

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NG YIK BUN, KWOK WAI CHENG, CHANG CHAUN SHI, CHUA SHILOU HWAN, KAN SHUN MIN, AND RAYMOND S. TAN, ACCUSED-APPELLANTS.

G.R. No. 180452. January 10, 2011

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the January 16, 2007 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00485 entitled *People of the Philippines v. Ng Yik Bun, Kwok Wai Cheng, Chang Chaun Shi, Chua Shilou Hwan, Kan Shun Min and Raymond S. Tan*, which affirmed the April 1, 2004 Decision in Criminal Case No. Q-01-99437 of the Regional Trial Court (RTC), Branch 103 in Quezon City. The RTC found accused-appellants guilty beyond reasonable doubt of violating Section 16, Article III of Republic Act No. (RA) 6425 or the Dangerous Drugs Act of 1972.

The Facts

An Information indicted accused-appellants of the following:

That on or about the 24[th] day of August 2000, at Barangay Bignay II, Municipality of Sariaya, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, did then and there knowingly, willfully, unlawfully and feloniously transport, deliver and distribute, without authority of law, on board an L-300 Mitsubishi van, bearing Plate No. UBU 827, and have in their possession, custody, and control, without the corresponding license or prescription, twenty-five (25) heat-sealed transparent plastic bags containing Methamphetamine Hydrochloride (shabu), a regulated drug, each containing: 2.954 grams, 2.901 grams, 2.926 grams, 2.820 grams, 2.977 grams, 2.568 grams, 2.870 grams, 2.941 grams, 2.903 grams, 2.991 grams, 2.924 grams, 2.872 grams, 2.958 grams, 2.972 grams, 2.837 grams, 2.908 grams, 2.929 grams, 2.932 grams, 2.899 grams, 2.933 grams, 2.938 grams, 2.943 grams, 2.955 grams, 2.938 grams and 2.918 grams, respectively, with a total weight of 72.707 kilos, and one hundred forty seven (147) self-sealing transparent plastic bags likewise containing Methamphetamine Hydrochloride (shabu), also a regulated drug, with a total weight of 291.350 kilos, or with a grand total weight of 364.057 kilos.

That the above acts were committed by a syndicate with the use of two (2) motor vehicles, namely: L-300 Mitsubishi Van bearing Plate No. UBU 827 and a Nissan Sentra Exalta car without Plate Number.

Contrary to law. [1]

As summarized in the appealed CA decision, the facts are as follows:

On August 24, 2000, at around 9:00 p.m., Capt. Danilo Ibon of Task Force Aduana received information from an operative that there was an ongoing shipment of contraband in Barangay Bignay II, Sariaya, Quezon Province.

Upon instructions from his superior, Major Carlo Magno Tabo, Capt. Ibon formed a team in coordination with a Philippine National Police detachment, and, along with the operative, the team then proceeded to Villa Vicenta Resort in Barangay Bignay II, Sariaya.

The members of the team were able to observe the goings-on at the resort from a distance of around 50 meters. They spotted six Chinese-looking men loading bags containing a white substance into a white van. Having been noticed, Capt. Ibon identified his team and asked accused-appellant Chua Shilou Hwan (Hwan) what they were loading on the van. Hwan replied that it was shabu and pointed, when probed further, to accused-appellant Raymond Tan as the leader. A total of 172 bags of suspected shabu were then confiscated. Bundles of noodles (bihon) were also found on the premises.

A laboratory report prepared later by Police Inspector Mary Jean Geronimo on samples of the 172 confiscated bags showed the white substance to be shabu.

On January 10, 2001, an Amended Information for violation of Sec. 16, Article III of RA 6425 was filed against accused-appellants, who entered a plea of not guilty upon re-arraignment.

