PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JASON SY, ACCUSED-APPELLANT.

G.R. No. 185284. June 22, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For Review under Rule 45 of the Revised Rules of Court is the Decision[1] dated 28 December 2007 and Resolution[2]dated 12 June 2008 of the Court of Appeals in CA-G.R. CR-HC No. 01108 entitled People of the Philippines v. Jason Sy which had affirmed the Decision[3]rendered by the Regional Trial Court (RTC) of San Fernando, Pampanga, Branch 47, in Criminal Case No. 11379, finding accused-appellant Jason Sy guilty beyond reasonable doubt for violating Section 15, Article III of Republic Act No. 6425, as amended.[4]

The following are the factual antecedents:

Accused-appellant Jason Sy was charged before the RTC of San Fernando, Pampanga, Branch 47, with illegal sale of shabu in violation of Section 15, Article III, of Republic Act No. 6425, as amended, in Criminal Case No. 11379. The Information dated 4 December 2000 contained the following allegations against him:

> That on or about the 3[rd] day of December, 2000, in the municipality of San Fernando, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, JASON SY, not having been previously licensed, authorized and/or permitted by law, did then and there willfully, unlawfully and feloniously sell one (1) carton box methamphetamine hydrochloride (shabu) weighing nine hundred eighty-seven and thirty-two thousand two hundred sixty-five hundred thousandth (987.32265) grams, a regulated drug, to a poseur-buyer.[5]

During arraignment, accused-appellant entered a plea of "NOT GUILTY."

At the trial, the prosecution presented as witnesses SPO3 Ricardo L. Amontos (member, Special Action Team), Police Inspector Maria Luisa David Gundran (Crime Laboratory Forensic Officer), PO2 Christian Ventura Trambulo and PO Senior Inspector Julieto Culili. The prosecution's versions of the facts are herein summarized by the RTC:

> The first witness to testify was PO3 Ricardo L. Amontos. He declared that he was a member of the Special Action Team 3[rd] CIDG, Camp Olivas, City of San Fernando, Pampanga. At about 4:00 o'clock in the afternoon of December 2, 2000, he reported to Camp Olivas on instructions of their team leader, Major Julian Caesar Mana. The latter told them that PO2 Christian Trambulo, together with a civilian informant, were negotiating a drug-deal with a certain person allegedly named Jason Sy. Consequently, at around 2:00 o'clock of the next morning, December 3, 2000, Major Mana conducted a briefing regarding a possible buy-bust operation. Those presents (sic) were Major Mana, Captain Julieto Culili and six (6) other police officers. He was designated as back-up of PO2 Trambulo. His duty was to assist in apprehending the suspect. After the briefing, they proceeded to the designated area at the Chowking Food Chain located at the Gapan-Olongapo Road, Dolores, City of San Fernando, Pampanga. The proceeded thereat in four (4) vehicles. Two vehicles were parked at the parking lot located in front of Chowking Fast Food. One used by PO2 Trambulo and the

> informer while the other was used by him and PO3 Vasquez. They were ten to fifteen meters away from Trambulo. The two other vehicles were parked along Gapan-Olongapo Road within viewing distance. The place was well-lighted. Lights emanated from the Chowking Fast Food and from a spotlight in the building beside the restaurant. Witness narrated further that at around 3:00 o'clock of the said morning, a color red Nissan Altima arrived at the parking lot. A male person, who was later identified as accused Jason Sy, alighted and walked towards the car where PO2 Trambulo was. Jason Sy and PO2 Trambulo talked for awhile. Then PO2 Trambulo removed his bull cap, which was the pre-arranged signal that the sale has already been consummated. As soon as he saw the signal, he immediately rushed to the place where PO2 Trambulo was standing. At this moment, PO2 Trambulo has already placed Jason Sy under arrest by holding the latter's hand. He recovered the Php5,000.00 marked money and the boodle money from the possession of Jason Sy and apprised him of his constitutional rights. He then turned over possession of the boodle money to PO2 Trambulo. Subsequently, they brought Jason Sy to their office at Camp Olivas. PO2 Trambulo turned over custody of Jason Sy, the buy-bust money and a transparent plastic packed inside of which was a paper bag with the label Jacob Fish cracker, allegedly containing shabu, to the police investigator. He also identified the join-affidavit (x x x) which he and PO2 Trambulo executed.
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> During cross-examination, he recounted that it was Major Mana who gave the P5,000.00 marked money to PO2 Trambulo but it was the latter who prepared the boodle money. At the time PO2 Trambulo removed his bull-cap, he, Amontos, was standing beside their car while Narciso Valdez was inside the vehicle. Their superior officers, Julius Caesar Mana and Julieto Culili, who were in two separate cars, later joined them. He informed Jason Sy of his constitutional rights in English because according to the informant Jason is a Chinese National. He asked Jason whether he understand (sic) English and the latter nodded his head.
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> Senior Inspector Maria Luisa Gundran-David, the Crime Laboratory forensic chemical officer, testified that she conducted a qualitative examination of the shabu specimen by weighing it. The specimen weighs 987.32263 grams. She also conducted a test reaction by Simons Reagent. There was a blue coloration indicating that the sample was positive for shabu. She next conducted a confirmatory test using the TLC method, the results of which confirmed her initial impressions. She found as follows:
> FINDINGS:
>
> Qualitative examination conducted on the above-stated specimen gave POSITIVE results to the tests for Methylamphetamine hydrochloride, a regulated drug.

