

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. STANLEY BLAS, ACCUSED-APPELLANT.

G.R. No. 97930. May 27, 1992

Ponente: ROMERO, J.

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ROMERO, J.:

For pushing a deck of shabu, accused-appellant Stanley Blas y Thompson, 32, was sentenced by the trial court^[1] to reclusion perpetua* and fined P20,000.00.

The evidence of the prosecution shows that having been informed by their informant-asset that she was able to buy a deck of shabu from accused-appellant Stanley Blas, a known poseur engaged in peddling prohibited drugs who had checked at Room H-4 of Bayani de Luxe Hotel, Rizal Estanduela Street, Iloilo City with stocks of shabu, the Sixth Regional Narcotic Command of Iloilo City launched a surveillance and test-buy operation at around 4:30 in the afternoon of July 19, 1989.

A member of the 6th NARCOM, CIC Freddie Cartel acted as the poseur-buyer. Guided by a sketch, he proceeded to Bayani de Luxe Hotel. After inquiring from the Information Desk, he proceeded to Room H-4 which is located on the second floor of said hotel. Responding to CIC Cartel's knocking, Stanley opened the door and asked the former what he wanted. CIC replied, "Ma score ako sang shabu valor P200.00" (I want to buy shabu worth Two Hundred Pesos [P200.00]).^[2] He handed the P200.00 bill taken from his unit's operational fund to Stanley and in exchange, was given one (1) deck of shabu. Before CIC Cartel left, Stanley told him that he still had more shabu left should CIC Cartel want to buy more later.

At the headquarters, CIC Cartel reported the success of the test buy-operation to his superior, Sgt. Benito Bonite, the Intelligence Operative and Property Custodian of NARCOM, Region 6.^[3] Wasting no time, a composite team of drug enforcers composed of Sgt. Bonite himself, Sgt. Gabasa, Sgt. Labitan, and CIC Cartel immediately conducted a buy-bust operation at around 7:25 in the evening of that same day.

Their strategy was: CIC Cartel would return to Room H-4; Sgt. Bonite would wait downstairs; Sgt. Gabasa would position himself outside; and Sgt. Labitan would stay at the canteen of the hotel.^[4] They would all watch for the pre-arranged signal of CIC Cartel's "thumbs up" signalling a consummated sale.

Pursuant to the plan, CIC Cartel went back to Room H-4 and informed Stanley that he wanted to "score" again. Stanley invited CIC Cartel to enter the room. Inside the room, CIC Cartel found a woman, later identified as Stanley's girlfriend, sitting on the bed.^[5] CIC Cartel then gave the marked money to Stanley in return for which Stanley gave him another deck of shabu taken from a metal case.^[6] The transaction consummated, CIC Cartel stepped out of the room and at once gave the "thumbs up" signal to the team positioned outside. Sgt. Bonite in turn signalled to Sgt. Gabasa, after which the whole team, on cue, rushed and swooped down on Room H-4 where they arrested Stanley.^[7] The hotel cashier acted as eyewitness when they seized the marked money paid to Stanley, as well as the shabu and drug paraphernalia found in his room.

For his part, Stanley professed that he was never a user of marijuana, shabu or cocaine. He was never engaged in selling any prohibited drugs. He was never linked with any drug cartels. More specifically, he never owned those items which incriminated him. Instead, he averred that all those decks of shabu, paraphernalia and other exhibits of the prosecution were planted evidence. In sum, he was just a victim of a "frame-up" by drug agents.