Accused-appellants all maintained their innocence and presented the following defenses:

(1) Accused-appellant Hwan testified that he was planning to buy cheap goods at Villa Vicenta Resort on August 24, 2000, when he saw a van full of bihon at the resort and inquired if it was for sale. He went to relieve himself 15 meters away from the van. A group of police officers arrested him upon his return.

(2) Accused-appellant Tan testified that he was a businessman collecting a debt in Lucena City on August 24, 2000. He was at a restaurant with his driver when three persons identified themselves as police officers and forcibly brought him inside a car. He was handcuffed, blindfolded, and badly beaten. He was later brought to a beach and was ordered to hold some bags while being photographed with five Chinese-looking men he saw for the first time. A tricycle driver, Ricky Pineda, corroborated his story by testifying that he saw Tan being forced into a white Nissan car on August 24, 2000.

(3) Accused-appellant Ng Yik Bun (Bun) testified that he arrived in the Philippines as a tourist on August 22, 2000. On August 24, 2000, he was at a beach with some companions when four armed men arrested them. He was made to pose next to some plastic bags along with other accused-appellants, whom he did not personally know. He was then charged with illegal possession of drugs at the police station. A friend of his, accused-appellant Kwok Wai Cheng (Cheng), corroborated his story.

(4) Accused-appellant Kan Shun Min (Min) testified that he arrived in the Philippines on July 1, 2000 for business and pleasure. On August 24, 2000, he checked into a beach resort. While walking there, he was suddenly accosted by four or five men who poked guns at him. He was brought to a cottage where he saw some unfamiliar Chinese-looking individuals. He likewise testified that he was made to take out white packages from a van while being photographed. His friend, accused-appellant Chang Chaun Shi (Shi), corroborated his story.

The RTC convicted accused-appellants of the crime charged. The dispositive portion of the RTC Decision reads:

ACCORDINGLY, the Court hereby renders judgment finding the six (6) accused namely Ng Yik Bun, Kwok Wai Cheng, Chang Chaun Shi, Chua Shilou Hwan, Kan Shun Min and Raymond S. Tan (some also known by other names), GUILTY beyond reasonable doubt of violating Section 16 of RA 6425, as amended and each is hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay a fine of Five Million Pesos (P5,000,000.00) each.

The shabu involved in this case and their accompanying paraphernalia are ordered disposed of in accordance with law, now RA 9165. The two (2) vehicles are forfeited in favor of the government.

SO ORDERED. [2]

In questioning the RTC Decision before the CA, accused-appellants Bun, Cheng, Shi, Min, and Tan raised the lone issue of: whether the trial court erred in ruling that there was a valid search and arrest despite the absence of a warrant.

On the other hand, accused-appellant Hwan sought an acquittal on the basis of the following submissions:

I

The trial court erred when it held as valid the warrantless search, seizure and subsequent arrest of the accused-appellants despite the non-concurrence of the requisite circumstances that justify a warrantless arrest as held in the case of *People vs. [Cuizon]*.

II

The trial court violated Article III, Section 14 of the 1987 Constitution as well as Rule 115 of the Revised Rules on Criminal Procedure when it heard the case at bench on June 26, 2001 at the chemistry division of the PNP Crime Laboratory in Camp Crame, Quezon City without the presence of both the herein accused-appellant and his counsel de parte.

III

The trial court erred when it issued and dictated in open hearing a verbal order denying accused's formal "Motion to Suppress Illegally Procured Evidence" upon a [ratiocination] that is manifestly contrary to law [and] jurisprudence set in the *Cuizon* case, *supra*.

IV

The trial court erred when with lack of the desired circumspection, it sweepingly ruled the admission in evidence the 731 exhibits listed in the prosecution's 43-page formal offer of evidence over the itemized written objections of the defense in a terse verbal order (bereft of reason for the denial of the raised objections) dictated in open hearing which reads: "All the exhibits of the prosecution are hereby admitted. The court believes that as far as the evidence submitted goes, these exhibits of the prosecution consisting of several plastic bags of shabu were not yet shown to be the fruit of a poisonous plant." x x x

V

The trial court also erred in admitting the prosecution's photographs (Exhibit "K" and "M," inclusive of their sub-markings), the photographer who took the shots not having taken the witness stand to declare, as required by the rules, the circumstances under which the photographs were taken.

