

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DONALD VASQUEZ Y SANDIGAN @ “DON,” ACCUSED-APPELLANT.

G.R. No. 200304. January 15, 2014

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

The case before this Court is an appeal from the Decision[1] dated May 31, 2011 of the Court of Appeals in CA-G.R. CR.-H.C. No. 04201. Said decision affirmed with modification the Joint Decision[2] dated August 6, 2009 of the Regional Trial Court (RTC) of Manila, Branch 41, in Criminal Case Nos. 98-164174 and 98-164175, which convicted the appellant Donald Vasquez y Sandigan of the crimes of illegal sale and illegal possession of regulated drugs under Sections 15 and 16, Article III of Republic Act No. 6425, as amended, otherwise known as the Dangerous Drugs Act of 1972.

Criminal Case No. 98-164174 stemmed from a charge of violation of Section 15, Article III of Republic Act No. 6425, as amended,[3] which was allegedly committed as follows:

That on or about April 3, 1998 in the City of Manila, Philippines, the said accused not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there [willfully], unlawfully and knowingly sell or offer for sale, dispense, deliver, transport or distribute 45.46 grams, 44.27 grams, 45.34 grams, 51.45 grams, 41.32 grams and 20.14 grams or with a total weight of TWO HUNDRED FORTY-SEVEN POINT NINETY-EIGHT (247.98) grams contained in six (6) transparent plastic sachets of white crystalline substance known as “Shabu” containing methamphetamine hydrochloride, which is a regulated drug.[4]

Criminal Case No. 98-164175, on the other hand, arose from an alleged violation of Section 16, Article III of Republic Act No. 6425, as amended,[5] which was said to be committed in this manner:

That on or about April 3, 1998 in the City of Manila, Philippines, the said accused without being authorized by law to possess or use any regulated drug, did then and there [willfully], unlawfully and knowingly have in his possession and under his custody and control 1.61 grams, 0.58 grams, 0.29 grams, 0.09 [grams], 0.10 grams, 0.17 grams, 0.21 grams, 0.24 grams, 0.12 grams, 0.06 grams, 0.04 grams, [0].51 grams or all with a total weight of four point zero three grams of white crystalline substance contained in twelve (12) transparent plastic sachets known as “SHABU” containing methamphetamine hydrochloride, a regulated drug, without the corresponding license or prescription thereof.[6]

Initially, Criminal Case No. 98-164175 was raffled to the RTC of Manila, Branch 23. Upon motion[7] of the appellant, however, said case was allowed to be consolidated with Criminal Case No. 98-164174 in the RTC of Manila, Branch 41.[8] On arraignment, the appellant pleaded not guilty to both charges.[9] The pre-trial conference of the cases was held on July 27, 1998, but the same was terminated without the parties entering into any stipulation of facts.[10]

During the trial of the cases, the prosecution presented the testimonies of the following witnesses: (1) Police

Inspector (P/Insp.) Jean Fajardo,[11] (2) P/Insp. Marilyn Dequito,[12] and (3) Police Officer (PO) 2 Christian Trambulo.[13] Thereafter, the defense presented in court the testimonies of: (1) the appellant Donald Vasquez y Sandigan,[14] (2) Angelina Arejado,[15] and (3) Anatolia Caredo.[16]

The Prosecution's Case

The prosecution's version of the events was primarily drawn from the testimonies of P/Insp. Fajardo and PO2 Trambulo.

P/Insp. Fajardo testified that in the morning of April 1, 1998, a confidential informant went to their office and reported that a certain Donald Vasquez was engaged in illegal drug activity. This alias Don supposedly claimed that he was an employee of the National Bureau of Investigation (NBI). According to the informant, alias Don promised him a good commission if he (the informant) would present a potential buyer of drugs. P/Insp. Fajardo relayed the information to Police Superintendent (P/Supt.) Pepito Domantay, the commanding officer of their office. P/Insp. Fajardo was then instructed to form a team and conduct a possible buy-bust against alias Don. She formed a team on the same day, which consisted of herself, PO2 Trambulo, PO1 Agravante, PO1 Pedrosa, PO1 Sisteno, and PO1 De la Rosa. P/Insp. Fajardo was the team leader. With the help of the informant, she was able to set up a meeting with alias Don. The meeting was to be held at around 9:00 p.m. on that day at Cindy's Restaurant located in Welcome Rotonda. She was only supposed to meet alias Don that night but she decided to bring the team along for security reasons.[17]

At about 9:00 p.m. on even date, P/Insp. Fajardo and her team went to the meeting place with the informant. The members of her team positioned themselves strategically inside the restaurant. The informant introduced P/Insp. Fajardo to alias Don as the buyer of shabu. She asked alias Don if he was indeed an employee of the NBI and he replied in the affirmative. They agreed to close the deal wherein she would buy 250 grams of shabu for P250,000.00. They also agreed to meet the following day at Cindy's Restaurant around 10:00 to 11:00 p.m.[18]

