

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CAMILO D. NICART AND MANUEL T. CAPANPAN, ACCUSED-APPELLANTS.*G.R. No. 182059. July 04, 2012*

Ponente: PEREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-182059/>**PEREZ, J.:**

Before us for final review is the Decision[1] dated 25 October 2007 of the Court of Appeals in CA-G.R. CR-H.C. No. 01901, which affirmed the Joint Decision[2] dated 11 May 2005 of the Regional Trial Court, Branch 164, Pasig City in Criminal Case Nos. 12625-D and 12626-D. The trial court found accused-appellant Camilo Nicart (Nicart) guilty beyond reasonable doubt of illegal sale of shabu in violation of Section 5, Article II of Republic Act 9165 (RA 9165) and accused-appellant Manuel Capanpan (Capanpan) guilty beyond reasonable doubt of illegal sale and illegal possession of shabu in violation of Sections 5 and 11, Article II of the same Act.[3]

The Facts

On 4 July 2003, an Information[4] charging Nicart and Capanpan with violation of Section 5, Article II of RA 9165 was filed before the Regional Trial Court, Branch 164, Pasig City. A separate Information[5] against Capanpan was also filed on even date for violation of Section 11, Article II of the same Act.

Nicart and Capanpan were arraigned on 31 July 2003. In Criminal Case No. 12625-D, both pleaded not guilty.[6] Capanpan likewise entered a plea of not guilty in Criminal Case No. 12626-D.[7]

On trial, the prosecution presented witnesses PO1 Joy Decena (PO1 Decena) and SPO3 Leneal T. Matias (SPO3 Matias), both of the Station Drug Enforcement Unit of the Pasig City Police Station. The testimony of P/Sr. Insp. Annalee R. Forro, a Forensic Chemical Officer of the Eastern Police District Crime Laboratory Office in Mandaluyong City, on the other hand, was dispensed with after the public prosecutor and the defense counsel stipulated on the integrity of the seized items, that is, “that Exhibits ‘E-1’ and ‘E-2’ (the two heat-sealed transparent plastic sachets both containing 0.03 gram of white crystalline substance [which were recovered from the appellants]) were the same specimens mentioned in Exhibit ‘B-1’ (the request for laboratory examination dated 3 July 2003) and Exhibit ‘C-1’ (Chemistry Report No. D-1271-03E issued by P/Sr. Insp. Annalee R. Forro), and that the same were regularly examined by the said chemical officer.”[8]

The trial court’s summary of the testimonies of the prosecution witnesses adopted by the Court of Appeals[9] is hereto reproduced, to wit:

On July 2, 2003, at around 10:30 in the evening, a concerned citizen reported to the office of the Station Drug Enforcement Unit of the Pasig City Police Station that a certain Milo was engaged in drug pushing at Baltazar Street, Bolante, Brgy. Pinagbuhatan, Pasig City. The police officers who were then present immediately relayed the information to their Chief, P/Sr. Insp. Jodie A. Tabios, who decided to conduct a buy-bust operation to entrap and apprehend the suspect. He formed a team composed of witness PO1 Joy Decena who was designated as the poseur-buyer and PO1 Allan Mapula, witness SPO3 Leneal Matias and PO1 Clarence Nipales as the back-up team. As poseur-buyer, PO1 Joy Decena was supplied with a 100 peso bill. He promptly marked the 100-peso bill with his initials “JD.” The concerned citizen joined the group and offered

to accompany and introduce poseur-buyer PO1 Decena to Milo who was later on identified as accused Camilo D. Nicart.

At around 11:00 o'clock that evening, the team proceeded to Bolante to conduct the buy-bust operation. Arriving at the place after 10-15 minutes, PO1 Decena and the informant alighted from the police mobile car and walked towards a sari-sari store. The informant saw a man sitting in front of the sari-sari store whom he identified as Milo, the subject of the operation. The informant and Camilo greeted each other and then the informant introduced PO1 Decena as someone who wanted to buy some items (shabu) from him for the sum of "piso" (100 pesos). Decena handed the marked 100-peso bill to Camilo. The latter then walked to the other side of the street where he talked to a male person. Camilo handed the money to the person who was identified later as accused Manuel T. Capanpan. The latter, in turn, gave Camilo a plastic sachet containing white crystalline substance. Upon receiving the plastic sachet containing the suspected shabu from Camilo, PO1 Decena immediately grabbed the former by the hand and introduced himself as a police officer and that he was arresting him for violation of the dangerous drugs law. He handcuffed Camilo and frisked him. Decena, however, did not recover anything illegal from Camilo except the plastic sachet containing white crystalline substance that he bought from him.