During cross-examination she stressed that it was their technician, using an analytical balance, who weigh (sic) the shabu in her presence. She admitted that in this case, the money allegedly recovered or used in the buy-bust operation were not subjected to ultraviolet forensic examination.

The third witness for the prosecution was PO2 Christian Trambulo. He testified that the informant introduced him to Jason thru cellular phone. They conversed in Tagalog. They agreed that he was going to buy one (1) kilogram of methamphetamine hydrochloride or shabu for Php5,000. Captain Mana gave him ten (10) pieces of genuine Php500 bills x x x, the boodle money x x x, and placed the original money and the boodle money inside a blue paper bag x x x. He corroborated the testimony of Amontos of the meeting with the informant in their office, the preparations made by the team, the meeting with Jason Sy at the Chowking Restaurant, the details of the exchange, the transfer of the shabu from Jason to him and the receipt of the blue paper bag containing the boodle money by Jason, up to the arrest of the accused. He identified the Receipt of Property Seized, dated December 3, 2000 x x x; the booking sheet x x x; the request for physical examination x x x, the request for laboratory examination x x x and request for drug dependency test x x x and the Joint affidavit he executed with Amontos x x x.

During cross examination he disclosed that the team were (sic) composed of eight (8) members and one informant. He stressed that during the briefing[,] Captain Mana told them that the suspect was a Chinese person

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operating in the 3[rd] Regional area, within their immediate area of jurisdiction and he is fluent in Tagalog. He was able to prove this because he talked with accused personally over the phone. Accused informed him that he, Jason, will be arriving in a car. The informant told him that accused can speak English and Tagalog. The deal for a kilo of shabu, which had a street value of Php2 Million, was made in two to three minutes. He clarified that it was Major Mana who gave him the genuine and boodle money.

The third prosecution witness was Senior Inspector Julieto B. Culili, who corroborated the testimonies of Amontos and Trambulo. He disclosed that they propounded several questions at the confidential informant to determine the sincerity and truthfulness of the information given regarding the illegal drug activities of a certain Jason. He confirmed that they jumped off at around 2:00 a.m. the next morning towards Chowking Restaurant along Olongapo-Gapan Road, Dolores, San Fernando, Pampanga. He recalled the number of vehicles used, how a Chinese looking person alighted from same car and approached Trambulo, how he witnessed Trambulo removed (sic) his bull cap, how they arrested the accused. He investigated Jason Sy after he was arrested. He instructed his men to prepare their affidavit. He was the one who personally prepared the request for Laboratory Examination, Request for Physical Examination, the booking sheet, and other documents for the filing of the case. He instructed his men to bring accused for physical examination and for PO3 Trambulo to bring the evidence to the crime laboratory for examination. He recalled that his men turned over to his custody the one (1) kilo of shabu, the person of the accused and the car he used.