VI

The trial court erred when it tried and applied the provisions of R.A. 9165, the Dangerous Drugs Act of 2002, in the instant case even though [the] crime charged took place on 24 August 2000.

VII

The trial court erred in finding conspiracy among the accused. [3]

The appellate court found accused-appellants' contentions unmeritorious as it consequently affirmed in toto the RTC Decision.

The CA ruled that, contrary to accused-appellants' assertion, they were first arrested before the seizure of the contraband was made. The CA held that accused-appellants were caught in *flagrante delicto* loading transparent plastic bags containing white crystalline substance into an L-300 van which, thus, justified their arrests and the

seizure of the contraband. The CA agreed with the prosecution that the urgency of the situation meant that the buy-bust team had no time to secure a search warrant. Moreover, the CA also found that the warrantless seizure of the transparent plastic bags can likewise be sustained under the plain view doctrine.

The CA debunked accused-appellant Hwan's arguments in seriatim. First, the CA ruled that *People v. Cuizon* [4] was not applicable to the instant case, as, unlike in *Cuizon*, the apprehending officers immediately acted on the information they had received about an ongoing shipment of drugs.

Second, the CA also noted that accused-appellant Hwan effectively waived his right to be present during the inspection of exhibits and hearing, for the manifestation made by the prosecution that accused-appellant Hwan waived his right to be present was never raised in issue before the trial court.

And third, the CA found accused-appellant Hwan's other arguments untenable. It held that the trial court correctly admitted Exhibits "K" and "M" even if the photographer was not presented as a witness. The CA based its ruling on *Sison v. People*, [5] which held that photographs can be identified either by the photographer or by any other competent witness who can testify to its exactness and accuracy. It agreed with the Solicitor General that accused-appellants were correctly tried and convicted by the trial court under RA 6425 and not RA 9165, as can be gleaned from the fallo of the RTC Decision. The CA likewise dismissed the argument that conspiracy was not proved by the prosecution, noting that the evidence presented established that accused-appellants were performing "their respective task[s] with the objective of loading the plastic bags of shabu into an L-300 van." [6]

The CA disposed of the appeal as follows:

WHEREFORE, the Decision dated April 1, 2004 of the Regional Trial Court of Quezon City, Branch 103, in Criminal Case No. Q-01-99437, is hereby AFFIRMED in toto.

SO ORDERED. [7]

On February 18, 2008, the Court, acting on the appeal of accused-appellants, required the parties to submit supplemental briefs if they so desired.

On March 27, 2008, accused-appellants Bun, Cheng, Shi, Min, and Tan filed their Supplemental Brief on the sole issue that:

THERE WAS NO VALID SEARCH AND ARREST DUE TO ABSENCE OF A WARRANT

On June 4, 2008, accused-appellant Hwan filed his Supplemental Brief, raising the following errors, allegedly committed by the trial court:

I

THE TRIAL COURT VIOLATED ARTICLE III, SECTION 14 OF THE 1987 CONSTITUTION AS WELL AS RULE 115 OF THE REVISED RULES ON CRIMINAL PROCEDURE WHEN IT CONDUCTED A HEARING ON JUNE 26, 2001 AT THE CHEMISTRY DIVISION OF THE PNP CRIME LABORATORY IN CAMP CRAME, QUEZON CITY WITHOUT THE PRESENCE OF BOTH THE HEREIN ACCUSED-APPELLANT AND HIS COUNSEL IN SUCH VITAL [PROCEEDINGS].