Meanwhile, the back-up team of Decena came forward and upon Decena's urging, arrested the man wearing a striped shirt (later identified as accused Manuel Capanpan) from whom Camilo got the plastic sachet containing suspected shabu that he sold to PO1 Decena. SPO3 Leneal Matias conducted a search on the body of Manuel and recovered another plastic sachet of white crystalline substance that appeared to be shabu. The pocket of Capanpan also yielded the 100-peso bill that poseur-buyer PO1 Decena paid to Camilo. Matias then placed the initials "MCT" on the plastic sachet the he recovered from Capanpan. The one bought by Decena from accused Camilo was marked with the initials "CDN."

The two accused, Capanpan and Nicart boarded the police mobile car and were brought to the SDEU office where they were turned over to the police investigator on duty. The two (2) plastic sachets containing white crystalline substance were then sent to the Eastern Police District Laboratory Office in Mandaluyong City x x x. The two (2) heat-sealed transparent plastic sachets, each containing 0.03 gram of white crystalline substance, were then examined by P/Sr. Insp. Annalee R. Forro, a forensic chemical officer of EPD Crime Laboratory Office, who later issued Chemistry Report No. D-1271-03E with a finding that both specimens contained methylamphetamine hydrochloride, a dangerous drug.

The defense, on the other hand, presented the following witnesses: (1) Nicart and Capanpan; (2) Maricel Capanpan, sister of Capanpan; and (3) Lorna Guiban, Vice-Chairman of the Barangay Security Force of Barangay Pinagbuhatan, Pasig City. Below is the summary of the version of the defense lifted from the decision of the Court of Appeals.[10]

Accused Camilo Nicart essentially testified that he was only buying milk at the sari-sari store along Baltazar Street, Pinagbuhatan, Pasig City, when the police officers arrived and arrested him. After frisking him, he was taken to the police station where he was detained. He averred that he was arrested at around 8:00 o'clock in the evening, and not 10:30 as claimed by the prosecution witnesses, and that there were children playing in front of the store at that time. He did not react when he was arrested and brought to the police station nor when he was put in jail because he did not commit any offense. He only got angry during the inquest proceeding when he asked the prosecutor why they were being charged when they did not commit any crime.

For his part, accused Manuel T. Capanpan testified that he was just sitting on a bench in front of his house across the sari-sari store when he saw Camilo Nicart being arrested and frisked by the police officers. The police officers then brought Camilo to their vehicle. Thereafter, the police officers went back and arrested him also. He and Camilo were then brought to the police station. He maintained that he and Camilo were arrested at around 8:00 in the evening. He claimed that he was with his neighbors when he was arrested and that there were also several people in the store where Camilo was arrested. He admitted, however, that these people only

watched them when they were arrested. The witness also averred that he knew Camilo because the latter was a customer in his beauty parlor. Finally, he admitted that he did not know the police officers previous to his arrest, much less had a prior disagreement with them.

Maricel Capanpan testified that on July 2, 2003, at about 10:30 p.m., she was standing beside the door of her house when she saw accused Camilo Nicart buying “gatas”, “asukal” at “tinapay” at the sari-sari store located across the street. She then saw four persons in civilian clothes approach and start frisking Camilo. The four persons then handcuffed Camilo and placed him inside a police mobile car. Thereafter, two of them approached her brother, accused Manuel T. Capanpan, and arrested him. They then brought his [sic] brother to the car and drove away.