During cross-examination, defense counsel made reference to the case of People vs. Go Lip Tse, Criminal Case No. 98-0292 filed before the Regional Trial Court of Pasay City, where the witnessed (sic) participated in a buy-bust operation. Defense counsel confronted Culili with a decision of the court acquitting the accused therein because based on the video taken of the incident, it appears that accused Go was merely abducted and there was really no buy-bust. Culili also admitted that he was informed about a criminal case pending against him, Senior Inspector Mana, Medel Pono, Inspector Carlito Dimalanta and Francisco Villaroman for violation of Section 19 of RA 7659 for planting of evidence in order that a person may be charged for violation of RA 7659.[6]

The defense sought to establish its "hulidap" theory through the testimonies of the accused-appellant Jason Sy, Henry Ang (helper of acused-appellant), Armando Escala (a taxi driver), Jose Pepito (jeepney driver), Allan Castro (guard at Chowking along Olongapo-Gapan Road), Andrea Co (neighbor of accused-appellant) and Co Kim Eng. The defense presented an entirely different scenario, with the following version of the facts:

> The accused is a businessman engaged in the business of trading in ready-to-wear (RTW) clothes, among others. He delivers his goods in Tutuban, Divisoria, Baclaran and other commercial areas in Metro Manila. He maintains a commercial stall on the 3[rd] Floor of the Tutuban Shopping Mall and he goes there almost everyday from his residence at 14 Polyteach Street, University Hills, Caloocan City. This has been his daily routine until that fateful day in December 2000.
>
> Accused (sic) life will change on 2 December 2000. On that day, at dawn, accused was illegally abducted while in his car, stalled in momentary traffic, along EDSA in Caloocan City, in form of Max Restaurant and about a hundred (100) meters to the Bonifacio Monument. A witness, Jose Pepito, saw two (2) persons commandeered (sic) accused's car, forced him to move to the back seat, and sped away with him. Accused was initially brought to a place which looks like a cemetery. While the accused could not name the cemetery, he recalled that it was near a toll gate going to the North Expressway.
>
> At the cemetery, his vehicle was ransacked and his person searched, divesting him and his car of his sample RTW products, cash amounting to P4,000.00 to P5,000.00 and his cellular phone, among others. Thereafter, he was brought to his house at Polyteach Street, University Hills, Caloocan City, where the place was likewise pillaged by these persons numbering about ten (10) by that time. They took all his stock merchandise or inventory and carted them away to their own vehicles. Fifteen (15) to twenty (20) minutes later they left with

the accused in his car, and in two (2) other cars. The accused had no idea where they were going.

While on board his car, he was asked to call his relatives through his mobile phone. But not having any relatives in the Philippines, he instead called up his mother's friend whom he addresses as "Auntie Kim Ying." He was instructed by his abductors to ask his auntie to raise One Million Five Hundred Thousand (P1.5M) Pesos in ransom. The phone was immediately taken from him after delivering the message. Thereafter, he was blindfolded and they kept on driving, making only a short stop to take lunch. It was getting dark when they finally arrived at their destination. The accused had no idea where they were at that time.

Unknown to the accused then and while he was being driven by his abductors, Mrs. Co Kim Eng (Kim Ying), upon receiving the call from the accused, had frantically raised the amount of P1.5 Million Peson from her relatives, business associates and friends. She then contacted Mrs. Andrea Co ("Aning" "Annie") in the evening of 2 December 2003 to deliver the money to accused's abductors.

Mrs. Andrea Co, fearful but owed a debt of gratitude to accused as her supplier on credit of various RTW clothing, agreed to undertake the delivery of the money. She accepted the money and a cellular phone, which phone, according to Mrs. Co Kim Eng, was the one being contacted by accused's kidnappers. While Annie Co was waiting for a taxi cab, the said phone rang. The caller was inquiring whether she already had the money, but Andrea Co insisted on talking to the accused first to be assured of his identity and well-being. Thereafter, she was instructed by the caller to proceed to San Fernando City, Pampanga, to find the Total Gas Station there and to wait for the next instruction by phone. She did by hiring a taxi cab to go to San Fernando City.

At about midnight of the same day of 2 December 2000, accused was handed a mobile phone. His other friend whom he calls "Auntie Aning" (Andrea Co), was on the other end of the line confirming his identity and his safety. The mobile phone was immediately taken from him after some short exchanges. He was then left alone in a room without window, "no everything," but guarded by two of his abductors.

