

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDILBERTO RUELO Y LAHAYLAHAY, ACCUSED-APPELLANT.

G.R. Nos. 104737-38. October 26, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

For selling and possessing shabu Edilberto Ruelo y Lahaylahay was accused of violating Secs. 15 and 16 of R.A. No. 6425, otherwise known as "The Dangerous Drugs Act of 1972," as amended, in two (2) separate Informations[1] before the Regional Trial Court of Manila, which were however ordered consolidated on 5 March 1991.

On 4 October 1991, the court a quo rendered a decision[2] finding the accused guilty as charged and imposing upon him the following -

(a) In *People v. Edilberto Ruelo*, Crim. Case No. 91-92126, the penalty of life imprisonment and a fine of P30,000.00 without subsidiary imprisonment in case of insolvency, and

(b) In *People v. Edilberto Ruelo*, Crim. Case No. 91-92127, an indeterminate prison term of six (6) years and one (1) day as minimum to twelve (12) years as maximum, and a fine of P10,000.00 without subsidiary imprisonment in case of insolvency.

The accused interposed this appeal imputing error to the trial court in holding: (1) that none of the policemen mentioned were impelled by any devious or ill motive to concoct the charges against him; (2) that the accused failed to identify Pat. Mario Montes, one of the arresting officers; (3) that Cpl. Manolito Suralvo was impelled to divulge the truth even if he would in the process implicate his Station Commander; (4) that the accused has not even bothered to file any criminal and/or administrative charges against the erring policemen; (5) that the testimony of Pat. Victor Guinto, the lone prosecution witness, satisfied the court beyond reasonable doubt; and, (6) that the trial court nurtured veritable doubts about the credibility of defense witness Aniceto Añana, a co-worker of the accused. The appellant also takes issue with the court when it expressed surprise why the defense did not present Adelfa Cortez to corroborate his testimony.[3]

The evidence of the prosecution, on which the trial court mainly based its judgment, shows that on 16 February 1991, Sgt. Aguirre, then Officer-in-Charge of the Western Police District Command, received a confidential report from police informer "Lanie" about the drug pushing activities of the accused Edilberto Ruelo alias "Eddie" at the Las Palmas Hotel, corner Pedro Gil and A. Mabini Sts., Ermita, Manila. Thereupon, Sgt. Aguirre formed a surveillance team led by Pat. Victor Guinto to verify the truth of the information. After four (4) consecutive nights of surveillance, the police operatives were able to confirm that the accused was indeed peddling drugs in the area.

On 23 February 1991, Sgt. Aguirre ordered a buy-bust operation composed of Pat. Guinto as poseur-buyer, "Lanie," and Cpl. Manolito Suralvo as the back-up man and investigator of the case. Sgt. Aguirre handed over to Pat. Guinto three (3) P100.00-bills as the "buy-bust" money. Pat. Guinto placed the initials "MS" representing the initials of Cpl. Suralvo on each of the bills to serve as the identifying marks.

At about twelve-twenty in the morning, the operatives proceeded to the corner of Pedro Gil and A. Mabini Sts. on board an owner-type jeep. After they parked their jeep the group waited for "Eddie." When they saw him coming from a building near the Las Palmas Hotel, "Lanie" with Pat. Guinto approached him and introduced Pat. Guinto as a shabu user. Pat. Guinto himself told the accused that he wanted to buy three (3) decks of shabu. The accused then turned to "Lanie" and inquired about Guinto's trustworthiness saying, *Ano ba talaga, user iyan?* With the assent of "Lanie," Pat. Guinto gave "Eddie" the three (3) P100-bills which the latter placed in the front pocket of his pants. Accused then pulled out a box from his back pocket, took out three (3) plastic tea bags of shabu, and gave them to Pat. Guinto who at once signaled to Cpl. Suralvo. The latter rushed to the scene. The policemen frisked the accused and recovered from him a box containing four (4) more plastic tea bags of shabu and the three (3) P100-bills.

The police officers later brought "Eddie" to Police Station No. 9 where Cpl. Suralvo conducted his investigation. Thereafter, Cpl. Suralvo handcarried the tea bags of shabu and the written request of Lt. Elmer Jamias to the NBI for laboratory examination. Both Pat. Guinto and Cpl. Suralvo executed a "Joint Affidavit of Apprehension." Cpl. Suralvo also prepared and signed the "Booking Sheet and Arrest Report" on the basis of which the accused, who refused to sign the report, was placed under arrest for violation of Secs. 15 and 16 of R.A. No. 6425, as amended.

At about six o'clock in the afternoon of the same day, the common-law wife of "Eddie" came to the station and offered Cpl. Suralvo P30,000.00 for the release of the accused. Cpl. Suralvo refused.