In the evening of April 2, 1998, P/Insp. Fajardo and her team went back to Cindy's Restaurant. Alias Don was already waiting for her outside the establishment when she arrived. He asked for the money and she replied that she had the money with her. She brought five genuine P500.00 bills, which were inserted on top of five bundles of play money to make it appear that she had P250,000.00 with her. After she showed the money to alias Don, he suggested that they go to a more secure place. They agreed for the sale to take place at around 1:30 to 2:00 a.m. on April 3, 1998 in front of alias Don's apartment at 765 Valdez St., Sampaloc, Manila. The team proceeded to the Western Police District (WPD) Station along U.N. Avenue for coordination. Afterwards, the team held their final briefing before they proceeded to the target area. They agreed that the pre-arranged signal was for P/Insp. Fajardo to scratch her hair, which would signify that the deal had been consummated and the rest of the team would rush up to the scene. The team then travelled to the address given by alias Don.[19]

When the team arrived at the target area around 1:15 a.m. on April 3, 1998, the two vehicles they used were parked along the corner of the street. P/Insp. Fajardo and the informant walked towards the apartment of alias Don and stood in front of the apartment gate. Around 1:45 a.m., alias Don came out of the apartment with a male companion. Alias Don demanded to see the money, but P/Insp. Fajardo told him that she wanted to see the drugs first. Alias Don gave her the big brown envelope he was carrying and she checked the contents thereof. Inside she found a plastic sachet, about 10x8 inches in size, which contained white crystalline substance. After checking the contents of the envelope, she assumed that the same was indeed shabu. She then gave the buy-bust money to alias Don and scratched her hair to signal the rest of the team to rush to the scene. P/Insp. Fajardo identified herself as a narcotics agent. The two suspects tried to flee but PO2 Trambulo was able to stop them from doing so. P/Insp. Fajardo took custody of the shabu. When she asked alias Don if the latter had authority to possess or sell shabu,

he replied in the negative. P/Insp. Fajardo put her initials “JSF” on the genuine P500.00 bills below the name of Benigno Aquino. After the arrest of the two suspects, the buy-bust team brought them to the police station. The suspects’ rights were read to them and they were subsequently booked.[20]

P/Insp. Fajardo said that she found out that alias Don was in fact the appellant Donald Vasquez. She learned of his name when he brought out his NBI ID while he was being booked. P/Insp. Fajardo also learned that the name of the appellant’s companion was Reynaldo Siscar, who was also arrested and brought to the police station. P/Insp. Fajardo explained that after she gave the buy-bust money to the appellant, the latter handed the same to Siscar who was present the entire time the sale was being consummated. Upon receiving the buy-bust money placed inside a green plastic bag, Siscar looked at the contents thereof and uttered “okey na to.” P/Insp. Fajardo marked the drug specimen and brought the same to the Crime Laboratory. She was accompanied there by PO2 Trambulo and PO1 Agravante. She handed over the drug specimen to PO1 Agravante who then turned it over to P/Insp. Taturan, the forensic chemist on duty. The police officers previously weighed the drug specimen. Thereafter, the personnel at the crime laboratory weighed the specimen again. P/Insp. Fajardo and her team waited for the results of the laboratory examination.[21]

P/Insp. Fajardo further testified that the six plastic bags of shabu seized during the buy-bust operation were actually contained in a self-sealing plastic envelope placed inside a brown envelope. When the brown envelope was confiscated from the appellant, she put her initials “JSF” therein and signed it. She noticed that there were markings on the envelope that read “DD-93-1303 re Antonio Roxas y Sunga” but she did not bother to check out what they were for or who made them. When she interrogated the appellant about the brown envelope, she found out that the same was submitted as evidence to the NBI Crime Laboratory. She also learned that the appellant worked as a Laboratory Aide at the NBI Crime Laboratory. She identified in court the six plastic sachets of drugs that her team recovered, which sachets she also initialed and signed. P/Insp. Fajardo also stated that after the appellant was arrested, PO2 Trambulo conducted a body search on the two suspects. The search yielded 12 more plastic sachets of drugs from the appellant. The 12 sachets were varied in sizes and were contained in a white envelope. P/Insp. Fajardo placed her initials and signature on the envelope. As to the 12 sachets, the same were initialed by P/Insp. Fajardo and signed by PO2 Trambulo.[22]

