HO WAI PANG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 176229. October 19, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Infraction of the rights of an accused during custodial investigation or the so-called Miranda Rights render inadmissible only the extrajudicial confession or admission made during such investigation.[1] "The admissibility of other evidence, provided they are relevant to the issue and is not otherwise excluded by law or rules, is not affected even if obtained or taken in the course of custodial investigation."[2]

Petitioner Ho Wai Pang (petitioner) in this present recourse assails the June 16, 2006 Decision[3] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01459 affirming the April 6, 1995 Decision[4] of the Regional Trial Court (RTC), Branch 118 of Pasay City in Criminal Case No. 91-1592, finding him and his co-accused, namely, Law Ka Wang, Chan Chit Yue,[5] Wu Hing Sum, Tin San Mao[6] and Kin San Ho[7] guilty beyond reasonable doubt for violation of Section 15, Article III[8] of Republic Act (R.A.) No. 6425 otherwise known as the Dangerous Drugs Act of 1972. Also assailed is the January 16, 2007 CA Resolution[9] denying the motion for reconsideration thereto.

Factual Antecedents

On September 6, 1991, at around 11:30 in the evening, United Arab Emirates Airlines Flight No. 068 from Hongkong arrived at the Ninoy Aquino International Airport (NAIA). Among the passengers were 13 Hongkong nationals who came to the Philippines as tourists. At the arrival area, the group leader Wong Kwok Wah (Sonny Wong) presented a Baggage Declaration Form to Customs Examiner Gilda L. Cinco (Cinco), who was then manning Lane 8 of the Express Lane. Cinco examined the baggages of each of the 13 passengers as their turn came up. From the first traveling bag, she saw few personal belongings such as used clothing, shoes and chocolate boxes which she pressed. When the second bag was examined, she noticed chocolate boxes which were almost of the same size as those in the first bag. Becoming suspicious, she took out four of the chocolate boxes and opened one of them. Instead of chocolates, what she saw inside was white crystalline substance contained in a white transparent plastic. Cinco thus immediately called the attention of her immediate superiors Duty Collector Alalo and Customs Appraiser Nora Sancho who advised her to call the Narcotics Command (NARCOM) and the police. Thereupon, she guided the tourists to the Intensive Counting Unit (ICU) while bringing with her the four chocolate boxes earlier discovered.

At the ICU, Cinco called the tourists one after the other using the passenger manifest and further examined their bags. The bag of Law Ka Wang was first found to contain three chocolate boxes. Next was petitioner's bag which contains nothing except for personal effects. Cinco, however, recalled that two of the chocolate boxes earlier discovered at the express lane belong to him. Wu Hing Sum's bag followed and same yielded three chocolate boxes while the baggages of Ho Kin San, Chan Chit Yue and Tin San Mao each contained two or three similar

chocolate boxes. All in all, 18 chocolate boxes were recovered from the baggages of the six accused.

NARCOM Agent Neowillie de Castro corroborated the relevant testimony of Cinco pertaining to the presence of the chocolate boxes. According to him, he conducted a test on the white crystalline substance contained in said chocolate boxes at the NAIA using the Mandelline Re-Agent Test.[10] The result of his examination[11] of the white crystalline substance yielded positive for methamphetamine hydrochloride or shabu. Thereafter, the chocolate boxes were bundled together with tape, placed inside a plastic bag and brought to the Inbond Section.

The following day, September 7, 1991, the 13 tourists were brought to the National Bureau of Investigation (NBI) for further questioning. The confiscated stuff were turned over to the Forensic Chemist who weighed and examined them. Findings show that its total weight is 31.1126 kilograms and that the representative samples were positive for methamphetamine hydrochloride.[12] Out of the 13 tourists, the NBI found evidence for violation of R.A. No. 6425 only as against petitioner and his five co-accused.

Accordingly, six separate Informations all dated September 19, 1991 were filed against petitioner and his co-accused. These Informations were docketed as Criminal Case Nos. 91-1591 to 97. Subsequently, however, petitioner filed a Motion for Reinvestigation[13] which the trial court granted. The reinvestigation conducted gave way to a finding of conspiracy among the accused and this resulted to the filing of a single Amended Information[14] under Criminal Case No. 91-1592 and to the withdrawal of the other Informations.[15] The Amended Information reads:

> That on or about September 6, 1991 in Pasay City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did, then and there, willfully, unlawfully and feloniously carry and transport into the country without lawful authority, 31.112 kilograms, more or less, of Methamphetamine Hydrochloride, also popularly known as "SHABU", a regulated drug.
>
> CONTRARY TO LAW.[16]

After pleading not guilty to the crime charged,[17] all the accused testified almost identically, invoking denial as their defense. They claimed that they have no knowledge about the transportation of illegal substance (shabu) taken from their traveling bags which were provided by the travel agency.