Finally, Lorna Guiban testified that she was Vice-Chairman of the Barangay Security Force of Barangay Pinagbuhatan, Pasig City. On July 2, 2003, at around 10:30 p.m., she was buying cigarettes from a sari-sari store at Baltazar Street in Pinagbuhatan while waiting for the person who would give her the key to the barangay outpost she was supposed to open. Accused Camilo Nicart then arrived and bought Nestogen and sugar. Thereafter, two (2) motorcycles arrived and the riders alighted and suddenly frisked Nicart, took his wallet and handcuffed him. She averred that she was a meter away from them when Camilo was arrested. The arresting officers then proceeded to the house across the street and arrested accused Manuel Capanpan, who was sitting in front of his house. The arresting officers then brought Camilo and Manuel to a car and drove away. She admitted that she did not intervene because the two accused did not ask for help. She also admitted that she did not put the incident in the blotter at their outpost.

On 11 May 2005, the trial court convicted both Nicart and Capanpan.[11] The dispositive portion of the Joint Decision reads:

WHEREFORE:

- In Criminal Case No. 12625-D, the court finds accused Camilo Nicart y Dilmonte, and accused Manuel Capanpan y Tismo, both GUILTY beyond reasonable doubt of selling 0.03 gram of methamphetamine hydrochloride in violation of Sec. 5, Article II of R.A. 9165, and hereby imposes upon them the penalty of life imprisonment and fine of Five Hundred Thousand Pesos with the accessory penalties under Sec. 35 of said R.A. 9165.

- In Criminal Case No. 12626-D, the court finds accused Manuel T. Capanpan GUILTY beyond reasonable doubt of illegal possession of 0.03 gram of methamphetamine hydrochloride in violation of Sec. 11, Art. II of R.A. 9165 and hereby imposes upon him an indeterminate penalty of imprisonment of Twelve (12) years and One (1) day, as minimum, to Sixteen years, as maximum, and fine of Three Hundred Thousand (P300,000.00) pesos with the accessory penalties under Sec. 35 of R.A. 9165.[12]

On appeal, the Court of Appeals AFFIRMED in toto[13] the trial court’s Joint Decision of 11 May 2005. Hence, the instant appeal.

We also affirm the appellants’ conviction.

Presence of the elements of illegal sale
and illegal possession of a dangerous drug

PO1 Decena attested that Nicart took his marked money, walked over to Capanpan and exchanged it with a sachet of shabu. Afterwards, Nicart walked back to PO1 Decena and gave the item to him. SPO3 Matias, on the other hand, testified as to the circumstances of the arrest of Capanpan, the recovery of the marked money, and the confiscation of another sachet of shabu in his possession. The seized items, the Chemistry Report issued by P/Sr. Insp. Annalee R. Forro stating that the contents of the sachets tested for shabu, and the marked money were all presented in court. These were coupled with the stipulation between the prosecution and the defense that the

substances earlier forwarded to the laboratory for examination and those presented in court were the same specimens examined and tested positive for shabu.

Thus, present in the instant case are the following requisites for illegal sale of shabu: “(a) the identities of the buyer and the seller, the object of the sale, and the consideration; xxx (b) the delivery of the thing sold and the payment for the thing[; and (c)] the presentation in court of the corpus delicti as evidence.”[14] Likewise present are the essential elements of illegal possession of a dangerous drug, to wit: “(a) [that] the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) [that] such possession is not authorized by law; and (c) [that] the accused freely and consciously possessed the drug.”[15]

Credibility of the witnesses
and their testimonies

Time and again, we hold that the “findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings.”[16] Likewise basic is the rule that “the determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, is accorded full weight and credit as well as great respect, if not conclusive effect.”[17]

Further, after a close examination of the records, we are strongly convinced that the trial court and the Court of Appeals validly gave credence to the testimonies of PO1 Decena and SPO3 Matias.

Pertinent portions of the testimony of PO1 Decena (the poseur-buyer)[18] read:

Q:

So, while you were along Baltazar Street and Bolante, you reached a certain store there and what happened, Mr. [W]itness?

A:

A man was sitting there.

Q:

How many individuals did you see in that store, Mr. [W]itness, in that night?