The testimony of PO2 Trambulo corroborated that of P/Insp. Fajardo’s. PO2 Trambulo testified that in the morning of April 1, 1998, a confidential informant reported to them about the illegal drug activities of alias Don. P/Supt. Domantay then tasked P/Insp. Fajardo to form a buy-bust team. P/Insp. Fajardo was able to set up a meeting with alias Don at Cindy’s Restaurant in Welcome Rotonda, Quezon City. At that meeting, PO2 Trambulo saw P/Insp. Fajardo talk to alias Don. P/Insp. Fajardo later told the members of the team that she convinced alias Don that she was a good buyer of shabu and the latter demanded a second meeting to see the money. After the initial meeting, P/Insp. Fajardo briefed P/Supt. Domantay about what happened. PO2 Trambulo stated that on April 2, 1998, P/Insp. Fajardo was furnished with five genuine P500.00 bills together with the boodle play money. P/Insp. Fajardo placed her initials in the genuine bills below the name “Benigno Aquino, Jr.” Afterwards, the team left the office. When they arrived at Cindy’s Restaurant past 10:00 p.m., alias Don was waiting outside. P/Insp. Fajardo showed the boodle money to alias Don and after some time, they parted ways. P/Insp. Fajardo later told the team that alias Don decided that the drug deal would take place in front of alias Don’s rented apartment on Valdez St., Sampaloc, Manila. After an hour, the team went to Valdez St. to familiarize themselves with the area. They then proceeded to the WPD station to coordinate their operation. Thereafter, P/Insp. Fajardo conducted a final briefing wherein PO2 Trambulo was designated as the immediate back-up arresting officer. The agreed pre-arranged signal was for P/Insp. Fajardo to scratch her hair to indicate the consummation of the deal. PO2 Trambulo was to signal the same to the other members of the team.[23]

The buy-bust team went to the target area at around 1:30 to 2:00 a.m. on April 3, 1998. P/Insp. Fajardo and the informant walked towards the direction of alias Don's apartment, while PO2 Trambulo positioned himself near a parked jeepney about 15 to 20 meters from the apartment gate. The rest of the team parked their vehicles at the street perpendicular to Valdez St. Later, alias Don went out of the gate with another person. PO2 Trambulo saw alias Don gesturing to P/Insp. Fajardo as if asking for something but P/Insp. Fajardo gestured that she wanted to see something first. Alias Don handed P/Insp. Fajardo a big brown envelope, which the latter opened. P/Insp. Fajardo then handed to alias Don a green plastic bag containing the buy-bust money and gave the pre-arranged signal. When PO2 Trambulo saw this, he immediately summoned the rest of the team and rushed to the suspects. He was able to recover the buy-bust money from alias Don's male companion. Upon frisking alias Don, PO2 Trambulo retrieved 12 pieces of plastic sachets of suspected drugs. The same were placed inside a white envelope that was tucked inside alias Don's waist. PO2 Trambulo marked each of the 12 sachets with his initials "CVT" and the date. The police officers then informed the suspects of their rights and they proceeded to the police headquarters in Fort Bonifacio.[24]

As regards the brown envelope that alias Don handed to P/Insp. Fajardo, the latter retained possession thereof. The envelope contained six pieces of plastic bags of white crystalline substance. When they got back to their office, the team reported the progress of their operation to P/Supt. Domantay. The arrested suspects were booked and the required documentations were prepared. Among such documents was the Request for Laboratory Examination of the drug specimens seized. PO2 Trambulo said that he was the one who brought the said request to the PNP Crime Laboratory, along with the drug specimens.[25]

P/Insp. Marilyn Dequito, the forensic chemist, testified on the results of her examination of the drug specimens seized in this case. She explained that P/Insp. Macario Taduran, Jr. initially examined the drug specimens but the latter was already assigned to another office. The results of the examination of P/Insp. Taduran were laid down in Physical Science Report No. D-1071-98. P/Insp. Dequito first studied the data contained in Physical Science Report No. D-1071-98 and retrieved the same from their office. She entered that fact in their logbook RD-17-98. She then weighed the drug specimens and examined the white crystalline substance from each of the plastic sachets. She examined first the specimens marked as "A-1," "A-2," "A-3," "A-4," "A-5" and "A-6." P/Insp. Dequito's examination revealed that the white crystalline substances were positive for methamphetamine hydrochloride.[26] She also examined the contents of 12 heat-sealed transparent plastic sachets that also contained crystalline substances. The 12 plastic sachets were marked "B-1" to "B-12." The white crystalline powder inside the 12 plastic sachets also tested positive for methamphetamine hydrochloride. P/Insp. Dequito's findings were contained in Physical Science Report No. RD-17-98.[27]