II

THE TRIAL COURT ERRED WHEN IT HELD AS VALID THE WARRANTLESS SEARCH, SEIZURE AND SUBSEQUENT ARREST OF THE HEREIN APPELLANT DESPITE THE NON-CONCURRENCE OF THE REQUISITE CIRCUMSTANCES THAT JUSTIFY A WARRANTLESS ARREST.

Essentially, accused-appellants claim that no valid in flagrante delicto arrest was made prior to the seizure and

that the police officers placed accused-appellants under arrest even when there was no evidence that an offense was being committed. Since there was no warrant of arrest, they argue that the search sans a search warrant subsequently made on them was illegal. They contend that a seizure of any evidence as a result of an illegal search is inadmissible in any proceeding for any purpose.

Accused-appellant Hwan additionally claims that he was deliberately excluded when the trial court conducted a hearing on June 26, 2001 to identify 172 bags of shabu for trial purposes. He asserts that no formal notice of the hearing was sent to him or his counsel, to his prejudice.

The Court's Ruling

On the issue of warrantless arrest, it is apropos to mention what the Bill of Rights under the present Constitution provides in part:

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.

A settled exception to the right guaranteed in the aforementioned provision is that of an arrest made during the commission of a crime, which does not require a warrant. Such warrantless arrest is considered reasonable and valid under Rule 113, Sec. 5(a) of the Revised Rules on Criminal Procedure, which states:

Sec. 5. Arrest without warrant; when lawful. -- A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; (Emphasis supplied.)

The foregoing proviso refers to arrest in flagrante delicto. [8] In the instant case, contrary to accused-appellants' contention, there was indeed a valid warrantless arrest in flagrante delicto. Consider the circumstances immediately prior to and surrounding the arrest of accused-appellants: (1) the police officers received information from an operative about an ongoing shipment of contraband; (2) the police officers, with the operative, proceeded to Villa Vicenta Resort in Barangay Bignay II, Sariaya, Quezon; (3) they observed the goings-on at the resort from a distance of around 50 meters; and (4) they spotted the six accused-appellants loading transparent bags containing a white substance into a white L-300 van. The following exchange between Capt. Ibon and the prosecutor sheds light on the participation of all six accused-appellants:

Q:

Upon arriving at Villa Vicenta Resort in Brgy. Bignay II, [in] what specific area [did] you position yourselves?

A:

Initially we [were] about three hundred meters away from Villa Vicenta Resort, then we walked [stealthily] so as not to [be] [spotted] until we were about fifty meters sir.

Q:

So you [positioned] yourself about fifty meters away from the point of Villa Vicenta Resort?

A:

From the actual location we saw about six personnel walking together loading contraband.

Q:

You said you [were] about fifty meters away from these six persons who were loading contraband, is that what you mean?

A:

Yes sir.

Q:

In that place where you [positioned] yourself, could you tell us, what was the lighting condition in the place where you positioned yourselves?

A:

It was totally dark in our place sir.

Q:

How about the position of the six persons who were loading contraband?

A:

They were well-lighted sir.

Q:

Why do you say that they are well-lighted?

A:

There were several [fluorescent] lamps sir.

Q:

Where?

A:

One search light placed near where they were loading the shipment sir.

Q:

How about the other?

A:

About two fluorescent lamps at the house near the six persons your honor.

COURT:

Are these portable lamps:

A:

Fixed lamps your honor.

Q:

Where else?

A:

Another at the right corner[.] There was also somewhat a multi-purpose house and it [was] well-lighted your honor.

Q:

This is a resort and that multi-purpose house that you are referring to are the cottages of the resort?

A:

Yes your honor.

FISCAL:

You said you saw six persons who were loading goods[.] In what vehicle [were they] transferring those things?

A:

Into [an] L-300 van sir.

Q:

What is the color of the van?

A:

White sir.

Q:

What did you see that these six persons [were] loading?

A:

We saw [them] holding white plastic with white substance your honor.

Q:

What container [were they] loading?

A:

Actually there were several checkered bags and other plastic [bags] sir.

