

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ZENAIDA QUEBRAL Y MATEO, FERNANDO LOPEZ Y AMBUS AND MICHAEL SALVADOR Y JORNACION, APPELLANTS.

G.R. No. 185379. November 27, 2009

Ponente: ABAD, J.

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ABAD, J.:

This case is about the requirement of authentication of seized prohibited drugs and the conduct of warrantless search of a suspect by the roadside based on probable cause.

The Facts and the Case

The provincial prosecutor of Bulacan charged the accused Zenaida Quebral, Eusebio Quebral, Fernando Lopez, and Michael Salvador before the Regional Trial Court (RTC) of Malolos, Bulacan, in Criminal Case 3331-M-2002 with violation of Section 5, Article II of Republic Act 9165 or the Comprehensive Dangerous Drugs Act of 2002.

At the trial of this case, the prosecution presented PO3 Cecilio Galvez of the police force of Balagtas, Bulacan, who testified that at 7:00 p.m. on September 7, 2002, the Chief of the Drug Enforcement Unit called him and other police officers to a briefing regarding a police informer's report that two men and a woman on board an owner type jeep with a specific plate number would deliver shabu, a prohibited drug, on the following day at a Petron Gasoline Station in Balagtas to Michael Salvador, a drug pusher in the police watch list.[1]

After a short briefing on the morning of September 8, 2002, PO3 Galvez and six other police officers went to the North Luzon Expressway Balagtas Exit at Burol 2[nd], watching out for the owner type jeep mentioned. They got there at around 7:45 a.m. Since the informer did not give the exact time of the delivery of shabu, the police officers staked out the expressway exit until late afternoon. At around 4:00 p.m., such a jeep, bearing the reported plate number and with two men and a woman on board, came out of the Balagtas Exit. Galvez identified the two men as accused Eusebio Quebral, who drove the jeep, and accused-appellant Fernando Lopez and the woman as accused-appellant Zenaida Quebral. The police trailed the jeep as it proceeded to the town proper of Balagtas and entered a Petron gas station along the McArthur Highway.

After a few minutes, a Tamaraw FX arrived from which accused-appellant Michael Salvador alighted. He walked towards the jeep and talked to accused Zenaida Quebral, who then handed a white envelope to him. On seeing this, PO3 Galvez, who was watching from about 15 meters in a tinted car, signaled his back-up team to move. The police officers alighted from their vehicles and surrounded the jeep. Galvez took the envelope from Michael, opened it, and saw five plastic sachets containing white crystalline substance which he believed was shabu.

The Bulacan Provincial Crime Laboratory Office later examined the substance and submitted a chemistry report,[2] stating that it was shabu or methylamphetamine hydrochloride, a prohibited drug.

Appellants denied having committed the crime, claiming only that PO3 Galvez and his fellow police officers merely framed them up.

On March 18, 2004 the RTC found all four accused guilty of the crime charged and sentenced them to suffer the penalty of life imprisonment and to pay a fine of P5 million.

On May 20, 2005, while the Court of Appeals (CA) was reviewing the case on appeal in CA-G.R. CR-HC 01997, accused Eusebio Quebral died, prompting it to dismiss the case against him. On February 13, 2008, the CA rendered judgment,^[3] entirely affirming the decision of the RTC. The remaining accused appealed to this Court.

The Issues Presented

Appellants basically raise two issues for this Court's resolution:

1. Whether or not the CA erred in not excluding the evidence of the seized shabu on the ground that, having illegally arrested the accused, the police officers' subsequent search of their persons incident to such arrest was also illegal; and
2. Whether or not the prosecution presented ample proof of appellants' guilt beyond reasonable doubt.

The Rulings of the Court

One. The accused claim that since the police did not have valid ground to arrest them, their subsequent search of them was illegal and the evidence of the seized shabu cannot be admitted in evidence against them. With the exclusion of the seized drugs, there would not be proof that they were passing them.

The accused-appellants invoke the rule that a person may be arrested even without a warrant only a) if he is caught in the act of committing a crime, b) if he has just committed a crime and the arresting officer pursued him, or c) if he escaped from a legal confinement.^[4] But in the first two instances, the officer must have personal knowledge of the facts underlying the arrest. The target person's observable acts must clearly spell a crime. If no crime is evident from those acts, no valid arrest can be made. An informant whispering to the police officer's ear that the person walking or standing on the street has committed or is committing a crime will not do. The arresting officer must himself perceive the manifestations of a crime.^[5]

The accused-appellants point out that in this case the police officers cannot say that what they saw from a distance constituted a crime. Two men and a woman arrived on board a jeep at the gas station. A third man approached the jeep, spoke to the woman and she handed him a folded white envelope that appeared to contain something. These acts do not constitute a crime per se. Consequently, their arrest at this point was illegal. The subsequent search of their persons, not being based on a valid arrest, was itself illegal.