The prosecution, thereafter, adduced the following object and documentary evidence: (1) photocopies of the five original P500.00 bills[28] used as buy-bust money (Exhibits A-E); (2) Request for Laboratory Examination[29] dated April 3, 1998 (Exhibit F); (3) Initial Laboratory Report[30] dated April 3, 1998, stating that the specimen submitted for examination tested positive for methylamphetamine hydrochloride (Exhibit G); (4) Court Order[31] dated September 2, 1998 (Exhibit H); (5) Physical Sciences Report No. D-1071-98[32] dated April 3, 1998 (Exhibit I); (6) Drug specimens A-1 to A-6 (Exhibits J-O); (7) Big brown envelope (Exhibit P); (8) Small white envelope (Exhibit Q); (9) Drug specimens B-1 to B-12 (Exhibits R-CC); (10) Physical Sciences Report No. RD-17-98[33] (Exhibit DD); (11) Joint Affidavit of Arrest[34] (Exhibit EE); (12) Play money (Exhibit FF); (13) Booking Sheet and Arrest Report[35] (Exhibit GG); (14) Request for Medical Examination[36] (Exhibit HH); (15) Medico Legal Slip[37] of Donald Vasquez (Exhibit II); and (16) Medico Legal Slip[38] of Reynaldo Siscar (Exhibit JJ).

The Defense's Case

As expected, the defense belied the prosecution's version of events. The appellant's brief[39] before the Court of Appeals provides a concise summary of the defense's counter-statement of facts. According to the defense:

Donald Vasquez was a regular employee of the NBI, working as a Laboratory Aide II at the NBI Forensics Chemistry Division. His duties at the time included being a subpoena clerk, receiving chemistry cases as well as requests from different police agencies to have their specimens examined by the chemist. He also rendered day and night duties, and during regular office hours and in the absence of the laboratory technician, he would weigh the specimens. As subpoena clerk, he would receive subpoenas from the trial courts. When there is no chemist, he would get a Special Order to testify, or bring the drug specimens, to the courts.

On 1 April 1998, Donald Vasquez took his examination in Managerial Statistics between 6:00 to 9:00 o'clock p.m. Thereafter, he took a jeepney and alighted at Stop and Shop at Quiapo. From there, he took a tricycle to his house, arriving at 9:45 o'clock that evening, where he saw Reynaldo Siscar and Sonny San Diego, the latter a confidential informant of the narcotics agents.

On 3 April 1998, at 1:45 o'clock in the morning, Donald's household help, Anatolia Caredo, who had just arrived from Antipolo that time, was eating while Donald was asleep. She heard a knock on the door. Reynaldo Siscar opened the door and thereafter two (2) men entered, poking guns at Reynaldo. They were followed by three (3) others. The door to Donald's room was kicked down and they entered his room. Donald, hearing noise, woke up to see P./Insp. Fajardo pointing a gun at him. He saw that there were six (6) policemen searching his room, picking up what they could get. One of them opened a cabinet and got drug specimens in [Donald's] possession in relation to his work as a laboratory aide. The drugs came from two (2) cases and marked as DD-93-1303 owned by Antonio Roxas, and DD-96-5392 owned by SPO4 Emiliano Anonas. The drug specimen contained in the envelope marked as DD-93-1303 was intended for presentation on 3 April 1998. Aside from the drug specimens, the policemen also took his jewelry, a VHS player, and his wallet containing P2,530.00.

Angelina Arejado, Donald's neighbor, witnessed the policemen entering the apartment and apprehending Donald and Reynaldo from the apartment terrace.[40] (Citations omitted.)

The defense then offered the following evidence: (1) NBI Disposition Form[41] dated April 3, 1998 (Exhibit 1); (2) Sworn Statement of Idabel Bernabe Pagulayan[42] (Exhibit 2); (3) Photocopy of the buy-bust money[43] (Exhibit 3); (4) List of Hearings[44] attended by Donald Vasquez (Exhibit 4); (5) Authorization Letter[45] prepared by Acting Deputy Director Arturo A. Figueras dated March 27, 1998 (Exhibit 5); and (6) List of Evidence[46] taken by Donald Vasquez from 1996-1998 (Exhibit 6).

The Decision of the RTC

On August 6, 2009, the RTC convicted the appellant of the crimes charged. The RTC gave more credence to the prosecution's evidence given that the presumption of regularity in the performance of official duty on the part of the police officers was not overcome. The trial court held that the appellant did not present any evidence that would show that the police officers in this case were impelled by an evil motive to charge him of very serious crimes and falsely testify against him. Also, the trial court noted that the volume of the shabu involved in this case was considerable, i.e., 247.98 grams and 4.03 grams for illegal sale and illegal possession, respectively. To the mind of the trial court, such fact helped to dispel the possibility that the drug specimens seized were merely planted by the police officers. Furthermore, the RTC ruled that the positive testimonies of the police officers regarding the illegal drug peddling activities of the appellant prevailed over the latter's bare denials.

