

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO CUACHON Y SOLER, ACCUSED-APPELLANT.

G.R. Nos. 106286-87. December 01, 1994

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-106286-87/>

BELLOSILLO, J.:

Accused-appellant ROMEO CUACHON Y SOLER was charged in Crim. Case No. 1118, together with Ezra King, Alberto Maniego, Jaime Sylvestre, Danilo Mumar, Carlos Garcia and Michael McMurray, with having violated Sec. 27, Art. IV, of R.A. 6425 (The Dangerous Drugs Act of 1972), as amended, before the Regional Trial Court of Makati. The Information alleged that on 20 November 1988, the accused, in conspiracy with one another, willfully, unlawfully and feloniously smoked and sniffed methylamphetamine hydrochloride (commonly known as shabu), a regulated drug.[1]

In Crim. Case No. 1119, accused-appellant and Ezra King were charged with violating Sec. 15, Art. III, of the same law. The Information alleged that on the same date and place the accused, in conspiracy with one another, willfully, unlawfully and feloniously sold, gave away, distributed and delivered to another methylamphetamine hydrochloride without the corresponding license.[2]

Upon the filing of the two (2) Informations, the trial court issued warrants for the arrest of all the accused, but only accused-appellant was arrested; thus he alone stood trial in both cases.

At the arraignment on 20 October 1989, accused-appellant pleaded not guilty to both charges. Thereafter, a joint trial was held. On 16 August 1991, the trial court adjudged him guilty as charged. In Crim. Case No. 1118 he was imposed a prison term of twelve (12) years and ordered to pay a fine of P12,000.00, while in Crim. Case No. 1119 he was sentenced to life imprisonment and fined P30,000.00.[3]

Accused-appellant now pleads for reversal of his conviction.

The antecedents: On 20 November 1988, at about three o'clock in the afternoon, a confidential informant reported to the headquarters of the Southern Police District that there was rampant selling of shabu in the residence of accused-appellant located at 7301 J. Victor Street, Barangay Pio del Pilar, Makati. Forthwith, a team of police officers was formed to conduct a buy-bust operation against accused-appellant. Designated as leader of the team was Pfc. Norman Reyes, with Pfc. Jeofrey Bacani, Pat. Eduardo Ugaddan, Pat. Roy Cantilang, Pfc. Elpidio Lajom and Pat. Esmeraldo de Felipe as members. During the planning stage of this operation, Pfc. Reyes assigned Pat. Ugaddan to act as poseur-buyer. Pfc. Reyes gave Pat. Ugaddan two (2) P100.00-bills to be utilized as buy-bust money, which the former had photocopied earlier, and instructed the latter and the informant to go to the residence of accused-appellant to carry out the operation. Pfc. Reyes and his team would serve as backup for Pat. Ugaddan and the informant. Pfc. Reyes instructed Pat. Ugaddan that in the event he would be able to buy shabu from accused-appellant, he (Pat. Ugaddan) should join them where they were positioned and report on their mission.

After the briefing, Pfc. Reyes and his team proceeded to J. Victor Street. As planned, Pat. Ugaddan and the informant proceeded to the residence of their quarry while Pfc. Reyes and the other members of the team posted themselves in strategic places. After a few minutes, Pat. Ugaddan, together with the informant, reported to Pfc. Reyes that he had succeeded in buying shabu from appellant worth P150.00 at the same time presenting the merchandise to Pfc. Reyes. After determining that it was shabu, Pfc. Reyes and his men immediately proceeded to the residence of appellant. Pfc. Reyes and his men entered the house of appellant which was open and went up to the second floor. In one of the rooms, they found several men seated around a table, engaged in pot session. One of those in the room was appellant although he was not smoking/sniffing shabu or marijuana. Pfc. Reyes saw burnt marijuana leaves and shabu in aluminum foil, and three (3) tin foil wrappers containing shabu, among other things. The paraphernalia he saw consisted of a still lighted improvised lamp or burner, sniffing tube or tooter, improvised water pipe, disposable lighter, improvised cutter, and needle with handle. Pat. Ugaddan pointed accused-appellant and Ezra King to Pfc. Reyes as the persons who earlier sold shabu to him. Thereupon, Pfc. Reyes frisked accused-appellant and found in his person the two (2) P100.00-bills he gave to Pat. Ugaddan as buy-bust money and a quantity of shabu contained in a plastic bag.