But, actually, it was more of a search preceding an arrest. The police officers had information that two men and a woman on board an owner type jeep would arrive in Balagtas and hand over a consignment of shabu at a gas station in town to a known drug dealer whose name was on the police watch list. When these things unfolded before their eyes as they watched from a distance, the police came down on those persons and searched them, resulting in the discovery and seizure of a quantity of shabu in their possession. In such a case, the search is a valid search justifying the arrest that came after it.

This Court held in *People v. Bagista*^[6] that the NARCOM officers had probable cause to stop and search all vehicles coming from the north at Acop, Tublay, Benguet, in view of the confidential information they received from their regular informant that a woman fitting the description of the accused would be bringing marijuana from up north. They likewise had probable cause to search her belongings since she fitted the given description. In such

a case, the warrantless search was valid and, consequently, any evidence obtained from it is admissible against the accused.

As the lower court aptly put it in this case, the law enforcers already had an inkling of the personal circumstances of the persons they were looking for and the criminal act they were about to commit. That these circumstances played out in their presence supplied probable cause for the search. The police acted on reasonable ground of suspicion or belief supported by circumstances sufficiently strong in themselves to warrant a cautious man to believe that a crime has been committed or is about to be committed.[7] Since the seized shabu resulted from a valid search, it is admissible in evidence against the accused.

It would have been impractical for the police to apply with the appropriate court for a search warrant since their suspicion found factual support only at the moment accused Eusebio Quebral, Fernando Lopez, and Zenaida Quebral rendezvoused with Michael Salvador at the Petron gas station for the hand over of the drugs. An immediate search was warranted since they would have gone away by the time the police could apply for a search warrant.[8] The drugs could be easily transported and concealed with impunity.[9]

The case of *People v. Aminnudin*[10] cannot apply to this case. In *Aminnudin*, the informant gave the police the name and description of the person who would be coming down from a ship the following day carrying a shipment of drugs. In such a case, the Court held that the police had ample time to seek a search warrant against the named person so they could validly search his luggage. In the present case, all the information the police had about the persons in possession of the prohibited drugs was that they were two men and a woman on board an owner type jeep. A search warrant issued against such persons could be used by the police to harass practically anyone.

Two. The accused-appellants point out that the testimony of PO3 Galvez cannot support their conviction since it does not bear the corroboration of the other officers involved in the police operation against them. But the failure of these other officers did not weaken the prosecution evidence. The lone declaration of an eyewitness is sufficient to convict if, as in this case, the court finds the same credible.[11] Credibility goes into a person's integrity, to the fact that he is worthy of belief,[12] and does not come with the number of witnesses.[13]

The accused-appellants also point out that, since the chemist who examined the seized substance did not testify in court, the prosecution was unable to establish the indispensable element of *corpus delicti*. But this claim is unmeritorious. This Court has held that the non-presentation of the forensic chemist in illegal drug cases is an insufficient cause for acquittal.[14] The *corpus delicti* in dangerous drugs cases constitutes the dangerous drug itself. This means that proof beyond doubt of the identity of the prohibited drug is essential.[15]

Besides, *corpus delicti* has nothing to do with the testimony of the laboratory analyst. In fact, this Court has ruled that the report of an official forensic chemist regarding a recovered prohibited drug enjoys the presumption of regularity in its preparation. Corollarily, under Section 44 of Rule 130, Revised Rules of Court, entries in official records made in the performance of official duty are *prima facie* evidence of the facts they state.[16] Therefore, the report of Forensic Chemical Officer Sta. Maria that the five plastic sachets PO3 Galvez gave to her for examination contained shabu is conclusive in the absence of evidence proving the contrary. At any rate, as the CA pointed out, the defense agreed during trial to dispense with the testimony of the chemist and stipulated on his findings.[17]

Parenthetically, the accused-appellants raised their objection to the police chemist's report only on appeal when such objection should have been made when the prosecution offered the same in evidence. They may, thus, be considered to have waived their objection to such report.[18] The familiar rule in this jurisdiction is that the inadmissibility of certain documents, if not urged before the court below, cannot be raised for the first time on

appeal.[19]