Meanwhile, Andrea Co arrived at the Total Gas Station in San Fernando City, Pampanga and waited there for about 30 minutes. Thereafter, she received another call, instructing her to proceed to the dark corner of the street fronting a McDonald's Restaurant along McArthur Highway. Upon arrival at the designated place, she was ordered to alight from the taxi cab and to bring the money with her. She noticed an L-300 Mitsubishi van slowly parking behind them. Thereafter, several persons alighted from the van and took the money from her. She noticed several persons inside the van carrying Armalite rifles when its sliding door was opened. She was then instructed to go back to the Total Gas Station to wait for the accused.

Back at the Total Gas Station, she received another call ordering them to leave the place. While she complied and left the gas station, she asked the taxi cab driver to wait again at the San Fernando toll gate's entrance to the expressway. While there she tried to call accused's kidnappers. The line was dead. They then proceeded to Manila via the expressway route. She received one last call from accused's abductors assuring her that Jason Sy was with them except that they were taking the "San Simon" route to Manila. She never heard from them anymore until she arrived home at about 4:00 o'clock in the morning of 3 December 2003.

Before dawn the following day, (3 December 2000), (sic) the accused was taken from his holding cell and brought to an office which he learned only later as inside Camp Olivas in San Fernando, Pampanga. Unknown to him, a case of drug trafficking had been prepared by his abductors (now obviously, police officers) for filing before the prosecutor's office on that day. (During the trial, accused recognized P/Inspector Julieto Culili as one of his abductors, when Culili finally testified in court as the prosecution's last witness).

The arresting officers would later claim that the accused was arrested in a "buy-bust operation" at the parking space of Chowking Restaurant at San Fernando City along the Olongapo-Gapan Road at about 2:00 o'clock in the morning of "3 December 2003." Obviously, the police officers had moved the date from 2 December to 3 December 2003 to prevent a charge of arbitrary detention exceeding the maximum thirty-six (36) hours to deliver a detained person to the proper judicial authorities.[7]

After trial on the merits, RTC rendered its Decision convicting accused-appellant of the crime charged in Criminal Case No. 11379, the dispositive portion of which reads:

> WHEREFORE, this Court finds the accused Jason Sy guilty beyond reasonable doubt of the crime of violation of Section 15 of R.A. 6425, as amended by R.A. 7659, involving 987.32265 grams of shabu and sentenced (sic) him to suffer the penalty of reclusion perpetua.[8]

In finding him guilty beyond reasonable doubt, the trial court gave full faith and credence to the testimonies of the prosecution witnesses, noting that they testified in a clear and straightforward manner.

On motion for reconsideration, the trial court affirmed its earlier ruling of conviction.

Subsequently, accused-appellant filed a Notice of Appeal[9] with the RTC on 7 March 2005, claiming that the RTC Decision and Order were contrary to law. The Court of Appeals docketed the case as CA-G.R. CR-H.C. No. 01108.

Agreeing with the factual findings of the trial court, the Court of Appeals gave more weight to the prosecution's claim that the entrapment operation in fact took place at the parking area outside Chowking Restaurant along Olongapo-Gapan road. In resolving the appeal in its Decision dated 28 December 2007, the Court of Appeals sustained accused-appellant's conviction, viz:

> IN VIEW WHEREOF, the impugned Decision of the trial court in Criminal Case No. 11379 convicting accused-appellant JASON SY for violation of Section 15, Article III of R.A. 6425, as amended, is AFFIRMED, subject to the MODIFICATION that in addition to the penalty of reclusion perpetua imposed by the trial court, the penalty of fine in the amount of Five Hundred Thousand pesos (P500,000.00) is likewise imposed on accused-appellant.[10]

Thereafter, accused-appellant sought recourse to this Court via Notice of Appeal[11] filed with the Court of Appeals on 23 June 2008.

The parties were informed to file their respective supplemental briefs, if they so desire, within thirty (30) days from notice. Accused-appellant filed his supplemental brief while the prosecution adopted its appellee's brief.

The defense raises several issues -

- VERSION OF [THE] DEFENSE MORE WORTHY OF CREDENCE AND BELIEF THAN THAT OF THE PROSECUTION.

- ESTABLISHED DOCTRINE THAT NEGATIVE TESTIMONY CANNOT PREVAIL OVER POSITIVE ASSERTION NOT AN ABSOLUTE RULE AND ADMITS OF EXCEPTIONS.

- FAILURE TO PRESENT THE CONFIDENTIAL INFORMANT IS FATAL TO THE CAUSE OF THE PROSECUTION.