Ruling of the Regional Trial Court

On April 6, 1995, the RTC rendered a Decision[18] finding all the accused guilty of violating Section 15, Article III of R.A. No. 6425, as amended, the decretal portion of which reads:

> WHEREFORE, all the foregoing considered, the Court finds the accused LAW KA WANG, CHAN CHIT yue, ho wai pang, wu hing sum, tin sun mao, and kin san ho (ho kin san) guilty of Conspiracy in violating Section 15, Article III, Republic Act No. 6425, as amended for having conspired to transport into the Philippines 31.112 kilograms of methamp[h]etamine hydrochloride, locally known as Shabu, and they are hereby sentenced to suffer the PENALTY OF IMPRISONMENT OF SIX (6) [sic] RECLUSION PERPETUA AND TO PAY EACH (SIC) THE AMOUNT OF THIRTY (30) THOUSAND PESOS (p30,000.00) each as FINE, the penalty of reclusion perpetua is being imposed pursuant to Republic Act No. 7659 considering its applicability to the accused though retroactively for having a less stricter penalty than that of life imprisonment provided in Republic Act No. 6425. The fine of P30,000.00 for each accused is imposed pursuant to R.A. No. 6425 it being more favorable to the accused [than] that provided in R.A. No. 7659 WITH IMMEDIATE DEPORTATION AFTER SERVICE OF SENTENCE. The penalty of death cannot be imposed since the offense was committed prior to the effectivity of R.A. No. 7659.
>
> Let an alias warrant of arrest be issued against accused WONG KOK WAH @ SONNY WONG, CHAN TAK

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PIU, HO WAI LING AND INOCENCIA CHENG.

SO ORDERED.[19]

From this judgment, all the accused appealed to this Court where the case records were forwarded to per Order of the RTC dated May 10, 1995.[20] Later, all the accused except for petitioner, filed on separate dates their respective withdrawal of appeal.[21] This Court, after being satisfied that the withdrawing appellants were fully aware of the consequences of their action, granted the withdrawal of their respective appeals through a Resolution dated June 18, 1997.[22] Per Entry of Judgment, [23] said Resolution became final and executory on July 7, 1997. Consequently, petitioner was the only one left to pursue his appeal.

Petitioner filed his Brief[24] on April 6, 1998 while the brief[25] for the respondent People of the Philippines was filed on August 27, 1998 through the Office of the Solicitor General (OSG). Per Resolution[26] dated August 30, 2004, this Court referred the appeal to the CA for proper disposition and determination pursuant to this Court's ruling in People v. Mateo.[27]

Ruling of the Court of Appeals

On June 16, 2006, the CA denied the appeal and affirmed the Decision of the RTC. While conceding that petitioner's constitutional right to counsel during the custodial investigation was indeed violated, it nevertheless went on to hold that there were other evidence sufficient to warrant his conviction. The CA also rebuked petitioner's claim that he was deprived of his constitutional and statutory right to confront the witnesses against him. The CA gave credence to the testimonies of the prosecution witnesses and quoted with favor the trial court's ratiocination regarding the existence of conspiracy among the accused.

Undeterred, petitioner filed a Motion for Reconsideration[28] which the CA denied in its Resolution[29] dated January 16, 2007.

Hence, this petition for review on certiorari anchored on the following grounds:

I

WHILE ACKNOWLEDGING THAT PETITIONER WAS DEPRIVED OF HIS CONSTITUTIONAL AND STATUTORY RIGHTS UNDER CUSTODIAL INVESTIGATION BOTH BY THE CUSTOMS OFFICIALS AND BY THE NBI INVESTIGATORS, THE HONORABLE COURT OF APPEALS ERRED IN NOT EXCLUDING EVIDENCE TAKEN DURING THE CUSTODIAL INVESTIGATION.

II

THE HONORABLE COURT OF APPEALS ERRED IN NOT CONSIDERING THAT PETITIONER WAS DEPRIVED OF HIS CONSTITUTIONAL RIGHT TO CONFRONT THE WITNESSES AGAINST HIM.