For the purpose of conducting the appropriate investigation, Pfc. Reyes and his men brought accused-appellant and his companions to the headquarters together with the confiscated items. Pfc. Reyes then prepared a receipt of the property seized and gave it to accused-appellant for his signature. Accused-appellant signed it but only after personally canceling out the items designated in said receipt as items "C"[4] and "D"[5] because according to him, those were not taken from him nor from his residence. Thereafter, Pfc. Reyes and his men executed a joint affidavit of arrest and prepared a letter to the NBI requesting for laboratory examination of the confiscated items. He ordered Pfc. Bacani to hand-carry the same and the evidence mentioned therein to the NBI, which the latter did.

On 21 November 1988, Forensic Chemist Ma. Carina Javier issued a certification stating that she had found a number of the evidence positive for marijuana.[6] On 23 November 1988, she issued another certification stating that she had found the remaining evidence positive for methylamphetamine hydrochloride (shabu).[7]

Pat. Ugaddan confirmed the testimony of Pfc. Reyes with regard to his participation in the buy-bust operation which their team conducted on 20 November 1988. However, on the witness stand, he was unable to identify the buy-bust money and the shabu which he purchased from accused-appellant because of the length of time, according to him, that had elapsed.

Accused-appellant presented a different version of the incident which transpired on 20 November 1988. According to him, between eight and eight-thirty in the evening, he was in one of the rooms of his apartment having dinner with his family. In the other room were his friends Ezra King, Alberto Maniego, Jaime Sylvestre, Danilo Mumar, Carlos Garcia and Michael McMurray, who were drinking beer. All of a sudden, he heard a commotion outside his apartment. When he looked out, he saw several men chasing a man who was then running towards the side of his apartment. Then he resumed eating. After a while, he heard footsteps going up the stairs of his apartment. When he went out of his room to find out what it was all about, he saw in the other room about ten (10) men, including his friends. The other men, who introduced themselves as police officers, were looking for a certain "Elcid." When they failed to locate "Elcid," they started to search the place. He protested but the policemen ignored him. Over his protestations, the policemen brought him and his companions to the police headquarters. The policemen also took the P1,000.00 of his wife.

The accused denied the testimonies of Pfc. Reyes and Pat. Ugaddan that he sold shabu to the latter. He also denied the testimony of Pfc. Reyes that he (Pfc. Reyes) found in his person two (2) P100.00-bills and a quantity of shabu contained in a plastic bag. He admitted that he signed the receipt of property seized but did not read its contents

because the police officers poked guns at him and threatened that something would happen to him if he refused to do so.

The errors assigned in this appeal refer mainly to the credibility of the prosecution witnesses and the circumstances surrounding the illegal arrest of accused-appellant and the warrantless search of his house.

The appellant alleges that while Pfc. Reyes claims to have confiscated a plastic bag containing shabu from him, this was never corroborated by any witness. Neither was the claim of Pat. Ugaddan that he bought shabu from him and Ezra King worth P150.00 corroborated by any other witness. There was no testimony about the P50.00 change. Pat. Ugaddan was even unable to identify on the witness stand the buy-bust money and the shabu. The policemen admitted having no warrant of arrest or search warrant when they arrested accused-appellant and searched his room. No lawyer assisted him during the custodial investigation, especially when he was made to sign the receipt of property seized.

We affirm the conviction of accused-appellant.

Section 27, Art. IV, of R.A. 6425 for violation of which accused-appellant and six (6) others stand charged in Crim. Case No. 1118, provides:

Sec. 27. Criminal Liability of Possessor or User of Dangerous Drugs During Social Gatherings. - The maximum of the penalties provided for in Section 8, Article II and Section 16, Article III of this Act shall be imposed upon any person found possessing or using any dangerous drug during a party or at a social gathering or in a group of at least five persons possessing or using such drugs.