- BUY-BUST MONEY NOT DUSTED WITH FLUORESCENT POWDER AND POLICE OPERATION NOT DULY BLOTTERED TELLTALE SIGNS FOR IRREGULARTIES IN THE CONDUCT OF THE ALLEGED BUY-BUST OPERATION.[12]

For resolution of this Court is the sole issue of whether the prosecution discharged its burden to support accused-appellant's guilt beyond reasonable doubt for the crime charged.

After a painstaking review of the records of the case, we find no merit in the appeal.

An accused in criminal prosecutions is to be presumed innocent until his guilt is proven beyond reasonable

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doubt.[13] This constitutional guarantee cannot be overthrown unless the prosecution has established by such quantum of evidence sufficient to overcome this presumption of innocence and prove that a crime was committed and that the accused is guilty thereof. Under our Constitution, an accused enjoys the presumption of innocence. And this presumption prevails over the presumption of regularity of the performance of official duty.

This Court is not unmindful of the anomalous practices of some law enforcers in drug-related cases such as planting evidence, physical torture and extortion to extract information from suspected drug dealers or even to harass civilians. Vigilance and caution in trying drug-related cases must be exercised lest an innocent person be made to suffer the unusually severe penalties for drug offenses. This Court reiterates that the presumption of regularity does not, by itself, constitute proof of guilt beyond reasonable doubt. It cannot, by itself, support a judgment of conviction. Clearly, the prosecution must be able to stand or fall on its evidence, for it cannot simply draw strength from the weakness of the evidence for the accused.

In dealing with prosecutions for the illegal sale of drugs, what is material is proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited or regulated drug as evidence.[14] Jurisprudence has firmly entrenched the following as elements in the crime of illegal sale of prohibited drugs: (1) the accused sold and delivered a prohibited drug to another, and (2) he knew that what he had sold and delivered was a dangerous drug.[15]

In the instant case, the Court finds that the testimonies of the prosecution witnesses adequately establish these elements. The trial court's assessment of the credibility of witnesses must be accorded the highest respect, because it had the advantage of observing their demeanor and was thus in a better position to discern if they were telling the truth or not.[16] The Court has no reason to doubt the assessment of the trial court regarding the credibility of the prosecution and defense witnesses. The testimony of the buy-bust team established than an entrapment operation against accused-appellant was legitimately and successfully carried out on 3 December 2000, where accused-appellant was caught selling 987.32265 grams of methamphetamine hydrochloride or shabu. A scrutiny of the accounts of PO3 Ricardo Amontos, PO2 Christian Trambulo and Senior Inspector Culili, detailing how PO2 Trambulo negotiated, thru cellphone, with accused-appellant on the purchase price and the amount of shabu to be delivered, actual delivery of the shabu, the giving to the accused the marked and boodle money and the subsequent arrest of the accused show that these were testified to in a clear, straightforward manner. Their testimonies are further bolstered by the physical evidence consisting of the shabu presented as evidence before the court.

The case at bar presents a predicament considering that the RTC found evidence to support that the police officers exacted money from accused-appellant after his arrest in order to facilitate his immediate discharge. In the same case, however, the RTC still found accused-appellant guilty of the crime charged, based on the totality of evidence adduced by the prosecution. The Court of Appeals, however, did not give credence to accused-appellant's allegations of extortion.

Aware of the findings of the RTC on this matter and its subsequent ruling convicting accused-appellant, a conviction later on affirmed by the Court of Appeals, this Court finds accused-appellant guilty beyond reasonable doubt of the crime charged. The RTC Decision found evidence to support that the police officers exacted money from accused-appellant after his arrest in order to facilitate his immediate discharge. This notwithstanding, we examined the entirety of the prosecution evidence and find the same sufficient to convict accused-appellant. In a similar case, People v. So,[17] this Court has ruled that the police extortion does not necessarily negate the fact that accused-appellant committed the offense.