Assuming for the sake of argument that the appellant was merely framed up by the police, the trial court pointed out that:

[T]he accused should have reported the said incident to the proper authorities, or asked help from his Acting

Chief [Idabel] Pagulayan from the NBI to testify and identify in Court the xerox copy of the Disposition Form which she issued to the accused and the Affidavit dated April 17, 1998 (xerox copy) executed by her or from Mr. Arturo A. Figueras, Acting Deputy Director, Technical Services of the NBI to testify and identify the Letter issued by the said Acting Deputy Director in order to corroborate and strengthen his testimony that he was indeed authorized to keep in his custody the said shabu to be presented or turned over to the Court as evidence, and he should have filed the proper charges against those police officers who were responsible for such act. But the accused did not even bother to do the same. Further, the pieces of evidence (Disposition Form, Affidavit of [Idabel] Pagulayan and Letter dated March 27, 1998 issued by Acting Deputy Director) presented by the accused in Court could not be given weight and credence considering that the said persons were not presented in Court to identify the said documents and that the prosecution has no opportunity to cross-examine the same, thus, it has no probative value.[47]

The trial court, thus, decreed:

WHEREFORE, judgment is hereby rendered as follows:

1. In Crim. Case No. 98-164174, finding accused, DONALD VASQUEZ y SANDIGAN @ "DON" guilty beyond reasonable doubt of the crime of Violation of Sec. 15, Art. III in Relation to Sec. 2 (e), (f), (m), (o), Art. I of R.A. No. 6425 and hereby sentences him to suffer the penalty of reclusion perpetua and a fine of P5,000,000.00; and
2. In Crim. Case No. 98-164175, judgment is hereby rendered finding the accused, DONALD VASQUEZ y SANDIGAN @ "DON" guilty beyond reasonable doubt of the crime of Violation of Sec. 16, Art. III in Relation to Sec. 2 (e-2) Art. I of R.A. 6425 as Amended by Batas Pambansa Bilang 179 and hereby sentences him to suffer the penalty of SIX (6) MONTHS and ONE (1) DAY to FOUR (4) YEARS and a fine of FOUR THOUSAND (P4,000.00) PESOS.

The subject shabu (247.98 grams and 4.03 grams, respectively) are hereby forfeited in favor of the government and the Branch Clerk of Court is hereby directed to deliver and/or cause the delivery of the said shabu to the Philippine Drug Enforcement Agency (PDEA), upon the finality of this Decision.[48]

The Judgment of the Court of Appeals

On appeal,[49] the Court of Appeals affirmed the conviction of the appellant. The appellate court ruled that the prosecution sufficiently proved the elements of the crimes of illegal sale and illegal possession of shabu. The testimony of P/Insp. Fajardo on the conduct of the buy-bust operation was found to be clear and categorical. As the appellant failed to adduce any evidence that tended to prove any ill motive on the part of the police officers to falsely charge the appellant, the Court of Appeals held that the presumption of regularity in the performance of official duties on the part of the police officers had not been controverted in this case.

The dispositive portion of the Court of Appeals decision stated:

WHEREFORE, premises considered, the instant appeal is hereby DENIED. The August 6, 2009 Decision of the Regional Trial Court, Branch 41 of the City of Manila in Criminal Cases No. 98-164174-75, finding appellant Donald Vasquez y Sandigan guilty beyond reasonable doubt for the crimes of Violation of Section 15 and Section 16, Article III of Republic Act No. 6425 is AFFIRMED with the MODIFICATION that in Criminal Case No. 98-164175, appellant is hereby sentenced to suffer the indeterminate penalty of six months of arresto mayor, as minimum, to two years, four months and one day of prision correccional in its medium period, as maximum.[50]

The Ruling of the Court

The appellant appealed his case to this Court to once again impugn his conviction on two grounds: (1) the

purported illegality of the search and the ensuing arrest done by the police officers and (2) his supposed authority to possess the illegal drugs seized from him.[51] He argues that the police officers did not have a search warrant or a warrant of arrest at the time he was arrested. This occurred despite the fact that the police officers allegedly had ample time to secure a warrant of arrest against him. Inasmuch as his arrest was illegal, the appellant avers that the evidence obtained as a result thereof was inadmissible in court. As the corpus delicti of the crime was rendered inadmissible, the appellant posits that his guilt was not proven beyond reasonable doubt. Appellant further insists that he was able to prove that he was authorized to keep the drug specimens in his custody, given that he was an employee of the NBI Forensic Chemistry Laboratory who was tasked with the duty to bring drug specimens in court.

After an assiduous review of the evidence adduced by both parties to this case, we resolve to deny this appeal.