Pfc. Reyes testified that accused-appellant was seated among six (6) male persons who were engaged in a pot session inside the room.[8] However, his testimony is contradicted by Pat. Ugaddan who testified that accused-appellant was not a participant in the pot session because he was in the adjoining room.[9] We therefore disagree with the finding of the trial court that:

x x x x Pfc. Norman Reyes and Pat. Eduardo Ugaddan had categorically testified that x x x at the time he (accused-appellant) was found in possession (of methylamphetamine hydrochloride) he was seated with his six co-accused around a table, inside one of the rooms of his apartment, with his said companions smoking/sniffing marijuana/methylamphetamine hydrochloride.[10]

Nevertheless, the inconsistency does not absolutely free accused-appellant from criminal liability. We consider the other explicit testimonies of Pfc. Reyes and Pat. Ugaddan that accused-appellant was found in possession of a quantity of methylamphetamine hydrochloride,[11] in which case he is guilty of violating Sec. 16, Art. III, of R.A. 6425 which provides:

Sec. 16. Possession or Use of Regulated Drugs. - The penalty of imprisonment ranging from six years and one day to twelve years and a fine ranging from six thousand to twelve thousand pesos shall be imposed upon any person who shall possess or use any regulated drug without the corresponding license or prescription.

Section 16 of R.A. 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), which took effect on 31 December 1993, amended the aforementioned provision which now reads:

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 (underscoring on amendments supplied).

On the other hand, Sec. 15, Art. III, of R.A. 6425 for violation of which accused-appellant and Ezra King were

charged in Crim. Case No. 1119 provides:

Sec. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs. - The penalty of life imprisonment to death and a fine ranging from twenty thousand to thirty thousand 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

Section 14 of R.A. 7659 likewise amended the aforementioned provision making the penalty equally severe as that for possession or use of regulated drugs. Section 15 now reads:

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 by any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug x x x (underscoring on amendments supplied).

Relying on the straightforward testimonies of Pfc. Reyes and Pat. Ugaddan that the latter purchased from appellant a quantity of shabu which he subsequently gave to the former and the object of the sale having been certified as such by the Forensic Chemist, appellant is likewise guilty of having violated the aforementioned provision. The prosecution witnesses may have failed to mention the P50.00 change but that by itself does not diminish their credibility because what is relevant is that the sale has been established with certainty.

The determination of the credibility of the law enforcement agents who conducted the buy-bust operation is addressed to the sound discretion of the trial court. This case presents no reason to disturb the rule that the findings of the trial court on the issue of credibility of the witnesses' testimonies are accorded great weight and respect on appeal because the trial judge had firsthand opportunity to examine and observe the conduct and demeanor of the witnesses when they gave their testimonies.[12] He was placed in a more competent position to discriminate between the true and the false.[13] Thus, we adopt the finding of the trial court that the prosecution's witnesses are credible -

It is established in our jurisprudence that in case of divergence in the testimonies of the prosecution witnesses and of the defense witnesses, the Court should accord greater weight to the testimonies of the former (*People v. Patog*, 144 SCRA 129) Obviously, this rule finds application in this case. For here, the Court is confronted with the conflicting testimonies of Pfc. Reyes and Pat. Ugaddan, on one hand, and the testimony of the accused, on the other x x x x

The court looked far and wide into the records of these cases, but found nothing that would place in discredit the testimonies of Pfc. Reyes and Pat. Ugaddan. On the other hand x x x x there are reasons for the Court not to accept as gospel truth the testimony of accused Romeo Cuachon. It is thus inevitable for the Court to rely on the testimonies of the prosecution witnesses, and conclude that accused Romeo Cuachon is guilty of the offenses charged in the informations.[14]

Although accused-appellant attempts to discredit the testimonies of the peace officers by claiming lack of corroboration, he has not shown any improper motive why they testified in the manner that they did. The presumption of regularity in the performance of official duties has not been overthrown.[15] Besides, the testimony of a lone prosecution witness will suffice if positive and sufficiently shows that the accused committed the offense charged, as in this case.[16]

Admittedly, Pat. Ugaddan failed to identify on the witness stand the dangerous drug sold and the two (2) P100-bills. Nevertheless, such failure is insignificant because those items were identified in court by Pfc. Reyes who was competent to do so. The records show that after buying shabu from accused-appellant, Pat. Ugaddan immediately gave it to Pfc. Reyes[17] who was only a block away[18] from the locus criminis. It was the same

shabu which was sent by Pfc. Reyes to the NBI for laboratory examination. As regards the buy-bust money, Pfc. Reyes personally recovered it from accused-appellant.[19] Moreover, accused-appellant's argument only concerns failure to identify the buy-bust money. In several cases involving failure to present the buy-bust money, this Court held that the presentation in evidence of the buy-bust money is not indispensable for the conviction of an accused provided that the sale is adequately proved by the prosecution.[20] Otherwise stated, the absence of marked money does not create a hiatus in the evidence for the prosecution so long as the dangerous drug given or delivered by the accused was presented before the court and the accused was clearly identified as the offender.[21]