A:

In front of the store only one (1) person.

x x x

Q:

So, what happened after that, Mr. [W]itness, because you were walking with your informant?

A:

Sir, our informant binati iyong tao.

Q:

Iyong nakaupo?

A:

Yes, sir.

Q:

What is the statement made by the informant?

A:

Pare kamusta.

Q:

What was the answer to that statement by that person greeted by your informant?

A:

Ayos lang.

Q:

What happened after that?

A:

Sabi ni Milo, sir, bakit napa[s]yal kayo.

Q:

What was the answer of the informant?

A:

The confidential informant asked Milo kung meron ba tayo diyang items.

Q:

What was the answer of alias Milo to that statement?

A:

Meron sir.

x x x

Q:

What happened after that?

A:

Magkano ba ang kukunin?

Q:

What was the answer of the informant?

A:

Piso lang.

Q:

After that statement of piso lang, what did alias Milo do if any?

A:

Nagtanong kung nasaan ang pera, sir.

Q:

So, what exactly was the statement of alias Milo?

A:

Pera, sir.

Q:

What did the informant do noong sinabing pera?

A:

Sabi ng confidential informant, pare ko kukuha.

Q:

And that informant was referring to whom?

A:

To me, sir.

Q:

So, what did you do?

A:

I handed the buy-bust money.

Q:

To whom did you handed that?

A:

To Milo, sir.

Q:

What did you do after that?

A:

He crossed the road.

Q:

Sino tumawid?

A:

Si Milo, sir.

Q:

Where to?

A:

Sa tapat.

x x x

Q:

What happened noong tumawid siya?

A:

Lumapit pa sa isang lalaki.

Q:

So, how many persons did you see on the other edge of the road at this point?

A:

Marami.

Q:

More than ten (10) less than ten (10)?

A:

5-6, sir.

x x x

Q:

When Milo approached those guys, what happened Mr. [W]itness?

A:

Ibinigay, sir, niya ang pera sa kausap niya tapos may inabot sa kanya.

Q:

So, what happened after that?

A:

Bumalik po sa amin, sir.

Q:

Sino?

A:

Si Milo.

Q:

Noong bumalik sa iyo si Milo, what did you do?

A:

Tapos inabot sakin ang plastic sachet ng shabu.

Q:

How many pieces, Mr. [W]itness?

A:

One (1).

x x x

Q:

I'm asking you on the sachet of shabu that you bought from Milo, what did you do with it?

A:

I marked it.

Q:

What markings did you put on that object?

A:

CDN.

Q:

In what place did you put the markings, on the place of the arrest or in your office?

A:

In the place of the arrest, sir.

His testimony was sufficiently corroborated by the testimony of SPO3 Matias, who further testified on the confiscation of another sachet of shabu in possession of Capanpan.[19] Thus:

Q:

You said that something was handed to alias Milo by Joey Decena, what did that person do?

A:

He approached another person sir.

Q:

You said there was only one person standing in front of the store. Where was that second person you are referring to. The one approached by alias Milo?

A:

He was at the other side of the street.

Q:

Was the person visible from where you were? I am referring to the second person.

A:

Yes sir.

Q:

So what happened when alias Milo approached the other person at the other side of the street?

A:

They had also a brief conversation.

Q:

For how long did that conversation last?

A:

Few seconds only.

Q:

What happened after that few seconds of conversation with the second person?

A:

I saw Milo handed something to the other male person.

Q:

In return what did that other person do?

A:

I saw him handed something to Milo.

Q:

After that, what else Milo do?

A:

Milo returned to Joy Decena and the confidential informant and handed something to Joy Decena.

Q:

What did you notice Decena do?

A:

After receiving that something from Milo, he immediately grabbed the hands of Milo.

Q:

What did you and your companions do immediately thereafter?

A:

We gave support to Decena.

x x x

Q:

Who arrested the second person?

A:

It was PO1 Nepales who accosted the accused and I was the one who frisked the accused.

x x x

Q:

Who was that person arrested by PO1 Nepales?

A:

Manuel Capanpan.

Q:

You said that Manuel Capanpan was frisked by Nepales?

A:

I was the one.