III

THE HONORABLE COURT OF APPEALS ERRED IN NOT FINDING THAT THE PROSECUTION'S EVIDENCE FAILED TO ESTABLISH THE EXISTENCE OF A CONSPIRACY.

IV

THE HONORABLE COURT OF APPEALS ERRED IN NOT FINDING THAT THE PROSECUTION FAILED TO PRESENT PROOF BEYOND REASONABLE DOUBT AS TO OVERTURN THE PRESUMPTION OF INNOCENCE ACCORDED TO PETITIONER BY THE CONSTITUTION.[30]

OUR RULING

The petition lacks merit.

Section 12, Article III of the Constitution prohibits as evidence only confessions and admissions of the accused as against himself.

Anent the error first assigned, petitioner takes issue on the fact that he was not assisted by a competent and independent lawyer during the custodial investigation. He claimed that he was not duly informed of his rights to remain silent and to have competent counsel of his choice. Hence, petitioner faults the CA in not excluding evidence taken during such investigation.

While there is no dispute that petitioner was subjected to all the rituals of a custodial questioning by the customs authorities and the NBI in violation of his constitutional right under Section 12[31] of Article III of the Constitution, we must not, however, lose sight of the fact that what said constitutional provision prohibits as evidence are only confessions and admissions of the accused as against himself. Thus, in Aquino v. Paiste,[32] the Court categorically ruled that "the infractions of the so-called Miranda rights render inadmissible `only the extrajudicial confession or admission made during custodial investigation.' The admissibility of other evidence, provided they are relevant to the issue and [are] not otherwise excluded by law or rules, [are] not affected even if obtained or taken in the course of custodial investigation."

In the case at bench, petitioner did not make any confession or admission during his custodial investigation. The prosecution did not present any extrajudicial confession extracted from him as evidence of his guilt. Moreover, no statement was taken from petitioner during his detention and subsequently used in evidence against him. Verily, in determining the guilt of the petitioner and his co-accused, the trial court based its Decision on the testimonies of the prosecution witnesses and on the existence of the confiscated shabu. As the Court held in People v. Buluran,[33] "[a]ny allegation of violation of rights during custodial investigation is relevant and material only to cases in which an extrajudicial admission or confession extracted from the accused becomes the basis of their conviction." Hence, petitioner's claim that the trial court erred in not excluding evidence taken during the custodial investigation deserves scant consideration.

Petitioner cannot take refuge in this Court's ruling in People v. Wong Chuen Ming[34] to exculpate himself from the crime charged. Though there are semblance in the facts, the case of Ming is not exactly on all fours with the present case. The disparity is clear from the evidence adduced upon which the trial courts in each case relied on in rendering their respective decisions. Apparently in Ming, the trial court, in convicting the accused, relied heavily on the signatures which they affixed on the boxes of Alpen Cereals and on the plastic bags. The Court construed the accused's act of affixing their signatures thereon as a tacit admission of the crime charged. And, since the accused were not informed of their Miranda rights when they affixed their signatures, the admission was declared inadmissible evidence for having been obtained in violation of their constitutional rights. In ruling against the accused, the trial court also gave credence to the sole testimony of the customs examiner whom it presumed to have performed his duties in regular manner. However, in reversing the judgment of conviction, the Court noted that said examiner's testimony was not corroborated by other prosecution witnesses.

On the other hand, petitioner's conviction in the present case was on the strength of his having been caught in flagrante delicto transporting shabu into the country and not on the basis of any confession or admission. Moreover, the testimony of Cinco was found to be direct, positive and credible by the trial court, hence it need not be corroborated. Cinco witnessed the entire incident thus providing direct evidence as eyewitness to the very act of the commission of the crime. As the Court held in People v Dela Cruz,[35] "[n]o rule exists which requires a testimony to be corroborated to be adjudged credible. x x x Thus, it is not at all uncommon to reach a conclusion

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of guilt on the basis of the testimony of a single witness despite the lack of corroboration, where such testimony is found positive and credible by the trial court. In such a case, the lone testimony is sufficient to produce a conviction."

Indeed, a ruling in one case cannot simply be bodily lifted and applied to another case when there are stark differences between the two cases. Cases must be decided based on their own unique facts and applicable law and jurisprudence.

Petitioner was not denied of his right to confrontation.

Turning now to the second assigned error, petitioner invokes the pertinent provision of Section 14(2) of Article III of the 1987 Philippine Constitution providing for the right to confrontation, viz:

> Section 14. x x x
>
> (2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

Petitioner asserts that he was deprived of his right to know and understand what the witnesses testified to. According to him, only a full understanding of what the witnesses would testify to would enable an accused to comprehend the evidence being offered against him and to refute it by cross-examination or by his own countervailing evidence.