Accused-appellant claims that the failure of the prosecution to present the informer in court only demonstrates

that the informer is fictitious. According to the defense, this gives rise to the presumption that his testimony would be adverse if produced. In People v. Doria,[18] this Court expounded on the rule in determining whether the informer should be presented for a successful prosecution in cases involving buy-bust operations, to wit:

> [E]xcept when the appellant vehemently denies selling prohibited drugs and there are material consistencies in the testimonies of the arresting officers, or there are reasons to believe that the arresting officers had motives to testify falsely against the appellant, or that only the informant was the poseur-buyer who actually witnessed the entire transaction, the testimony of the informant may be dispensed with as it will be merely corroborative of the apprehending officers' eyewitness testimonies. There is no need to present the informant in court where the sale was actually witnessed and adequately proved by prosecution witnesses.

None of the foregoing circumstances are present in the case at bar. As shown from the evidence adduced by the prosecution, the sale was actually witnessed and proven by the prosecution witnesses.

Equally without merit is accused-appellant's contention that the failure of the operatives to record the buy-bust in the police blotter and their failure to apply fluorescent powder to the buy-bust money are signs of irregularities. Firstly, a prior blotter report is neither indispensable nor required in buy-bust operations.[19] Secondly, there is no rule requiring that the police must apply fluorescent powder to the buy-bust money to prove the commission of the offense. The failure of the police operatives to use fluorescent powder on the boodle money is not an indication that the buy-bust operation did not take place. The use of initials to mark the money used in the buy-bust operation has been accepted by this Court.[20] Similar to a prior blotter report, the use of fluorescent powder is not indispensable in such operations, for the prerogative to choose the manner of marking the money to be used in the buy-bust operation belongs exclusively to the prosecution.

The defense casts doubt as to whether the prosecution was able to maintain the chain of custody of the evidence, or the shabu, from the time of its alleged retrieval from him, to the time it was presented in court.

The same has no merit. The integrity of the chain of custody of the evidence was not compromised. This Court has explained in People v. Del Monte[21] that what is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. The existence of the dangerous drug is a condition sine qua non for conviction for the illegal sale of dangerous drugs.[22] SPO2 Trambulo, the poseur-buyer, testified that upon confiscation of the box with the shabu, he affixed his initials CVT and the date of confiscation of the box. Thereafter, he placed the evidence in his car until they reached the CIDG office, whereupon he showed the same to P/Inspector Culili and the evidence was inventoried as well. Culili then instructed him to bring the evidence to the crime laboratory for examination.

When the duty officer received the evidence at the crime laboratory, Senior Inspector Maria Luisa Gundran-David conducted the laboratory examination.

What is material is the delivery of the prohibited drug to the buyer which, in this case, was sufficiently proved by the prosecution through the testimony of the poseur-buyer and the presentation of the article itself before the court.

The Court finds no material inconsistencies in the testimonies of the prosecution witnesses. The fact that Mana, Culili and Tupil were shown to have committed abduction with extortion in the Go Lip Tse case does not mean that they committed the same in this operation, nor does it negate the fact that accused-appellant did not commit the offense.

Finally, as found by the trial court, the testimonies of the defense witnesses have lose ends and are not as plausible as the defense would want to make it appear.

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Between the positive identification of accused by Trambulo, who acted as poseur-buyer, and accused-appellant's denial, greater weight must be given to the positive testimony of Trambulo.

Under Section 15 of Article III of Republic Act No. 6425, as amended by Republic Act No. 7659, the sale of regulated drugs without proper authority is penalized with reclusion perpetua to death and a fine ranging from P500,000.00 to P10,000,000. Section 20 of Republic Act No. 6425 provides that the penalty in Section 15, Article III shall be applied if the dangerous drug involved is, in the case of shabu or methamphetamine hydrochloride, 200 grams or more.

Section 15 of Republic Act No. 6425, as amended by Republic Act No. 7659, provides:

> SEC. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs. — The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand persos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug.
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> Notwithstanding the provisions of Section 20 of this Act to the contrary, if the victim of the offense is a minor, or should a regulated drug involved in any offense under this Section be the proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed.

Corollary thereto, Section 20 of the same law, as amended, states:

> SEC. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or instruments of the Crime. — The penalties for offenses under Sections 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:
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> - 40 grams or more of opium;
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> - 40 grams or more of morphine;
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> - 200 grams or more of shabu or methylamphetamine hydrochloride;
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> - 40 grams or more of heroin;
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> - 750 grams or more of indian hemp or marijuana;
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> - 50 grams or more of marijuana resin or marijuana resin oil;
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> - 40 grams or more of cocaine or cocaine hydrochloride; or
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> - In the case of other dangerous drugs, the quantity of which is far beyond therapeutic requirements, as determined and promulgated by the Dangerous Drugs Board, after public consultations/hearings conducted for the purpose.
>
> Otherwise, if the quantity involved is less than the foregoing quantities, the penalty shall range from prision correccional to reclusion perpetua, depending upon the quantity.