Q:

What happened after you frisked Capanpan?

A:

After frisking accused Manuel Capanpan, I instructed him to empty his pocket.

Q:

Did he comply?

A:

Yes sir.

Q:

What happened after that person complied with your instruction?

A:

And thereafter I confiscated from his possession from his right hand the buy bust money and another one piece heat sealed transparent plastic sachet containing undeterminable amount of white crystalline substance.

Q:

After that what else did you do if any [M]r. [W]itness?

A:

The evidence confiscated from the accused were marked.

Q:

You marked what evidence?

A:

The plastic sachet that I confiscated.

Q:

You confiscated from whom?

A:

From accused Manuel Capanpan.

Also, during cross-examination, the counsel for the defense attempted but failed to elicit answers inconsistent with the earlier statement of PO1 Decena in his Affidavit of Arrest. This further strengthened the latter's credibility. Thus:

Q:

And you were assigned as poseur-buyer, right?

A:

Yes, ma'am.

Q:

And you were given 100 peso-bill?

A:

Yes, ma'am.

Q:

You were the first person to whom this Chief first handed that 100 peso bill?

A:

Yes, ma'am.

Q:

And upon giving it to you, you put it in your pocket to be used as a buy-bust money, right?

A:

No, ma'am, I put my markings.

Q:

You put first your markings?

A:

Yes, ma'am. (Emphasis supplied)[20]

In addition, the admission of Nicart and Capanpan that they did not know any of the apprehending officers prior to the arrest ruled out any ill motive on the part of the members of the team to falsely testify against them, for

which reason, regularity in the performance of their duties is presumed. In *People v. Tion*, this Court elucidated:

x x x [T]here is likewise no showing that the police officers framed up Joey. Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies on the buy-bust operation deserve full faith and credit. Settled is the rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers, for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary suggesting ill motive on the part of the police officers or deviation from the regular performance of their duties. The records do not show any allegation of improper motive on the part of the buy-bust team. Thus, the presumption of regularity in the performance of duties of the police officers must be upheld.[21] (Emphasis supplied)

We also reject the contention of the defense that the expertise of the apprehending officers in drug operations affords them the benefit of concocting a story to make it appear that the appellants were caught in flagrante delicto. In citing *People v. Deocariza*,[22] where this Court declared that “[c]ourts must hence be extra vigilant in trying drug charges lest an innocent person is made to suffer the very severe penalties for drug offenses,”[23] the defense failed to note that the circumstances of that case are totally different from the present case. Unlike the straightforward and corroborated testimonies in the instant case, the Court found the lone testimony of the arresting officer in *Deocariza* seriously flawed. It observed:

x x x The sergeant testified that the accused was caught in the course of a buy-bust operation prepared and planned by Sgt. Bonete. The operation was apparently conceived upon receipt of a report from an undisclosed informant of rampant selling of illegal drugs at a basketball court beside the store where accused was arrested. In a notable departure from the ordinary or standard operating procedure of law enforcement agents in this respect, the “tip” from their informant did not identify any suspect, much less mention the name of the accused. The tip intimated only that illicit drug trafficking was rampant in San Juan, Molo Blvd. Nothing more. Yet no surveillance of that area was first conducted by the law enforcement agents before the actual “bust.” They had no suspect, not even a description of the suspect's face nor a name. Yet the testimony of Sgt. Deocampo clearly stated that as soon as the information was called in, the anti-narcotics agents immediately repaired to the area and conducted a buy-bust operation. We note also that the agents did not meet their informer at the designated place. Neither did their informer introduce the poseur-buyer to any suspect. It is unlikely for officers of the law to deal so cavalierly with “tips” about drug trafficking as not to even concern themselves with securing names and identities of alleged or probable suspects.[24]

It also bears emphasis that the law provides for safeguards against the conviction of innocent persons. The rule on chain of custody is one of them. In the case at bar, it is evident that the apprehending officers observed the requirement of unbroken chain of custody when it marked the heat-sealed plastic containers of the seized items with their initials in front of the accused, and transmitted the same to the laboratory for examination. These were in accordance with the following pronouncements of this Court:

Early this year, this Court expounded on the requirement of proof of the existence of the prohibited drugs. The prosecution has to establish the integrity of the seized article in that it had been preserved from the time the same was seized from the accused to the time it was presented in evidence at the trial.[25] Here, the prosecution established through PO1 Quimson’s testimony that he got the two sachets of white crystalline substances from Catentay and marked them with his initials on them, that would have been sufficient to ensure the integrity of the substances until they shall have reached the hands of the forensic chemist. (Emphasis supplied.)