Q:

How [were] they loading these bags?

A:

[Manually] your honor.

Q:

Will you please describe how they [were] loading it, Mr. Witness?

A:

Actually the plastic bags [some were] repacked [into] checkered [bags] while others [were] loading inside the

checkered bag sir.

Q:

Did they put that on their shoulder or what?

A:

Holding and holding [sic] sir.

Q:

Nobody carrying [it] on their back?

A:

Nobody sir.

x x x x

Q:

You said you saw these six persons, will you please look around this courtroom and tell us if these six persons that you are referring to are present?

COURT:

Considering that there are many persons inside this courtroom, will you please stand up and please [tap] the shoulder of these six persons?

x x x x

INTERPRETER: Witness tapped the [shoulders] of six male persons inside the courtroom.

x x x x

FISCAL:

May we manifest your honor that when these six persons stood up when their names [were] called on the basis [of] what [was] written [on] the information [were] once tapped on their shoulder by this witness.

The last question I have [is] how long you stayed in this position watching these six persons loading those [products] in the L-300 van?

A:

Ten to fifteen minutes sir.

Q:

Within that period could you tell us what transpired?

A:

I called Major Tabo to inform [him of] what I saw, I called Major Tabo through the hand-held radio sir.

Q:

What was the reply of major Tabo with respect to your information?

A:

He directed me to get closer to these six persons and find out if really the contraband is shabu that was first reported sir.

Q:

So did you in fact go closer?

A:

Yes sir.

Q:

How [close] were you [to] the six persons at the time?

A:

When we were closing [in] somebody noticed us and they were surprised, I immediately shouted "Freeze, don't move, we are Filipino soldiers," we further identified [ourselves] sir.

Q:

What was the reaction of the six persons when you shouted those words?

A:

They [froze] sir.

x x x x

Q:

When you went closer and they [froze], what happened?

A:

I asked them who among them are English-speaking?

Q:

What was the reply given to you?

A:

Somebody replied "tagalog lang."

Q:

Who was that person who replied "tagalog lang?"

A:

Chua Shilou Hwan sir.

Q:

Will you please [identify] for us who answered that in [T]agalog?

COURT:

Please [tap] his shoulder.

A:

This man sir.

COURT:

Witness tapped the shoulder of a man who identified himself as Chua Shilou Hwan.

CHUA SHILOU HWAN: Opo.

FISCAL:

After answering you [with] "tagalog lang," what happened?

A:

I further asked them "Ano ang dala ninyo?"

Q:

What was the reply?

A:

Chua Shilou Hwan said shabu.

Q:

So [what] did you do next?

A:

I asked them who is their leader, sir.

Q:

What was the reply?

A:

He told me it was Raymond Tan, sir.

Q:

Is he inside this courtroom now?

A:

Yes sir.

COURT:

Please tap [his] shoulder.

WITNESS:

This man sir.

COURT:

Ikaw ba Raymond Tan?

INTERPRETER: A man stood and [nodded] his head.

x x x x

FISCAL:

Now after they [froze], what did you do?

A:

I inspected the contraband and I found these bags and I immediately called Major Tabo and informed [him of] the matter sir.

Q:

How many bags were you able to confiscate in the scene?

A:

All in all 172 your honor.

Q:

That 172, one of them is the bag in front of you [which] you identified earlier?

A:

Yes sir.

Q:

When you saw that bag could you tell us what particular [contents] attracted you upon seeing these bags?

A:

It was marked by the members (interrupted).

Q:

No what attracted you?

A:

Something crystalline white sir.

Q:

Are you referring to all the bags?

A:

All the bags sir.[9] x x x

Evidently, the arresting police officers had probable cause to suspect that accused-appellants were loading and transporting contraband, more so when Hwan, upon being accosted, readily mentioned that they were loading shabu and pointed to Tan as their leader. Thus, the arrest of accused-appellants--who were caught in flagrante delicto of possessing, and in the act of loading into a white L-300 van, shabu, a prohibited drug under RA 6425, as amended----is valid.