As for the absence of warrant of arrest and search warrant at the time the accused-appellant was arrested, Sec. 5, Rule 113, of the Rules on Criminal Procedure enumerates the instances when arrest without warrant is considered lawful -

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 in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it x x x x

On the basis of the foregoing provisions, the policemen were not only authorized but also under the obligation to apprehend accused-appellant even without a warrant of arrest.[22] Pat. Ugaddan witnessed the illegal act of selling shabu on the occasion of the buy-bust operation in front of the room of the accused. Culled from the testimony of Pat. Ugaddan, he did not make the arrest right then and there because there were only himself and the informant as against the different male and female voices he heard emanating from both rooms of appellant's house. Additionally, Pfc. Reyes instructed Pat. Ugaddan that after the consummation of the sale he should report thereon and afterwards they would all go to where the transaction took place.[23]

We find the explanation of Pat. Ugaddan acceptable if not satisfactory. In buy-bust operations where the illegal sale can be witnessed by the other members of the team from strategic positions, usually the poseur-buyer gives a pre-arranged signal to arrest the seller. In these cases, considering that the operation took place inside the house of appellant, understandably, Pat. Ugaddan and his informant had to get out of the house and inform their backup that the sale had been consummated. Furthermore, a weighty consideration is the fact that, as previously stated, Pat. Ugaddan immediately gave the shabu to Pfc. Reyes who was only a block away and after the latter had determined that it was shabu, which only took a few minutes,[24] they all immediately proceeded to the house of appellant and arrested him. It was a continuing buy-bust operation which, as the phrase connotes, commenced with buying shabu and culminated in his arrest. Since his arrest was lawful, it follows that the incidental search was also valid.[25]

The case of *People v. Catan*[26] involves factual circumstances similar to those attending the case at bench. Two (2) members of the buy-bust team, acting as poseur-buyers, bought marijuana from the accused inside his house while the other members positioned themselves outside. After receiving the marijuana, the poseur-buyers immediately went out of the house and gave a pre-arranged signal to their waiting companions. The other team members then rushed inside the house and arrested the accused. Immediately after, the team conducted a search of the premises which yielded several kilos of marijuana. In this appeal, the accused asserted that he was illegally arrested and that the search of his premises was likewise illegal. But we brushed aside these assertions with this ratiocination -

x x x x Appellant was arrested in flagrante delicto in the act of selling and delivering marijuana to the poseur-buyers. His case therefore falls under the category of a valid warrantless arrest (Sec. 5, Rule 113, 1985 Rules on Criminal Procedure). The subsequent search of his house which immediately followed yielding other

incriminating evidence, and which became the basis of his conviction for possession of a prohibited drug, was a search contemporaneously made and as an incident to a valid warrantless arrest in the immediate vicinity where the arrest was made (*Nolasco v. Paño*, G.R. No. 69803, 30 January 1987, 147 SCRA 509). That is a recognized exception to the general rule that any search and seizure must be supported by a valid warrant (*Manipon v. Sandiganbayan*, G.R. No. 58889, 31 July 1986, 143 SCRA 267). The inclusion of the seized items, therefore, as evidence for the prosecution, was in conformity with the provision on lawful searches (*People v. Castiller*, G.R. No. 87783, 6 August 1990, 188 SCRA 376).[27]

It will serve no purpose to dwell on the argument of accused-appellant regarding the inadmissibility of the receipt of property seized since the other evidence on record is more than adequate to sustain his conviction.[28]

In cases involving persons accused of violating R.A. 6425, the defense, almost always, is denial. So it is in the present case. Yet, the denial of appellant cannot prevail over the detailed and unshaken testimonies of the apprehending officers.[29]