The integrity of the seized articles would remain even if PO1 Quimson coursed their transmittal to the crime laboratory through the investigator-on-case since they had been sealed and marked. It does not matter that another person, probably a police courier would eventually deliver the sealed substances by hand to the crime

laboratory. But, unfortunately, because the prosecution did not present the forensic chemist who opened the sachets and examined the substances in them, the latter was unable to attest to the fact that the substances presented in court were the same substances he found positive for shabu.[26] (Emphasis supplied.)

Notably, the last requirement, that is, that the forensic chemist should attest to the fact that the substances produced in court are the same specimens she found positive for shabu, had been substantially complied with in the instant case because the prosecution and the defense stipulated that Exhibits “E-1” and “E-2” (the two heat-sealed transparent plastic sachets both containing 0.03 gram of white crystalline substance recovered from the accused), which were presented in court were the same substances subject of both Exhibit “B-1” (the request for laboratory examination dated July 3, 2003) and Exhibit “C-1” (Chemistry Report No. D-1271-03E issued by P/Sr. Insp. Annalee R. Forro), and that the same were regularly examined by the said officer.[27]

Finally, the defense posited that appellants were neither caught selling nor in possession of shabu as allegedly testified to by defense witness Lorna Guiban. There were, however, glaring inconsistencies between the testimony of Lorna Guiban and that of the appellants. First, both appellants maintained that they were arrested at 8:00 o’clock in the evening. On the other hand, Lorna Guiban testified that the incident took place at a later time around 10:30 in the evening. Second, Nicart, on cross examination, admitted that there were no adults within the vicinity of the store at the time of his arrest. Portions of his testimony read:

Q:

At the time, when you were arrested there were any other persons within the vicinity of the store (sic)?

A:

There were children?

[Q]:

How about adults?

[Q]:

So you were the only adult in the vicinity?

A:

Yes, sir.[28]

Lorna Guiban, on the other hand, claimed that she was more or less one (1) meter away from Nicart in front of the same store and was in fact ten (10) minutes ahead of him in that store. She testified:

Q:

How far were you from Milo Nicar?

A:

More or less one meter

x x x

Q:

Who arrived at the sari-sari store first, you or Camilo?

A:

Ako po.

Q:

How long have you been there when Camilo arrived?

A:

More or less 10 minutes.

Q:

What were you waiting for, x x x?

A:

Yong sukli at yong susi po. Kasi may hinihintay po akong tao.[29]

Surely, Nicart would have noticed the presence of Lorna Guiban had she been actually one (1) meter away from him.

Moreover, we note that Lorna Guiban could not render a full account of what transpired prior to Nicart's arrival at the store so that she may categorically state that no illegal transaction was completed on that fateful night. Thus:

Q:

Did you know Camilo where came from before he went to the sari-sari store (sic)?

A:

Nalaman ko na lang po na bumibili siya.

Q:

You did not notice where he came from?

A:

No, sir.

Q:

You did not even notice whom he was talking to before he went near you to the store?

A:

No, sir.[30]

All considered, the credible testimonies of the arresting officers and their positive identification of the appellants should prevail over the bare denial of the defense[31] nor the conflicting and incomplete testimonies of their witnesses. "Denial, if unsubstantiated by clear and convincing evidence, is negative and self-serving evidence which deserves no weight in law and cannot be given greater evidentiary value over the testimony of credible witnesses who testify on affirmative matters." [32]

Sale of shabu in a public place; sale to total strangers

As to the circumstances obtaining in the sale of shabu, we uphold the ruling of the Court of Appeals. Thus:

Accused-appellants further contend that the alleged drug peddling took place in a crowded and busy street. Thus, it was improbable and incredible for them to have boldly peddled the dangerous drug within the plain view of the entire community. We are not persuaded.