According to him, he was employed as a liaison officer with a monthly compensation of P5,000.00 at Laguna Snack in Taguig, Metro Manila from 1982-1989.[8] His elder sister, Gertrudes, offered him capital to start a new business. So, in March 1989, he returned to Iloilo City and lived with his father at 25 Maria Clara Avenue, Aurora Subdivision to venture into the business of buying and selling palay and pigs.[9] However, a misunderstanding severed the relationship between son and father. His father, motivated by "selfishness," wanted to single-handedly manage his fledgling business. When their rift became unbearable, he moved to Bayani de Luxe Hotel at Rizal Estanzuela Street, Iloilo City with the help of his friend Minda Chung, who was then renting four rooms at the said hotel.[10]

It was around 7:00 in the evening, while he was taking his shower when his girlfriend Cristy Grandflor informed him that somebody was knocking at the door.[11] Soon after unlocking the door, eight to ten men (NARCOM agents) barged in and forced their way into the room.[12] He saw that they threw something (Exhibit B) on top of his bed.[13] He did not know what it was until it was explained to him that they were one deck of suspected methamphetamine, more or less one gram of suspected methamphetamine, and one roll of aluminium foil.[14] Also, confiscated were his money worth P13,000.00, whisky, perfume, wristwatch, cassette tapes and recorder. It was while he and his girlfriend were dragged to the NARCOM headquarters, then to a safehouse, and finally to the city jail,[15] that they inquired into the whereabouts of their parents hoping to settle their case out of court, but to no avail. Cristy was released two days thereafter.

Stanley brands the testimonies of the prosecution witnesses as unbelievable. He also faults the trial court for admitting as evidence the various exhibits which were, not only planted, but illegally obtained without any search warrant. Thus, he assigned three errors in his brief ---

I

That the trial court erred in considering the test-buy operation and the buy-bust operation.

II

That the trial court erred in concluding that the accused-appellant was in possession and (sic) owner of the alleged shabu, paraphernalias and other exhibits and not that they were planted evidence.

III

That the trial court erred in admitting as evidence the various exhibits which were illegally obtained without a search warrant.

The first two assigned errors raised in the accused-appellant's brief hinge on the credibility of witnesses. On this matter, we have consistently deferred to the findings of the trial judge who is in a better position to determine such credibility as he can observe firsthand the demeanor and deportment of the witnesses.[16] As an appellate court, this Court has none of the judge's advantageous position, relying as it does only on the cold records of the case and on the judge's discretion.[17]

Stanley would have us believe that CIC Cartel's testimony was highly improbable inasmuch as the latter did not know where he was staying. Moreover, his sketch did not cover Room H-4.

We are not persuaded.

CIC Cartel, Intelligence Officer of the Sixth Narcotic Command, stationed at General Luna Street, Iloilo City, knew from their surveillance efforts that Stanley was staying at Room H-4 of Bayani de Luxe Hotel. Once there, it is the usual procedure to inquire from the hotel attendant, preparatory to the test-buy operation, where room H-4 was. On this score, there is nothing incredible at all.

Neither can Stanley undermine CIC Cartel's credibility by alleging the incompleteness of the sketch. The sketch, whether it covers Room H-4 or not when the entrapment was concluded, is not fatal to the prosecution's case. As earlier adverted to, all CIC Cartel had to do after locating the hotel was to inquire where Room H-4 was, as he did from the information desk. Be it noted that William Bayani, the owner of the Bayani de Luxe Hotel had earlier acceded to the NARCOM's impending buy-bust operation.

Oddly, Stanley makes much of the fact that in reply to his question, CIC Cartel's first answer was, "I want to 'score shabu;'"[18] whereas his subsequent answer was, "I will buy shabu."

NARCOM agents are cognizant that in the parlance of those engaged in the illegal trade in drugs, the word "score" means "buy." Understandably therefore, CIC Cartel used the two terms interchangeably in the course of his testimony. Whether CIC Cartel used the word "score" or "buy," the effect would be no less adverse on Stanley. What matters is the fact that after he had signified his intention to buy or "score" shabu, Stanley handed him one deck of shabu, an unequivocal indication of the consummation of the crime of illegal sale of the prohibited drug.

Stanley would further weaken CIC Cartel's testimony by pointing out that as a veteran in the shady business, he would know better than to immediately invite a stranger to enter his room on the pretext of buying shabu.

The argument of Stanley is likewise pointless.