On 24 February 1991, the NBI Forensic Chemist Nicanor Cruz, Jr., certified that upon preliminary examination the specimen submitted yielded positive results for methamphetamine hydrochloride. Consequently, the Station Commander, Major Prospero Barcenas, referred the cases of the accused to the City Prosecutor of Manila for inquest. After due investigation, the Prosecutor recommended that the proper information be filed against the accused.

Meanwhile, three (3) media men from the Department of National Defense arrived and talked to Station Commander Barcenas. They interceded for the release of accused and for the settlement of the case. However, they did not pursue their intercession when informed by Cpl. Suralvo that the case had already been forwarded to the Inquest Prosecutor and that the accused had pointed to them as the source of the shabu.

On 25 February 1991, Forensic Chemist Cruz, Jr., confirmed his earlier report that the specimen submitted was found positive for methamphetamine hydrochloride, so that on 26 February 1991 an information against the accused was filed in court.

The defense narrates a different version. According to the accused, on the night he was apprehended, he left his brother's residence with an extra pair of socks and a handkerchief for washing at the JJC Apartelle located near the corner of Pedro Gil and Mabini Sts. Actually, he was occupying Room No. 304 of the apartelle as he was also working as manager of the "1814 Pub Disco" at the ground floor belonging to the same owner.

At about ten-thirty in the evening, the accused requested his assistant to take charge of the Pub Disco while he went upstairs to wash his socks and handkerchief. After washing and while about to go downstairs, he was accosted by two men who turned out to be Patrolmen Victor Guinto and Mario Montes. They asked him whether he was "Dong." Upon receiving a negative reply, the police officers kicked him and pushed him towards his room. He asked them whether they had a search warrant but they did not respond. The accused then screamed for help. The owner of the apartelle, Adelfa Cortez, a security guard and a waiter responded. However, the policemen warned them not to interfere saying, *Papatayin namin ito. Huwag kayong makialam.* Fearing for their lives, the responding neighbors all fled.

The policemen then continued to drag him to his room, thoroughly searched inside and seized his personal belongings including the P2,000.00 which the latter allegedly borrowed from a certain Lydia Bernaldez on 22 February 1991.[4] They later brought the accused to their jeep and proceeded to "Andok's Lechon House" where they bought one (1) chicken lechon from the P2,000.00 they took from him earlier. At the Police Station, the policemen showed the accused five (5) grams of shabu which they alleged had been confiscated from him. Pat. Montes demanded from the accused P50,000.00 for his release but the latter replied that he had no money. Subsequently, Cpl. Suralvo informed the accused of the charges against him. Cpl. Suralvo similarly demanded P45,000.00 from the accused as a condition for his release.

The accused claims that he came to know the apprehending officers, Patrolmen Guinto and Montes, only during his detention. He likewise avers that he was mauled and maltreated at the police station, and that upon his transfer to the Manila City Jail, his lawyer advised him to secure medicines from the infirmary. He adds that he was not examined by a doctor despite representations of his common-law wife and brother.

We affirm the judgment of conviction. The basic thrust in this appeal is the credibility of witnesses. It is a settled doctrine that the findings of the trial court on the issue of credibility of witnesses are entitled to great weight and respect unless some material facts have been overlooked or misconstrued as to affect the result.[5] These excepting circumstances however are not present in the case at bench.

Appellant denies being a drug pusher. He claims that he was washing his socks and handkerchief at the third floor of JJC Apartelle when mauled and arrested by Patrolmen Guinto and Montes in the presence of his co-worker, Aniceto Añana. He strongly urges the Court to disbelieve the testimony of Pat. Guinto regarding his arrest as the same is uncorroborated. He argues that where there are two different versions of his arrest and detention the weight of evidence should be determined by the number of witnesses.

Appellant's arguments are far from persuasive. The records reveal that the apprehending officers were Pat. Guinto and Cpl. Suralvo, not Pat. Montes. Appellant's insistence on the participation of Pat. Montes is baseless as he himself could not present the person who gave him the information. At the hearing, the prosecution manifested its choice not to present Cpl. Suralvo as witness to the arrest because his testimony would only be corroborative;[6] instead, he would testify on other matters such as the investigation and preparation of the Booking Sheet, Arrest Report and the Letter-Request to the Inquest Prosecutor.[7] Significantly, the defense did not raise any objection to this move.[8] Verily, it cannot be seriously contended that the prosecution's testimony went uncorroborated in the light of appellant's acquiescence to the strategy of the prosecution. Besides, there is no law which requires that the testimony of a single witness must always be corroborated, except where expressly mandated.[9] We have held that the testimony of only one witness, if credible and positive, provided it satisfies the court beyond reasonable doubt, is sufficient to convict.[10]

A hard look at the testimony of defense witness Aniceto Añana shows that the alibi of appellant cannot prevail. Appellant claims that Patrolmen Montes and Guinto who mauled him were burly men.[11] Yet, the trial court itself disputed the alleged physical description of Pat. Mario Montes because it had on some occasions seen and observed him as on the "lean side with a regular body-build, certainly much leaner than appellant," when he would testify in drug cases.[12] Again, Añana stated that aside from the two (2) policemen who assaulted appellant, four (4) more from the Western Police District responded to the call of appellant's employer.[13] But appellant made no mention of the presence of these policemen at the scene of the incident either in his affidavit-complaint[14] or in his testimony.