In *People v. Alunday*, we held that when a police officer sees the offense, although at a distance, or hears the

disturbances created thereby, and proceeds at once to the scene, he may effect an arrest without a warrant on the basis of Sec. 5(a), Rule 113 of the Rules of Court, as the offense is deemed committed in his presence or within his view. [10] In the instant case, it can plausibly be argued that accused-appellants were committing the offense of possessing shabu and were in the act of loading them in a white van when the police officers arrested them. As aptly noted by the appellate court, the crime was committed in the presence of the police officers with the contraband, inside transparent plastic containers, in plain view and duly observed by the arresting officers. And to write finis to the issue of any irregularity in their warrantless arrest, the Court notes, as it has consistently held, that accused-appellants are deemed to have waived their objections to their arrest for not raising the issue before entering their plea. [11]

Moreover, present in the instant case are all the elements of illegal possession of drugs: (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. [12] Accused-appellants were positively identified in court as the individuals caught loading and possessing illegal drugs. They were found to be in possession of prohibited drugs without proof that they were duly authorized by law to possess them. Having been caught in flagrante delicto, there is, therefore, a prima facie evidence of animus possidendi on the part of accused-appellants. [13] There is, thus, no merit to the argument of the defense that a warrant was needed to arrest accused-appellants.

Accused-appellants were not able to show that there was any truth to their allegation of a frame-up in rebutting the testimonies of the prosecution witnesses. They relied on mere denials, in contrast with the testimony of Capt. Ibon, who testified that he and his team saw accused-appellants loading plastic bags with a white crystalline substance into an L-300 van at the Villa Vicenta Resort. Accused-appellants, except for Tan, claimed that they were ordered by the police officers to act like they were loading bags onto the van. Accused-appellant Tan told a different tale and claims he was arrested inside a restaurant. But as the trial court found, the persons who could have corroborated their version of events were not presented in court. The only witness presented by Tan, a tricycle driver whose testimony corroborated Tan's alone, was not found by the trial court to be credible.

As no ill motive can be imputed to the prosecution's witnesses, we uphold the presumption of regularity in the performance of official duties and affirm the trial court's finding that the police officers' testimonies are deserving of full faith and credit. Appellate courts generally will not disturb the trial court's assessment of a witness' credibility unless certain material facts and circumstances have been overlooked or arbitrarily disregarded. [14] We find no reason to deviate from this rule in the instant case.

On the alleged lack of notice of hearing, it is now too late for accused-appellant Hwan to claim a violation of his right to examine the witnesses against him. The records show the following exchange on June 26, 2001:

FISCAL LUGTO:

I would like to manifes[t] that Atty. Agoot, counsel of accused Chua Shilou Hwan, waived his right to be present for today's trial for purposes of identification of the alleged shabu.

ATTY SAVELLANO:

[Are] we made to understand that this hearing is for identification of shabu only?

FISCAL LUGTO:

Yes despite the testimony of the Forensic Chemist, this is for continuation with the direct testimony for purposes of identification which was confiscated or seized by the joint operation of the Military and the PNP at Sariaya, Quezon.

For the record, this [is] for the continuation of the direct testimony of Forensic Chemist Mary Jean Geronimo.
[15]

As the records confirm, accused-appellant Hwan and his counsel were not present when the forensic chemist testified. The prosecution made a manifestation to the effect that accused-appellant Hwan waived his right to be present at that hearing. Yet Hwan did not question this before the trial court. No evidence of deliberate exclusion was shown. If no notice of hearing were made upon him and his counsel, they should have brought this in issue at the trial, not at the late stage on appeal.