In the first place, the buy-bust operation took place at nighttime xxx. Thus, the illegal transaction could hardly be said to have been made in plain and public view. Besides, the prosecution witnesses described the place as “parang squatter.” It must be observed that in this kind of community, crimes committed brazenly and in broad daylight are not uncommon occurrences. Indeed, in the aforecited case of *People v.[.] Ahmad*, the Supreme Court held:

... This Court has taken notice that peddlers of illicit drugs have been known, with ever-increasing casualness and recklessness, to offer and sell for the right price their wares to anybody, be they strangers or not. The fact that the parties are in a public place and in the presence of other people may not always discourage them from pursuing their illegal trade as these factors may even serve to camouflage the same. Neither is it contrary to human experience for drug pushers to conduct the actual exchange of illegal drugs at their own homes. This may even prove to be a preference by drug dealers, for it gives them a sense of security as they would always have a place to seek refuge in or people to seek assistance from in case a transaction gets bungled up and they get pursued by authorities.[33] (Citations omitted; Emphasis supplied in the Court of Appeals’ decision.)

We here repeat that “we know that drug pushing has been committed with so much casualness even between total strangers.”[34]

Validity of a buy-bust operation in the absence of a prior surveillance

It is a well-settled rule that prior surveillance is not required, especially when the team is accompanied to the scene by the informant.[35]

The case of *People v. Quintero*[36] cited by the defense is not on all fours with the present case. In that case, the buy-bust team relied solely on the description given by the informant that the subject was “wearing white t-shirt, khaki pants and tennis shoes” and, without prior surveillance, proceeded to the area unaccompanied by the informant.[37] On the other hand, the informant in the case at bar accompanied the team to the area and introduced the accused to the poseur-buyer.

Penalties

Sec. 5, Article II of R.A. No. 9165 is clear that the quantity of shabu sold is not material in the determination of the corresponding penalty therefor. Regardless of the amount of the substance sold, a person found guilty of such unauthorized sale shall suffer the penalty of life imprisonment and a fine ranging from Five Hundred Thousand (P500,000.00) pesos to Ten Million Pesos (P10,000,000.00).[38]

On the other hand, under Section 11, Article II of the same Act, the crime of illegal possession of shabu weighing less than five (5) grams carries with it the penalty of imprisonment of twelve (12) years and one (1) day to twenty (20) years, and a fine ranging from Three Hundred Thousand Pesos (P300,000.00) to Four Hundred Thousand Pesos (P400,000.00).[39]

Likewise applicable in the determination of the appropriate penalty is the Indeterminate Sentence Law,[40] which provides that “if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.”[41]

Accordingly, with respect to the crime of illegal sale of shabu, due to the absence of any mitigating

circumstance,[42] the trial court correctly imposed the penalty of life imprisonment and a fine of Five Hundred Thousand Pesos (P500,000.00) as these are within the period and range of the fine prescribed by law.[43] As regards the crime of illegal possession of 0.3 gram of shabu, the penalty of imprisonment for an indeterminate term of twelve years (12) and one (1) day, as minimum, to sixteen (16) years, as maximum, and a fine of P300,000.00, which is within the range of the amount imposable therefor is likewise in order.[44]

WHEREFORE, the Decision dated 25 October 2007 of the Court of Appeals in CA-G.R. CR-HC No. 01901 is AFFIRMED, and, thereby the 11 May 2005 Joint Decision of the Regional Trial Court in Criminal Case Nos. 12625-D and 12626-D is hereby AFFIRMED in toto.

SO ORDERED.

Carpio, (Chairperson), Brion, Sereno, and Reyes, JJ., concur.

[1] Rollo, pp. 2-23. Penned by Court of Appeals Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Marina L. Buzon and Rosmari D. Carandang, concurring.

[2] CA rollo, pp. 14-20. Penned by Judge Librado S. Correa.

[3] Id. at 19-20.