In refutation, the OSG countered that petitioner was given the opportunity to confront his accusers and/or the witnesses of the prosecution when his counsel cross-examined them. It is petitioner's call to hire an interpreter to understand the proceedings before him and if he could not do so, he should have manifested it before the court. At any rate, the OSG contends that petitioner was nevertheless able to cross-examine the prosecution witnesses and that such examination suffices as compliance with petitioner's right to confront the witnesses against him.

We agree with the OSG.

As borne out by the records, petitioner did not register any objection to the presentation of the prosecution's evidence particularly on the testimony of Cinco despite the absence of an interpreter. Moreover, it has not been shown that the lack of an interpreter greatly prejudiced him. Still and all, the important thing is that petitioner, through counsel, was able to fully cross-examine Cinco and the other witnesses and test their credibility. The right to confrontation is essentially a guarantee that a defendant may cross-examine the witnesses of the prosecution. In People v. Libo-on,[36] the Court held:

> The right to confrontation is one of the fundamental rights guaranteed by the Constitution to the person facing criminal prosecution who should know, in fairness, who his accusers are and must be given a chance to cross-examine them on their charges. The chief purpose of the right of confrontation is to secure the opportunity for cross-examination, so that if the opportunity for cross-examination has been secured, the function and test of confrontation has also been accomplished, the confrontation being merely the dramatic preliminary to cross-examination.

Under the circumstances obtaining, petitioner's constitutional right to confront the witnesses against him was not impaired.

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Conspiracy among the accused
was duly established.

Respecting the third assigned error, we uphold the trial court's finding of conspiracy which was quoted by the appellate court in its assailed Decision, and which we once again herein reproduce with approval:

> On the allegation of conspiracy, the Court finds [no] direct evidence to conclude conspiracy. However, just like in other cases where conspiracy is not usually established by direct evidence but by circumstantial evidence, the Court finds that there are enough circumstantial evidence which if taken together sufficiently prove conspiracy. First, it cannot be denied that the accused somehow have known each other prior to their [departure] in Hong Kong for Manila. Although Law Ka Wang denied having known any of the accused prior to the incident in NAIA, accused Ho Wai Pang identified him as the one who assisted him in the supposed tour in the Philippines to the extent of directly dealing with the travel agency and [that] Law Ka Wang was the one who received the personal things of Ho Wai Pang allegedly to be place[d] in a bag provided for by the travel agency. Accused Wu Hing Sum has been known to accused Ho Kin San for about two to three years as they used to work as cooks in a restaurant in Hong Kong. Accused Ho Wai Ling, who is still at large, is know[n] to accused Chan Chit Yue, Wu Hing Sum and Ho Kin San. These relationships in a way can lead to the presumption that they have the capability to enter into a conspiracy. Second, all the illegal substances confiscated from the six accused were contained in chocolate boxes of similar sizes and almost the same weight all contained in their luggages. The Court agrees with the finding of the trial prosecutor that under the given circumstances, the offense charged [c]ould have been perpetrated only through an elaborate and methodically planned conspiracy with all the accused assiduously cooperating and mutually helping each other in order to ensure its success.[37]

We find no cogent reason to reverse such findings.

"Conspiracy is [the] common design to commit a felony."[38] "[C]onspiracy which determines criminal culpability need not entail a close personal association or at least an acquaintance between or among the participants to a crime."[39] "It need not be shown that the parties actually came together and agreed in express terms to enter into and pursue a common design."[40] "The assent of the minds may be and, from the secrecy of the crime, usually inferred from proof of facts and circumstances which, taken together, indicate that they are parts of some complete whole" as we ruled in People v. Mateo, Jr.[41] Here, it can be deduced from petitioner and his co-accused's collective conduct, viewed in its totality, that there was a common design, concerted action and concurrence of sentiments in bringing about the crime committed.

Petitioner's guilt was proved
beyond reasonable doubt.

Finally, petitioner asserts that the prosecution failed to prove his guilt beyond reasonable doubt. He makes capital on the contention that no chocolate boxes were found in his traveling bag when it was examined at the ICU. He claimed that it was his co-accused Sonny Wong who took charge in ascribing upon him the possession of the two chocolate boxes.

Petitioner's contentions fail to persuade.