At the outset, the Court rules that the appellant can no longer assail the validity of his arrest. We reiterated in *People v. Tampus*[52] that “[a]ny objection, defect or irregularity attending an arrest must be made before the accused enters his plea on arraignment. Having failed to move for the quashing of the information against them before their arraignment, appellants are now estopped from questioning the legality of their arrest. Any irregularity was cured upon their voluntary submission to the trial court’s jurisdiction.”[53] Be that as it may, the fact of the matter is that the appellant was caught in flagrante delicto of selling illegal drugs to an undercover police officer in a buy-bust operation. His arrest, thus, falls within the ambit of Section 5(a), Rule 113[54] of the Revised Rules on Criminal Procedure when an arrest made without warrant is deemed lawful.

Having established the validity of the warrantless arrest in this case, the Court holds that the warrantless seizure of the illegal drugs from the appellant is likewise valid. We held in *People v. Cabugatan*[55] that:

This interdiction against warrantless searches and seizures, however, is not absolute and such warrantless searches and seizures have long been deemed permissible by jurisprudence in instances of (1) search of moving vehicles, (2) seizure in plain view, (3) customs searches, (4) waiver or consented searches, (5) stop and frisk situations (Terry search), and search incidental to a lawful arrest. The last includes a valid warrantless arrest, for, while as a rule, an arrest is considered legitimate [if] effected with a valid warrant of arrest, the Rules of Court recognize permissible warrantless arrest, to wit: (1) arrest in flagrante delicto, (2) arrest effected in hot pursuit, and (3) arrest of escaped prisoners. (Citation omitted.)

Thus, the appellant cannot seek exculpation by invoking belatedly the invalidity of his arrest and the subsequent search upon his person.

We now rule on the substantive matters.

To secure a conviction for the crime of illegal sale of regulated or prohibited drugs, the following elements should be satisfactorily proven: (1) the identity of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.[56] As held in *People v. Chua Tan Lee*,[57] in a prosecution of illegal sale of drugs, “what is material is proof that the accused peddled illicit drugs, coupled with the presentation in court of the corpus delicti.”

On the other hand, the elements of illegal possession of drugs are: (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 possessed the said drug.[58]

In the case at bar, the testimonies of P/Insp. Fajardo and PO2 Trambulo established that a buy-bust operation was legitimately carried out in the wee hours of April 3, 1998 to entrap the appellant. P/Insp. Fajardo, the poseur-buyer, positively identified the appellant as the one who sold to her six plastic bags of shabu that were contained in a big brown envelope for the price of P250,000.00. She likewise identified the six plastic bags of

shabu, which contained the markings she placed thereon after the same were seized from the appellant. When subjected to laboratory examination, the white crystalline powder contained in the plastic bags tested positive for shabu. We find that P/Insp. Fajardo's testimony on the events that transpired during the conduct of the buy-bust operation was detailed and straightforward. She was also consistent and unwavering in her narration even in the face of the opposing counsel's cross-examination.

Apart from her description of the events that led to the exchange of the drug specimens seized and the buy-bust money, P/Insp. Fajardo further testified as to the recovery from the appellant of another 12 pieces of plastic sachets of shabu. After the latter was arrested, P/Insp. Fajardo stated that PO2 Trambulo conducted a body search on the appellant. This search resulted to the confiscation of 12 more plastic sachets, the contents of which also tested positive for shabu. The testimony of P/Insp. Fajardo was amply corroborated by PO2 Trambulo, whose own account dovetailed the former's narration of events. Both police officers also identified in court the twelve plastic sachets of shabu that were confiscated from the appellant.

In *People v. Ting Uy*,^[59] the Court explains that "credence shall be given to the narration of the incident by prosecution witnesses especially so when they are police officers who are presumed to have performed their duties in a regular manner, unless there be evidence to the contrary." In the instant case, the appellant failed to ascribe, much less satisfactorily prove, any improper motive on the part of the prosecution witnesses as to why they would falsely incriminate him. The appellant himself even testified that, not only did he not have any misunderstanding with P/Insp. Fajardo and PO2 Trambulo prior to his arrest, he in fact did not know them at all.^[60] In the absence of evidence of such ill motive, none is presumed to exist.^[61]

The records of this case are also silent as to any measures undertaken by the appellant to criminally or administratively charge the police officers herein for falsely framing him up for selling and possessing illegal drugs. Such a move would not have been a daunting task for the appellant under the circumstances. Being a regular employee of the NBI, the appellant could have easily sought the help of his immediate supervisors and/or the chief of his office to extricate him from his predicament. Instead, what the appellant offered in evidence were mere photocopies of documents that supposedly showed that he was authorized to keep drug specimens in his custody. That the original documents and the testimonies of the signatories thereof were not at all presented in court did nothing to help the appellant's case. To the mind of the Court, the evidence offered by the appellant failed to persuade amid the positive and categorical testimonies of the arresting officers that the appellant was caught red-handed selling and possessing a considerable amount of prohibited drugs on the night of the buy-bust operation.

