v. Uy, 392 Phil. 773, 787 (2000).

[32] People v. Amazan, 402 Phil. 247, 261 (2001).

[33] People v. Pidoy, 453 Phil. 221, 228 (2003).

[34] 334 Phil. 556, 571 (1997).

[35] Romer Sy Tan v. Sy Tiong Gue, G.R. No. 174570, February 22, 2010.

[36] 351 Phil. 868, 880 (1998).

[37] People v. Tee, 443 Phil. 521, 539-540 (2003).

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

[38] Records, pp. 71-72.

[39] Id. at 72-74.

[40] Id. at 76-78.

[41] People v. Tee, supra note 37 at 541.

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.