[4] The accusatory portion of the Information dated 4 July 2003 in Criminal Case No. 12625-D reads:

On or about July 3, 2003 in Pasig City and within the jurisdiction of this Honorable Court, the above accused, conspiring and confederating together and both of them mutually helping and aiding one another, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO1 Joy Decena, a police poseur buyer, one (1) heat-sealed transparent plastic sachet, containing three (3) centigrams (0.03 gram) of white crystalline substance, which was found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Records, p. 1.

[5] The accusatory portion of the Information dated 4 July 2003 in Criminal Case No. 12626-D reads:

On or about July 3, 2003, in Pasig City, and within the jurisdiction of this Honorable Court, the above accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously possess one (1) heat-sealed transparent plastic sachet containing crystalline substance, which was found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Id. at 1.

[6] Id. at 7.

[7] Id.

[8] Rollo, p. 4. Decision dated 25 October 2007 of the Court of Appeals.

[9] Id. at 5-7.

[10] Id. at 7-9.

[11] Records in Criminal Case No. 12625-D, pp. 80-86. Joint Decision dated 11 May 2005.

[12] Id. at 85-86.

[13] Rollo, p. 23. Decision dated 25 October 2007.

[14] *People v. Bautista*, G.R. No. 177320, 22 February 2012 citing *People v. Naquita*, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 449; *People v. del Monte*, G.R. No. 179940, 23 April 2008, 552 SCRA 627, 637-638; *People v. Santiago*, G.R. No. 175326, 28 November 2007, 539 SCRA 198, 212.

[15] *Id.* citing *People v. Naquita*, *id.*

[16] *People v. Presas*, G.R. No. 182525, 2 March 2011 644 SCRA 443, 449 citing *People v. Pagkalinawan*, G.R. No. 184805, 3 March 2010, 615 SCRA 202 further citing *People v. Julian-Fernandez*, 423 Phil. 895, 910 (2001).

[17] *People v. Sabadlab*, G.R. No. 186392, 18 January 2012 citing *People v. Mayingque*, G.R. No. 179709, 6 July 2010, 624 SCRA 123, 140.

[18] TSN, 4 December 2003, pp. 7-11, 15.

[19] TSN, 23 February 2004, pp. 9-11.

[20] TSN, 4 December 2003, pp. 22-23.

[21] *People v. Tion*, G.R. No. 172092, 16 December 2009, 608 SCRA 299, 316-317.

[22] G.R. No. 103396, 3 March 1993, 219 SCRA 488.

[23] *Id.* at 500.

[24] *Id.* at 495-496.

[25] *People v. Catentay*, G.R. No. 183101, 6 July 2010, 624 SCRA 206, 211 citing *People of the Philippines v. Peralta*, G.R. No. 173472, 26 February 2010, 613 SCRA 763.

[26] *Id.* at 211-212.

[27] Rollo, p. 3. Decision dated 25 October 2007 of the Court of Appeals.

[28] TSN, 14 February 2005, p. 12.

[29] TSN, 21 June 2004, pp. 17, 25-26.

[30] *Id.* at 26.

[31] *People v. Bautista*, *supra* note 14.

[32] *People v. De Vera*, G.R. No. 112006, 7 July 1997, 275 SCRA 87, 93 citing *People v. Belga*, 258 SCRA 583, 594 (1996); *Abadilla v. Tabiliran, Jr.*, 249 SCRA 447 (1995).

[33] Rollo, pp. 20-21.

[34] *People v. Bautista*, *supra* note 14.

[35] *People v. Jandal*, G.R. No. 179936, 11 April 2012.

[36] G.R. No. Nos. 80315-16, 16 November 1994, 238 SCRA 173.

[37] *Id.* at 174.

[38] SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. – The penalty of life imprisonment to

death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

x x x

[39] SECTION 11. Possession of Dangerous Drugs. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.0) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

x x x

3. Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of x x x, methamphetamine hydrochloride or “shabu”, or xxx.

[40] Act No. 4103.

[41] Sec. 1, Act No. 4103, as amended.

[42] People v. Bautista, supra note 14.

[43] People v. Sabadlab, supra note 17.

[44] Id.

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