It is apropos to reiterate here that where there is no showing that the trial court overlooked or misinterpreted some material facts or that it gravely abused its discretion, the Court will not disturb the trial court's assessment of the facts and the credibility of the witnesses since the RTC was in a better position to assess and weigh the evidence presented during trial. Settled too is the rule that the factual findings of the appellate court sustaining those of the trial court are binding on this Court, unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable error.^[62]

On the basis of the foregoing, the Court is convinced that the prosecution was able to establish the guilt of the appellant of the crimes charged.

The Penalties

Anent the proper imposable penalties, Section 15 and Section 16, Article III, in relation to Section 20(3) of Republic Act No. 6425, as amended by Republic Act No. 7659, state:

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 pesos 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.

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.

SEC. 16. Possession or Use of Regulated Drugs. - The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos 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. 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:

1. 40 grams or more of opium;
2. 40 grams or more of morphine;
3. 200 grams or more of shabu or methylamphetamine hydrochloride;
4. 40 grams or more of heroin;
5. 750 grams or more of Indian hemp or marijuana;
6. 50 grams or more of marijuana resin or marijuana resin oil;
7. 40 grams or more of cocaine or cocaine hydrochloride; or
8. 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 prison correccional to reclusion perpetua depending upon the quantity. (Emphases supplied.)

In Criminal Case No. 98-164174 involving the crime of illegal sale of regulated drugs, the appellant was found to have sold to the poseur-buyer in this case a total of 247.98 grams of shabu, which amount is more than the minimum of 200 grams required by the law for the imposition of either reclusion perpetua or, if there be aggravating circumstances, the death penalty.

Pertinently, Article 63[63] of the Revised Penal Code mandates that when the law prescribes a penalty composed of two indivisible penalties and there are neither mitigating nor aggravating circumstances in the commission of the crime, the lesser penalty shall be applied. Thus, in this case, considering that no mitigating or aggravating circumstances attended the appellant's violation of Section 15, Article III of Republic Act No. 6425, as amended, the Court of Appeals correctly affirmed the trial court's imposition of reclusion perpetua. The P5,000,000.00 fine imposed by the RTC on the appellant is also in accord with Section 15, Article III of Republic Act No. 6425, as amended.

As to the charge of illegal possession of regulated drugs in Criminal Case No. 98-164175, the Court of Appeals properly invoked our ruling in *People v. Tira*[64] in determining the proper imposable penalty. Indeed, we held in *Tira* that:

Under Section 16, Article III of Rep. Act No. 6425, as amended, the imposable penalty of possession of a regulated drug, less than 200 grams, in this case, shabu, is prision correccional to reclusion perpetua. Based on the quantity of the regulated drug subject of the offense, the imposable penalty shall be as follows:

QUANTITY

IMPOSABLE PENALTY

Less than one (1) gram to 49.25 grams

prision correccional

49.26 grams to 98.50 grams

prision mayor

98.51 grams to 147.75 grams

reclusion temporal

147.76 grams to 199 grams

reclusion perpetua (Emphases ours.)

Given that the additional 12 plastic sachets of shabu found in the possession of the appellant amounted to 4.03 grams, the imposable penalty for the crime is prision correccional. Applying the Indeterminate Sentence Law, there being no aggravating or mitigating circumstance in this case, the imposable penalty on the appellant should be the indeterminate sentence of six months of arresto mayor, as minimum, to four years and two months of prision correccional, as maximum. The penalty imposed by the Court of Appeals, thus, falls within the range of the proper imposable penalty. In Criminal Case No. 98-164175, no fine is imposable considering that in Republic Act No. 6425, as amended, a fine can be imposed as a conjunctive penalty only if the penalty is reclusion perpetua to death.[65]

Incidentally, the Court notes that both parties in this case admitted that the appellant was a regular employee of the NBI Forensics Chemistry Division. Such fact, however, cannot be taken into consideration to increase the penalties in this case to the maximum, in accordance with Section 24 of Republic Act No. 6425, as amended.[66] Such a special aggravating circumstance, i.e., one that which arises under special conditions to increase the penalty for the offense to its maximum period,[67] was not alleged and charged in the informations. Thus, the same was properly disregarded by the lower courts.

All told, the Court finds no reason to overturn the conviction of the appellant.

WHEREFORE, the Court of Appeals Decision dated May 31, 2011 in CA-G.R. CR.-H.C. No. 04201 is AFFIRMED. No costs.

SO ORDERED.

Sereno, C.J., (Chairperson), Bersamin, Del Castillo,[*] and Villarama, Jr., JJ. concur.

[*] Per Raffle dated December 5, 2012.