The accused-appellants take advantage of PO3 Galvez's testimony that they conducted their operation on September 2, 2002, the date that the informant gave them, and that the following day was September 8, 2002[20] to attack his credibility. But inconsistency is trivial and appears to be a pure mistake. Lapses like this even enhance the truthfulness of the testimony of a witness as they erase any suspicion of a rehearsed declaration.[21] Besides, PO3 Galvez corrected this mistake on cross-examination. He said that their informant gave them his tip at 7:00 p.m. of September 7, 2002.[22]

Finally, the accused-appellants contend that the prosecution evidence failed to show compliance with the requirements of law for handling evidence. But, as has been held in a recent case,[23] failure to comply strictly with those requirements will not render the seizure of the prohibited drugs invalid for so long as the integrity and evidentiary value of the confiscated items are properly preserved by the apprehending officers. Besides, the accused-appellants did not raise it before the trial court, hence, they cannot raise it for the first time on appeal.[24]

The CA and the RTC gave credence to the testimony of PO3 Galvez and this Court finds no reason for disagreement. His narration was clear and candid. On the other hand, the accused-appellants' claim of a "frame-up" was easy to concoct and so has been the common line of defense in most cases involving violations of the Dangerous Drugs Act.[25] Such defense requires strong and convincing evidence which the accused-appellants failed to satisfy.

As the trial court correctly observed, the accused-appellants failed to provide any reason why of all the people plying through the roads they had taken, the police chose to frame them up for the crime. They also failed to explain why the police would plant such huge amount of shabu if a small quantity would be sufficient to send them to jail.[26] No arresting officer would plant such quantity of shabu solely to incriminate the accused who have not been shown to be of good financial standing.[27]

WHEREFORE, the Court DENIES the appeal and AFFIRMS the decision of the Court of Appeals dated February 13, 2008 and of the Regional Trial Court of Malolos dated March 18, 2004.

SO ORDERED.

Carpio, Leonardo-De Castro, Brion, and Del Castillo, JJ., concur.

[1] Exhibit "D," records, p. 114.

[2] Exhibit "C," id. at 116.

[3] Rollo, p. 2.

[4] Revised Rules on Criminal Procedure, Rule 113, Section 5.

[5] *People v. Doria*, 361 Phil. 595, 645 (1999), Concurring Opinion of J. Panganiban.

[6] G.R. No. 86218, September 18, 1992, 214 SCRA 63.

[7] *People v. Aruta*, 351 Phil. 868, 881 (1998).

[8] *People v. Court of First Instance of Rizal, Br. IX, Quezon City*, 189 Phil. 75, 90 (1980); citing *Caroll v. United States*, 267 US 131 (1924).

[9] *Caballes v. Court of Appeals*, 424 Phil. 263, 278 (2002).

- [10] G.R. No. L-74869, July 6, 1988, 163 SCRA 402.
- [11] *People of the Philippines v. Coscos*, 424 Phil. 886, 900 (2002).
- [12] *Civil Service Commission v. Belagan*, 483 Phil. 601, 616 (2004).
- [13] *People v. Hayahay*, 345 Phil. 69, 81 (1997).
- [14] *People v. Cervantes*, G.R. No. 181494, March 17, 2009, 581 SCRA 762, 781; citing *People v. Bandang*, G.R. No. 151314, June 3, 2004, 430 SCRA 570, 586-587.
- [15] *Malillin v. People*, G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632.
- [16] *People v. Bandang*, *supra* note 14; citing *People v. Chua-Uy*, 384 Phil. 70, 93-94 (2000).
- [17] TSN, February 21, 2003, p. 4.
- [18] *Republic of the Philippines v. Court of Appeals*, 402 Phil. 498, 509 (2001); citing *Chua v. Court of Appeals*, G.R. No. 109840, January 21, 1999, 301 SCRA 356, 362.
- [19] *People v. Bandang*, *supra* note 14, at 587.
- [20] TSN, February 7, 2003, pp. 2-3.
- [21] *People v. Verano*, 332 Phil. 599, 611 (1996).
- [22] TSN, February 7, 2003, p. 7.
- [23] *People v. Daria*, G.R. No. 186138, September 11, 2009; citing *People v. Agulay*, G.R. No. 181747, September 26, 2008, 566 SCRA 571, 595.
- [24] *People v. Sta. Maria*, G.R. No. 171019, February 23, 2007, 516 SCRA 621, 634.
- [25] *People v. Velasco*, 322 Phil. 146, 153 (1996).
- [26] CA rollo, p. 25.
- [27] *People v. Uy*, 392 Phil. 773, 795 (2000).

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