All told, we hold that the findings of both the RTC and the CA must be affirmed. The trial court's determination as to the credibility of witnesses and its findings of fact should be accorded great weight and respect more so when affirmed by the appellate court. To reiterate, a look at the records shows no facts of substance and value that have been overlooked, which, if considered, might affect the outcome of the instant appeal. Deference to the trial court's findings must be made as it was in the position to easily detect whether a witness is telling the truth or not.
[16]

Penalty Imposed

Accused-appellants were each sentenced by the lower court to reclusion perpetua and to pay a fine of PhP 5,000,000. This is within the range provided by RA 6425, as amended. [17] We, therefore, affirm the penalty imposed on accused-appellants.

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-H.C. No. 00485, finding accused-appellants Ng Yik Bun, Kwok Wai Cheng, Chang Chaun Shi, Chua Shilou Hwan, Kan Shun Min, and Raymond S. Tan guilty beyond reasonable doubt of violating Sec. 16, Art. III of RA 6425, as amended, is AFFIRMED IN TOTO.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Perez, JJ., concur.

[1] Rollo, p. 5.

[2] CA rollo, p. 46. Penned by Judge Jaime N. Salazar.

[3] Id. at 124-125.

[4] G.R. No. 109287, April 18, 1996, 256 SCRA 325.

[5] G.R. Nos. 108280-83 & 114931-33, November 16, 1995, 250 SCRA 58, 75-76.

[6] Rollo, p. 25.

[7] Id. at 26. Penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Remedios Salazar-Fernando and Jose C. Mendoza (now a member of this Court).

[8] *People v. Alunday*, G.R. No. 181546, September 3, 2008, 564 SCRA 135, 146; citing *People v. Doria*, G.R. No. 125299, January 22, 1999, 301 SCRA 668.

[9] TSN, July 24, 2001, pp. 22-34.

[10] *Supra* note 8, at 147; citing *People v. Sucro*, G.R. No. 93239, March 18, 1991, 195 SCRA 388.

[11] *People v. Tidula*, G.R. No. 123273, July 16, 1998, 292 SCRA 596, 611; *People v. Montilla*, G.R. No. 123872, January 30, 1998, 285 SCRA 703; *People v. Cabiles*, G.R. No. 112035, January 16, 1998, 284 SCRA 199, 210; *People v. Mahusay*, G.R. No. 91483, November 18, 1997, 282 SCRA 80, 87; *People v. Rivera*, G.R. No. 87187, June 29, 1995, 245 SCRA 421, 430; and *People v. Lopez, Jr.*, G.R. No. 104662, June 16, 1995, 245 SCRA 95, 105.

[12] *People v. Sy*, G.R. No. 147348, September 24, 2002, 389 SCRA 594, 604-605; citing *Manalili v. Court of Appeals*, G.R. No. 113447, October 9, 1997, 280 SCRA 400, 418.

[13] *People v. Pagkalinawan*, G.R. No. 184805, March 3, 2010.

[14] *People v. Gregorio, Jr.*, G.R. No. 174474, May 25, 2007, 523 SCRA 216, 227; citing *People v. Abaño*, G.R. No. 142728, January 23, 2002, 374 SCRA 431.

[15] TSN, June 26, 2001, p. 1.

[16] *People v. Macabare*, G.R. No. 179941, August 25, 2009, 597 SCRA 119, 132; citing *People v. Mateo*, G.R. No. 179036, July 28, 2008, 560 SCRA 375, 394.

[17] Secs. 16 and 17 of RA 6425, as amended, provide:

Sec. 16. Possession or Use of Regulated Drugs.--The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos [PhP 500,000] to ten million pesos shall be imposed upon any person who shall possess or use any regulated drug without the corresponding license or prescription, subject to the provisions of Section 20 hereof.

Sec. 17. Section 20, Article IV of Republic Act No. 6425, as amended, known as the Dangerous Drugs Act of 1972, is hereby amended to read as follows:

Sec. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instruments of the Crime.--The penalties for offenses under Section 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:

x x x x

3. 200 grams or more of shabu or methylamphetamine hydrochloride.

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