In contrast, the prosecution showed that the arrest of appellant was done in accordance with law. A four-night surveillance was conducted by the police to verify the report on appellant's alleged drug pushing activities. Upon

confirmation, a buy-bust operation was formed to entrap the accused. The appellant was arrested in flagrante delicto selling shabu to a poseur-buyer who used the P100-bills previously marked "MS". Against this factual backdrop, with the tea bags positive of methamphetamine hydrochloride and the recovery of the marked money from the pocket of his pants, appellant's denial and the dubious testimony of his lone witness cannot be given any greater evidentiary value.

Moreover, appellant failed to show any improper motive on the part of the apprehending lawmen. Admittedly, he did not know them before his apprehension and the first time he saw them was when he was arrested.[15] Besides, appellant's charges of police frame-up and extortion of money remain mere verbal assertions. His failure to rebut Cpl. Suralvo's claim that his (appellant's) common-law wife tried to facilitate his release through bribery works against him. The conspicuous absence of any evidence pointing to ulterior motives on the part of the policemen strengthens the presumption that the arrest of appellant was done in the regular course of their official duty. Hence, their testimonies are entitled to great respect.[16]

Lastly, appellant decries the maltreatment he received from the police which purportedly resulted in visible injuries. Again, this complaint is not substantiated by any medical certificate. His explanation for his delayed filing of a complaint against his alleged maulers, i.e., that his lawyer merely advised him to request for medicines from the infirmary and to await the termination of the case against him before charging the policemen,[17] and that his brother and common-law wife even begged the police to allow him (appellant) to undergo medical checkup but was not denied, fails to convince us.

A lawyer worth his calling would not hesitate to demand urgent medical attention for his client who was allegedly already walking in a zigzag manner (pasuray-suray) and sporting a swollen face (namamaga).[18] The fact that the lawyer merely advised appellant to get medicines from the infirmary, which the latter did, clearly indicates appellant's exaggerated claim. As the trial court correctly observed -

x x x the accused has not even bothered to present Atty. Lopez to the court as his witness to buttress his claim. The accused has not even bothered to file any criminal and/or administrative charges against the erring policemen, with any government authorities, such as the NBI or the National Police Commission. It was only on March 30, 1991 or more than one (1) month after the apprehension of the accused that the accused bothered to execute his complaint-affidavit (Exh. "I"). More, there is no evidence in the record that when the accused was brought to the Inquest Fiscal for the requisite inquest of the charges against the accused, the latter ever complained to the Inquest Fiscal of the mauling and maltreatment and the extortion brazenly perpetrated by the policemen. If indeed, the face of the accused was swollen and bulging and that he could not even walk normally, surely, the Inquest Fiscal could have noticed the same.[19]

Additionally, we find that even appellant's own brother, Evelito Ruelo, did not seriously take the former's story. While Evelito had a good look at the supposed sorry state of appellant, he just went home after failing to find the investigator that day. Neither did he mention to the investigator whom he saw the following day about appellant's urgent need for medical attention.[20]

Indeed, we find no ground to reverse the judgment of conviction. Nonetheless, with the passage of R.A. No. 7659,[21] which amended certain sections of "The Dangerous Drugs Act," and following our pronouncement in *People v. Simon*[22] to make the amendatory provisions apply retroactively as they are favorable to the accused, the penalties imposed by the trial court have to be modified accordingly.

Appellant is found guilty of violating separately Secs. 15 and 16 of R.A. No. 6425 which, as revised, each carry the penalty of reclusion perpetua to death and an increased fine of P500,000.00 to P10,000,000.00 if the shabu involved is 200 grams or more; otherwise, if the quantity sold, delivered or distributed be less, only the penalty ranging from prision correccional to reclusion temporal shall be imposed.[23]

In Crim. Case No. 91-92126, the weight of the shabu sold by appellant was 0.1210 gm. whereas that taken from the appellant in Crim. Case No. 91-92127, was 0.4200 gm.[24] Obviously, the shabu in both cases was less than a gram. Hence, the second paragraph of Sec. 20 as now amended applies, i.e., the reduced penalty of prision correccional to reclusion temporal. With no attendant mitigating or aggravating circumstance, the proper imposable component penalty is prision correccional to be applied in its medium period. Applying the Indeterminate Sentence Law,[25] the maximum shall be taken from the medium period of prision correccional, which is two (2) years, four (4) months and one (1) day, to four (4) years and two (2) months, while the minimum shall be taken from the penalty next lower in degree, which is arresto mayor, the range of which is one (1) month and one (1) day to six (6) months.