If pushers peddle drugs only to persons known to them, then drug abuse would certainly not be as rampant as it is and would not pose a serious threat to society. Retail drug pushers sell their prohibited wares to any prospective customer, be he a stranger or not, in private as well as in public places.[19] What matters is not the existing familiarity between the buyer and the seller but on their agreement and acts constituting the sale and delivery of marijuana leaves.[20]

Additionally, Stanley claims that the testimonies of the three prosecution witnesses, namely: Sgt. Rodrigo Gabasa, Sgt. Benito Bonite, and CIC Freddie Cartel were "three in one," too "systematic and well-trimmed to suit the theory of a buy-bust operation." Their perfect dovetailing generates the suspicion of a manufactured story.

We are not convinced that these testimonies were so "tailored" as to ensure appellant's conviction. Besides, Stanley failed to show that the prosecution witnesses harbored any ill motive in testifying against him. No justifiable reason has been offered as basis for said witnesses to arrest and charge him without cause on that fateful evening of July 19, 1989.

De consiguiente, the absence of evidence as to improper motive actuating the principal witnesses for the prosecution strongly tends to sustain the conclusion that no such improper motive existed, and that their testimony is worthy of full faith and credit.[21]

As succinctly pointed out by the Solicitor General, it would not be amiss to point out that prosecution witnesses are not ordinary witnesses, but law enforcers. While Stanley considers this a point against their credibility, established jurisprudence holds otherwise.[22] Compared to the baseless disclaimers of the accused, the narration of the incident by the prosecution witnesses is far more worthy of belief coming as it does from law enforcers who

are presumed to have regularly performed their duty in the absence of convincing proof to the contrary.[23]

In an effort to escape his inevitable fate behind bars, Stanley contends that he was "framed-up."

This lame insinuation does not impress us as sensible argument. The defense of "frame-up" is undoubtedly an afterthought to cloak his illegal trade. After a careful perusal of the records, they disclose not an iota of clear and convincing evidence to bolster his claim. At least, he should have summoned Jimmy Feliciano, his brother-in-law, whom he accuses of instigating the NARCOM to conduct the buy-bust operation and the consequent raid[24] just to get even with him for allegedly bringing about the break-up with his sister Menchie Blas.

It is inconceivable for Stanley who is a third year engineering student of Adamson University with some computer know-how to remain as silent as a lamb. He never blamed nor pointed an accusing finger against his brother-in-law. His frame-up theory just does not hold water. As the Court has had occasion to state: The defense of frame-up can undoubtedly be fabricated with facility. It must, therefore, be proved by clear and convincing evidence. Like alibi, it is a weak defense that is easy to concoct and is difficult to prove.[25]

The evidence shows that appellant voluntarily sold the shabu to CIC Cartel. The team merely employed the device of entrapment to obtain evidence of his guilt.

Finally, Stanley professes that his constitutional right against unreasonable searches and seizures was grossly violated inasmuch as the shabu and drug paraphernalia were seized without a valid search and seizure warrant. As such, they are inadmissible as evidence in court.

We would be the first to denounce the abridgment of Stanley's constitutional right against whimsical and arbitrary search and seizure. But we also uphold the exception to the general rule, as provided in Rule 113 of the Revised Rules on Criminal Procedure, thus:

"Sec. 6. Arrest without warrant. -- When lawful. -- A peace officer or a private person may, without a warrant, arrest a person:

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

(b) When an offense has in fact been committed, and he has reasonable ground to believe that the person to be arrested has committed it;

(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 temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another."

The passing of the deck of shabu from Stanley's hands to Sgt. Cartel's hands in exchange for P200.00 constituted a violation of Republic Act No. 6425, as amended. The anti-narcotics team was, therefore, justified in arresting Stanley without any warrant and seizing the goods as the corpus delicti of the crime for use as evidence in the trial of the case. Indubitably, he was caught in flagranti delicto as a result of a buy-bust operation.[26] The contemporaneous search of his person and his room is likewise authorized under Rule 126 of the same Revised Rules of Criminal Procedure, to wit:

"Sec. 12. Search without warrant of person arrested. -- A person charged with an offense may be searched for dangerous weapons or anything which may be used as proof of the commission of the offense."