True, when principal prosecution witness Cinco first testified on June 3, 1992, she declared that she did not see any chocolate boxes but only personal effects in petitioner's bag.[42] Nonetheless, she clarified in her succeeding testimony that she recalls taking the two chocolate boxes from petitioner's bag when they were still at the counter. This sufficiently explained why Cinco did not find any chocolate boxes from petitioner's bag when they were at the ICU.[43] To us, this slight clash in Cinco's statements neither dilute her credibility nor the veracity of her testimony.

The trial court's words on this matter when it resolved petitioner's Demurrer to Evidence in its Order[44] of February 16, 1993 is quite enlightening. Thus -

> In claiming that the evidences [sic] presented by the prosecution is insufficient to command conviction, the Demurrer went on to say that the testimony of Hilda Cinco is either conjectural or hearsay and definitely missed its mark in incriminating accused, Ho Wai Pang, because she even testified that she found nothing inside the hand-carried luggage of Ho Wai Pang (pp. 48-49, TSN, June 3, 1992). But that was when investigation was going on at the Intensive Counting Unit (ICU). However, the same Hilda Cinco later on testified that from the express lane in going to the ICU, after the discovery of shabu, she was already carrying with her four (4) chocolate boxes, two of [which] taken from the bag of Tin Sun Mau and the other two retrieved from the luggage of herein movant, Ho Wai Pang. Categorically, Cinco admitted it was the reason that at the ICU, Ho Wai Pang's bag was already empty (pp. 53-54, TSN, June 3, 1992), but she nonetheless recognized the bag and could recall the owner thereof, pointing to Ho Wai Pang. Such testimony is not hearsay evidence. They are facts from the personal perception of the witness and out of her personal knowledge. Neither is it conjectural.[45]

Jurisprudence teaches that in assessing the credibility of a witness, his testimony must be considered in its entirety instead of in truncated parts. The technique in deciphering a testimony is not to consider only its isolated parts and anchor a conclusion on the basis of said parts. "In ascertaining the facts established by a witness, everything stated by him on direct, cross and redirect examinations must be calibrated and considered."[46] Also, where there is nothing in the records which would show a motive or reason on the part of the witnesses to falsely implicate the accused, identification should be given full weight. Here, petitioner presented no evidence or anything to indicate that the principal witness for the prosecution, Cinco, was moved by any improper motive, hence her testimony is entitled to full faith and credit.

Verily, the evidence adduced against petitioner is so overwhelming that this Court is convinced that his guilt has been established beyond reasonable doubt. Nothing else can speak so eloquently of his culpability than the unassailable fact that he was caught red-handed in the very act of transporting, along with his co-accused, shabu into the country. In stark contrast, the evidence for the defense consists mainly of denials.

Petitioner tried to show that he was not aware of the shabu inside his luggage considering that his bag was provided by the travel agency. However, it bears stressing that the act of transporting a prohibited drug is a malum prohibitum because it is punished as an offense under a special law. As such, the mere commission of the act is what constitutes the offense punished and same suffices to validly charge and convict an individual caught committing the act so punished regardless of criminal intent. Moreover, beyond his bare denials, petitioner has not presented any plausible proof to successfully rebut the evidence for the prosecution. "It is basic that affirmative testimony of persons who are eyewitnesses of the events or facts asserted easily overrides negative testimony."[47]

All told, we are convinced that the courts below committed no error in adjudging petitioner guilty of transporting methamphetamine hydrochloride or shabu into the country in violation of Section 15, Article III of R.A. No. 6425, as amended.

Penalty

As to the penalties imposed by the trial court and as affirmed by the appellate court, we find the same in accord with law and jurisprudence. It should be recalled that at the time of the commission of the crime on September 6, 1991, Section 15 of R.A. No. 6425 was already amended by Presidential Decree No. 1683.[48] The decree provided that for violation of said Section 15, the penalty of life imprisonment to death and a fine ranging from P20,000.00 to P30,000.00 shall be imposed. Subsequently, however, R.A. No. 7659[49] further introduced new

amendments to Section 15, Article III and Section 20, Article IV of R.A. No. 6425, as amended. Under the new amendments, the penalty prescribed in Section 15 was changed from "life imprisonment to death and a fine ranging from P20,000.00 to P30,000.00" to "reclusion perpetua to death and a fine ranging from P500,000.00 to P10 million". On the other hand, Section 17 of R.A. No. 7659 amended Section 20, Article IV of R.A. No. 6425 in that the new penalty provided by the amendatory law shall be applied depending on the quantity of the dangerous drugs involved.