[1] Rollo, pp. 2-23; penned by Associate Justice Elihu A. Ybañez with Associate Justices Bienvenido L. Reyes

(now a member of this Court) and Estela M. Perlas-Bernabe (now a member of this Court), concurring.

[2] CA Rollo, pp. 39-47; penned by Acting Presiding Judge Teresa P. Soriaso.

[3] Section 15 of Republic Act No. 6425 as amended by Section 14 of Republic Act No. 7659 (An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Code, as amended, Other Special Penal Laws, and for Other Purposes), states:

“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 pesos 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.

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 therein provided shall be imposed.”

[4] Records, p. 1.

[5] Section 16 of Republic Act No. 6425 as amended by Republic Act No. 7659, provides:

“SEC. 16. Possession or Use of Regulated Drugs. - The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos 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.”

[6] Records, p. 16.

[7] Id. at 28-29.

[8] Id. at 62.

[9] Id. at 19, 52.

[10] Id. at 69.

[11] TSN, August 11, 1998; TSN, October 6, 1998.

[12] TSN, September 15, 1998.

[13] TSN, December 2, 1999.

[14] TSN, September 20, 2001; TSN, August 10, 2006.

[15] TSN, April 21, 2005.

[16] TSN, March 9, 2006.

[17] TSN, August 11, 1998, pp. 5-7.

[18] Id. at 7-9.

[19] Id. at 9-14.

[20] Id. at 15-25.

[21] Id. at 25-33.

- [22] TSN, October 6, 1998, pp. 4-19.
- [23] TSN, December 2, 1999, pp. 5-12.
- [24] Id. at 13-19.
- [25] Id. at 19-21, 27-29.
- [26] TSN, September 15, 1998, pp. 6-19.
- [27] Id. at 21-26.
- [28] Records, p. 177.
- [29] Id. at 178-179.
- [30] Id. at 180.
- [31] Id. at 79.
- [32] Id. at 181.
- [33] Id. at 182.
- [34] Id. at 4-6.
- [35] Id. at 8.
- [36] Id. at 9.
- [37] Id. at 10.
- [38] Id.
- [39] CA rollo, pp. 66-78.
- [40] Id. at 70-71.
- [41] Records, p. 402.
- [42] Id. at 403-405.
- [43] Id. at 406.
- [44] Id. at 407-411.
- [45] Id. at 412.
- [46] Id. at 413-420.
- [47] CA rollo, p. 46.
- [48] Id. at 47.
- [49] Id. at 50.
- [50] Rollo, p. 22.
- [51] Id. at 24-26.
- [52] 455 Phil. 371 (2003).

[53] Id. at 382.

[54] Section 5, Rule 113 of the Revised Rules of Criminal Procedure provide:

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;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112.

[55] 544 Phil. 468, 485 (2007).

[56] People v. Tiu, 469 Phil. 163, 173 (2004).

[57] 457 Phil. 443, 449 (2003).

[58] People v. Ting Uy, 430 Phil. 516, 530 (2002).

[59] Id. at 526.

[60] TSN, September 20, 2001, p. 53.

[61] People v. Butch Bucao Lee, 407 Phil. 250, 260 (2001).

[62] People v. Musa, G.R. No. 199735, October 24, 2012, 684 SCRA 622, 634.

[63] Article 63 of the Revised Penal Code states:

ART. 63. Rules for the application of indivisible penalties. — In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

1. When in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.
2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.
3. When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied.
4. When both mitigating and aggravating circumstances attended the commission of the act, the courts shall

reasonably allow them to offset one another in consideration of their number and importance, for the purpose of applying the penalty in accordance with the preceding rules, according to the result of such compensation.

[64] G.R. No. 139615, May 28, 2004, 430 SCRA 134, 155.

[65] *People v. Simon*, G.R. No. 93028, July 29, 1994, 234 SCRA 555, 573.

[66] Section 24 of Republic Act No. 6425, as amended by Section 19 of Republic Act No. 7659, states:

SEC. 24. Penalties for Government Officials and Employees and Officers and Members of Police Agencies and the Armed Forces; Planting of Evidence. – The maximum penalties provided for in Sections 3, 4(1), 5(1), 6, 7, 8, 9, 11, 12 and 13 of Article II and Sections 14, 14-A, 15(1), 15-A(1), 16 and 19 of Article III shall be imposed, if those found guilty of any of the said offenses are government officials, employees or officers including members of police agencies and the armed forces.

Any such above government official, employee or officer who is found guilty of “planting” any dangerous drugs punished in Sections 3, 4, 7, 8, 9 and 13 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act in the person or in the immediate vicinity of another as evidence to implicate the latter, shall suffer the same penalty as therein provided.

[67] *Palaganas v. People*, 533 Phil. 169, 196 (2006).

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