WHEREFORE, the decision appealed from finding accused-appellant EDILBERTO RUELO Y LAHAYLAHAY guilty beyond reasonable doubt of violating Secs. 15 and 16, Art. III, of R.A. No. 6425, in Crim. Case No. 91-92126 and Crim. Case No. 91-92127 is AFFIRMED with the modification that in each of the aforesaid cases, the accused is sentenced to suffer an indeterminate prison term of four (4) months and twenty (20) days of arresto mayor maximum as minimum, to three (3) years and two (2) months of prision correccional medium as maximum, with costs against accused-appellant in both cases.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Quison, and Kapunan, JJ., concur.

[1] In Crim. Case No. 91-92126, the Information states: "(t)hat on or about February 23, 1991, in the City of Manila x x x x the said accused, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there wilfully and unlawfully sell or offer for sale to a police poseur-buyer white crystalline substance known as 'shabu' placed in three (3) separate small plastic bags containing methamphetamine hydrochloride, which is a regulated drug" (Records, p. 2).

In Crim. Case No. 91-92127, the Information states: "(t)hat on or about February 23, 1991, in the City of Manila x x x x the accused wilfully, unlawfully and knowingly have in his possession and under his custody and control white crystalline substance known as 'shabu' contained in four (4) separate small transparent plastic bags, containing methamphetamine hydrochloride, a regulated drug, without the corresponding license or prescription therefor" (Id., p. 3).

[2] Penned by Judge Romeo J. Callejo, RTC, Br. XLIX, Manila; Rollo, pp. 14-33.

[3] Id., pp. 44-45.

[4] (1) Gold necklace, P5,000.00, (2) wrist watch, P2,500.00, (3) wall clock, P1,000.00, (4) radio, P650.00, (5) Ray-ban sunglasses, P1,500.00, (6) umbrella, P150.00, (7) travelling bag (big), P350.00, (8) shoulder bag, P150.00, (9) cash, P2,000.00, and (10) P.P.A. and DOTC Pass I.D.; Rollo, p. 48.

[5] See *People v. Jones*, L-61165, 24 June 1985, 137 SCRA 166, 185; *People v. Exala*, G.R. No. 76005, 23 April 1993, 221 SCRA 494, 498-499.

[6] TSN, 16 July 1991, pp. 36-37.

[7] TSN, 26 July 1991, p. 2.

[8] Ibid.

[9] *People v. Villalobos*, G.R. No. 71526, 27 May 1992, 209 SCRA 304, 315.

[10] *People v. Trigo*, G.R. No. 74515, 14, June 1989, 174 SCRA 93, 97.

[11] TSN, 26 August 1991, p. 11.

[12] Rollo, p. 24.

[13] TSN, 26 August 1991, pp. 45-46 and 48.

[14] Records, p. 47.

[15] TSN, 31 July 1991, pp. 48-49.

[16] See *People v. Cruz*, G.R. No. 87884, 4 November 1992, 215 SCRA 339, 348.

[17] Rollo, pp. 56-57.

[18] TSN, 8 August 1991, p. 9.

[19] Rollo, p. 28.

[20] TSN, 8 August 1991, pp. 10-14.

[21] 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.

[22] G.R. No. 93028, 29 July 1994, reiterated in *People v. Martinez*, G.R. No. 104708, 30 August 1994, and *People v. Santos*, G.R. No. 106213, 23 September 1994.

[23] As amended by R.A. 7659, Secs. 15, 16 and 20, R.A. No. 6425, now read:

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 x x x x

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. 17. Section 20, Article IV of Republic Act No. 6425, as amended, known as "The Dangerous Drugs Act of 1972," is hereby amended to read as follows:

Sec. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instrument of the Crime. - The penalties for offenses under Secs. 3, 4, 7, 8 and 9 of Art. II and Secs. 14, 14-A, 15 and 16 of Art. III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities: x x x x 3. 200 grams or more of shabu or methylamphetamine hydrochloride x x x x 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 x x x x

In *People v. Simon* (G.R. No. 93028, 29 July 1994), we corrected the overlapping error which consists in the imposition of reclusion perpetua both as the maximum of the penalty where the amount of drugs involved is less than the quantities specified and as the minimum where the quantity involved is equal to or more than the amounts specified, as follows x x x x we hereby hold that the penalty to be imposed where the quantity of the drugs involved is less than the quantities stated in the first paragraph shall range from prision correccional to

reclusion temporal, and not reclusion perpetua.

[24] Report of the Forensic Chemistry Section, NBI, Records, p. 31.

[25] Particularly the first part of Sec. 1 of the Indeterminate Sentence Law as explained in *People v. Simon*.

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