The trial court, in this case, imposed on petitioner the penalty of reclusion perpetua under R.A. No. 7659 rather than life imprisonment ratiocinating that R.A. No. 7659 could be given retroactive application, it being more favorable to the petitioner in view of its having a less stricter punishment.

We agree. In People v. Doroja,[50] we held:

> In People v. Martin Simon (G.R. No. 93028, 29 July 1994) this Court ruled (a) that the amendatory law, being more lenient and favorable to the accused than the original provisions of the Dangerous Drugs Act, should be accorded retroactive application, x x x.

And, since "reclusion perpetua is a lighter penalty than life imprisonment, and considering the rule that criminal statutes with a favorable effect to the accused, have, as to him, a retroactive effect",[51] the penalty imposed by the trial court upon petitioner is proper. Consequently, the Court sustains the penalty of imprisonment, which is reclusion perpetua, as well as the amount of fine imposed by the trial court upon petitioner, the same being more favorable to him.

WHEREFORE premises considered, the petition is DENIED and the assailed June 16, 2006 Decision and January 16, 2007 Resolution of the Court of Appeals in CA-G.R. CR-H.C. No. 01459 are AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

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[1] People v. Malimit, 332 Phil. 190, 202 (1996).

[2] Id.

[3] CA rollo, pp. 329-350; penned by Associate Justice Arturo G. Tayag and concurred in by Associate Justices Elvi John S. Asuncion and Japar B. Dimaampao.

[4] Records, pp. 567-575; penned by Judge Alfredo R. Enriquez.

[5] Also spelled as Chan Chit Sue in some parts of the records.

[6] Also referred to as Tin Sun Mao in some parts of the records.

[7] Also referred to as Ho Kin San in some parts of the records.

[8] Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs.

[9] Rollo, pp. 90-91.

[10] TSN, July 24, 1992, p. 34.

[11] Incident Report, Exhibit "N", records, p. 197.

[12] Exhibits "E" to "E-9"; id. at 189-B to 194.

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[13] Id. at 23-30.

[14] Id. at 68-69.

[15] See the RTC Order dated November 29, 1991, id. at 70.

[16] Id. at 68.

[17] Supra note 14.

[18] Supra note 4.

[19] Records, p. 575.

[20] Id. at 584.

[21] CA rollo, pp. 76-80, 83-85 and 95-97.

[22] Rollo, p. 116.

[23] Id. at 117.

[24] Id. at 128-200.

[25] Id. at 240-268.

[26] Id. at 304-305.

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

[28] CA rollo, pp. 356-373.

[29] Supra note 9.

[30] Rollo, pp. 32-33.

[31] Constitution, Article III, Section 12 provides:

> Section 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.
>
> x x x x
>
> (3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.
>
> x x x x

[32] G.R. No. 147782, June 25, 2008, 555 SCRA 255, 270, citing People v. Malimit, 332 Phil. 190 (1996).

[33] 382 Phil. 364, 372 (2000).

[34] 326 Phil. 192 (1996).

[35] G.R. No. 175929, December 16, 2008, 574 SCRA 78, 90.

[36] 410 Phil. 378, 401-402 (2001).

[37] CA rollo, p. 347.

[38] People v. Miranda, G.R. No. 93269, August 10, 1994, 235 SCRA 202, 214.

[39] People v. Lagmay, G.R. No. 67973, October 29, 1992, 215 SCRA 218, 225.

[40] People v. Ponce, 395 Phil. 563, 572 (2000).

[41] 258-A Phil. 886, 904 (1989).

[42] TSN, June 3, 1992, pp. 49-50.

[43] Id. at 54.

[44] Records, pp. 316-317.

[45] Id. at 316.

[46] Northwest Airlines, Inc. v. Chiong, G.R. No. 155550, January 31, 2008, 543 SCRA 308, 324, citing Leyson v. Lawa, G.R. No. 150756, October 11, 2006, 504 SCRA 147, 161.

[47] People v. Bartolome, G.R. No. 129486, July 4, 2008, 557 SCRA 20, 30.

[48] "AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 6425, AS AMENDED, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972 AND FOR OTHER PURPOSES"; took effect on March 14, 1980.

[49] "AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL LAWS AND FOR OTHER PURPOSES"; The Act was approved on December 13, 1993 and took effect on December 31, 1993.

[50] G.R. No. 81002, August 11, 1994, 235 SCRA 238, 246.

[51] People v. Jones, 343 Phil. 865, 878 (1997).

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