Based on the foregoing, Stanley's claim that his right to liberty was violated is baseless. Nor can he invoke his constitutional right to protection of the innocent against any manner of highhandedness from the authorities, however, praiseworthy their intentions.[27]

We note that the Solicitor General has lapsed once again into the error of affirming in toto the trial court's decision imposing the supreme penalty of reclusion perpetua and fine upon the accused who has been found guilty of violation of Section 15, Article III of Republic Act No. 6425, as amended. The penalty prescribed for the said crime under Section 4, Article II is "life imprisonment to death" and not reclusion perpetua. We reiterate that the two penalties are not interchangeable, for reclusion perpetua carries with it the accessory penalties enumerated in Article 41 of the Revised Penal Code.

WHEREFORE, the decision appealed from is hereby AFFIRMED with the MODIFICATION that the penalty imposed is life imprisonment and not reclusion perpetua.

Costs against accused-appellant.

SO ORDERED.

Gutierrez, Jr., (Chairman) Feliciano, Bidin, and Davide, Jr., JJ., concur.

[1] Regional Trial Court (RTC), Sixth Judicial Region, Branch 35, Iloilo City; Hon. Severino G. Aguilar, Presiding Judge.

* This should properly be life imprisonment.

[2] T.S.N., December 7, 1989, p. 15.

[3] T.S.N., November 9, 1989, p. 3.

[4] T.S.N., December 7, 1989, pp. 20-21.

[5] Ibid, p. 16.

[6] Ibid, p. 17.

[7] Appellee's Brief, p. 4; Rollo, p. 70.

[8] T.S.N., June 20, 1990, pp. 6-7, 20.

[9] Ibid, p. 7.

[10] Ibid, p. 9.

[11] Ibid, p. 13.

[12] Ibid, p. 14.

[13] Ibid, pp. 14-15.

[14] Exhibit "B," p. 48.

[15] Ibid, pp. 16-18.

[16] People v. Josefino de los Santos, G.R. No. 92643, August 9, 1991, 200 SCRA 431; citing People v. Isabelo Sanchez, G.R. No. 89407, December 21, 1990, 192 SCRA 649; People v. Anciano, G.R. No. 88937, September 13, 1990, 189 SCRA 519.

[17] People v. Sanchez, *supra*, p. 5.

[18] Appellant's Brief, p. 9; Rollo, p. 46.

[19] *People v. Fernando Santiago y Ibay*, G.R. No. 94472, March 3, 1992; citing *People v. Fabian*, G.R. No. 83329, December 10, 1991; *People v. Sanchez*, G.R. No. 77588, May 12, 1989, 173 SCRA 305.

[20] *People v. Dandy de Jesus*, G.R. No. 93852, January 24, 1992; *People v. Alias Crysler Babac*, G.R. No. 97932, December 23, 1991.

[21] *People v. Sawah*, G.R. No. L-15333, June 29, 1962, 5 SCRA 385.

[22] Appellee's Brief, p. 13; Rollo, p. 70.

[23] *People v. Vilorio, Jr.*, G.R. No. 72781, November 29, 1990, 191 SCRA 777.

[24] T.S.N., June 20, 1990, pp. 18-19.

[25] *People v. Del Pilar*, G.R. No. 86360, July 28, 1990, 188 SCRA 37; citing *People v. Estevan*, G.R. No. 69676, June 4, 1990; *People v. Nabunat*, G.R. No. 84392, February 7, 1990; *People v. Agapito*, 154 SCRA 694.

[26] *People v. Mauyao*, G.R. No. 84525, April 6, 1992.

[27] *People v. Aminudin*, G.R. No. 74869, July 6, 1988, 163 SCRA 402.

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