From the foregoing provisions, the penalty for the sale of regulated drugs is based, as a rule, on the quantity thereof. The exception is where the victim is a minor or where the regulated drug involved is the proximate cause of the death of the victim. In such cases, the maximum penalty prescribed in Section 15, i.e., death, shall be imposed, regardless of the quantity of the prohibited drugs involved. This circumstance is absent here.

Thus, the penalty to be imposed is based on the quantity of the regulated drug involved.

Accused-appellant sold the police operatives a substance weighing 987.32265 grams, which amount is more than the minimum of 200 grams required by law for the imposition of either reclusion perpetua or, if there be

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aggravating circumstances, the death penalty.

This Court recognizes the suppletory application of the rules on penalties in the Revised Penal Code to Republic Act No. 6425 after the amendment of the latter by Republic Act No. 7659 on 31 December 1993. Considering there are no mitigating or aggravating circumstances attending accused-appellant's violation of the law, and the aggregate quantity of shabu seized was 987.32265 grams, reclusion perpetua is the penalty that may be imposed, pursuant to the provisions of the Revised Penal Code.

Thus, the penalty imposed by the RTC, as modified by the Court of Appeals is proper.

WHEREFORE, premises considered, the Court of Appeals Decision dated 28 December 2007 and Resolution dated 12 June 2008 in CA-G.R. CR-HC No. 01108, affirming the Decision promulgated on 19 May 2004 by the Regional Trial Court of San Fernando, Pampanga, Branch 47, in Criminal Case No. 11379, finding accused-appellant JASON SY guilty beyond reasonable doubt of unlawfully selling 987.32265 grams of methamphetamine hydrochloride or shabu, in violation of Section 15, Article III of Republic Act No. 6425, as amended, and imposing upon him the penalty of reclusion perpetua, and a fine of Five Hundred Thousand Pesos (P500,000.00) is hereby AFFIRMED. Let the Secretary of the Department of Interior and Local Government and the Director General of the Philippine National Police be furnished with a copy of this decision for appropriate action concerning the alleged extortion committed by the police operatives against accused-appellant.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio,[*] Velasco, Jr., and Peralta, JJ., concur.

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* Associate Justice Antonio T. Carpio was designated to sit as additional member replacing Associate Justice Antonio Eduardo B. Nachura per Raffle dated 11 May 2009.

[1] Penned by Associate Justice Ricardo R. Rosario with Associate Justices Rebecca De Guia-Salvador and Magdangal M. De Leon, concurring; CA rollo, pp. 176-186.

[2] Id. at 201.

[3] Penned by Judge Edgar Y. Chua; id. at 114-131.

[4] Comprehensive Dangerous Drugs Act of 2002.

[5] CA rollo, p. 13.

[6] Id. at 114-118.

[7] Id. at 81-85.

[8] Id. at 131.

[9] Records, p. 52.

[10] CA rollo, p. 185.

[11] Pursuant to Section 13, Rule 124 of the Revised Rules on Criminal Procedure, as amended by A.M. No. 00-5-03-SC; CA rollo, pp. 202-203.

[12] Rollo, pp. 20-32.

[13] 1987 Constitution, Article III, Section 14(12).

[14] People v. Caparas, 391 Phil. 271, 280 (2000).

[15] People v. Lacerna, 344 Phil. 100, 121 (1997); People v. Manzano, G.R. No. 86555, 16 November 1993, 227 SCRA 780, 785.

[16] People v. Pacis, 434 Phil. 148, 158 (2002), citing People v. Ruedas, G.R. No. 83372, 27 February 1991, 194 SCRA 553, 561.

[17] 421 Phil. 929, 942 (2001).

[18] 361 Phil. 595, 622 (1999).

[19] People v. Zheng Bai Hui, 393 Phil. 68, 135 (2000).

[20] Id.

[21] G.R. No. 179940, 23 April 2008, 552 SCRA 627, 636-637.

[22] People v. Mendiola, G.R. No. 110778, 4 August 1994, 235 SCRA 116, 120.

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