We conclude that the buy-bust operation was not tainted with infirmity which could absolve accused-appellant from criminal liability. Hence, we affirm his conviction. But his appeal is not altogether futile because he will, to a certain degree, benefit from it. In view of the amendatory provisions of Sec. 17 of R.A. 7659, which covers violations of Secs. 15 and 16 of R.A. 6425, we have to modify the penalties imposed on him insofar as the amendments favor him. Thus -

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 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 x x x 3. 200 grams or more of shabu or methylamphetamine hydrochloride 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

Taking into account the total weight of shabu involved in these cases, which is only 5.2096 grams, the applicable penalty is that provided in the second paragraph of Sec. 17. Applying by analogy the ruling in the leading case of *People v. Simon*[30], we divide the quantity of shabu below 200 grams or 199 grams into three (3) as basis for determining the proper imposable penalty, i.e., either prision correccional, prision mayor or reclusion temporal. The case of *People v. Navarro*[31] spearheaded such apportionment as follows:

Weight of shabu Imposable Penalty

from 134 to 199 grams reclusion temporal

from 66 to 133 grams prision mayor

below 66 grams prision correccional

Thus, applying the Indeterminate Sentence Law, and there being neither mitigating nor aggravating circumstances, the maximum penalty to be imposed on the accused shall be taken from the medium period of prision correccional, while the minimum shall be taken from the penalty next lower in degree, which is arresto mayor, in any of its periods. Consequently, the Court considers fair and just imposing upon the accused a prison term of four (4) months and twenty (20) days of arresto mayor maximum as minimum, to four (4) years and two (2) months of prision correccional medium as maximum in each of the two (2) cases against the accused.[32]

WHEREFORE, the judgment of conviction in Crim. Case No. 1118 (G.R. No. 106286) and Crim. Case No. 1119 (G.R. No. 106287) is AFFIRMED, subject to the modification that accused-appellant ROMEO CUACHON Y

SOLER is sentenced in each case to an indeterminate prison term of four (4) months and twenty (20) days of arresto mayor maximum as minimum, to four (4) years and two (2) months of prision correccional medium as maximum, to be served successively by accused-appellant, with costs against him.

SO ORDERED.

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

- [1] Records, p. 1.
- [2] Id., p. 3.
- [3] Rollo, pp. 91-92.
- [4] Two (2) foils of suspected dried marijuana leaves; Records, p. 290.
- [5] Two (2) tin foils of suspected shabu placed in a clear plastic box; *ibid*.
- [6] Records, p. 295.
- [7] Id, p. 297.
- [8] TSN, 4 January 1990, pp. 7-8.
- [9] TSN, 26 February 1990, p. 52.
- [10] Rollo, pp. 87-88.
- [11] TSN, 4 January 1990, p. 9; TSN, 26 February 1990, p. 53.
- [12] *People v. Collantes*, G.R. No. 97146, 8 May 1992, 208 SCRA 853.
- [13] *People v. Simbulan*, G.R. No. 100754, 13 October 1992, 214 SCRA 537.
- [14] Rollo, pp. 90-91.
- [15] *People v. William*, G.R. No. 93712, 15 June 1992, 209 SCRA 808.
- [16] *People v. Abelita*, G.R. No. 96318, 26 June 1992, 210 SCRA 497.
- [17] TSN, 4 January 1990, p. 5.
- [18] Id., p. 6.
- [19] Id., p. 9.
- [20] *People v. Pascual*, G.R. No. 88282, 6 May 1992, 208 SCRA 393.
- [21] *People v. Hoble*, G.R. No. 96091, 22 July 1992, 211 SCRA 675.
- [22] *People v. Fernandez*, G.R. No. 86495, 13 May 1992, 209 SCRA 1.
- [23] TSN, 26 February 1990, pp. 55-56.
- [24] TSN, 4 January 1989, p. 5.
- [25] *People v. Blas*, G.R. No. 97930, 27 May 1992, 209 SCRA 339.

[26] G.R. No. 92928, 21 January 1992, 205 SCRA 235.

[27] *Id.*, p. 242.

[28] *People v. Viente*, G.R. No. 103299, 17 August 1993, 225 SCRA 361.

[29] *People v. Mauyao*, G.R. No. 84525, 6 April 1992, 207 SCRA 732.

[30] G.R. No. 93028, 29 July 1994.

[31] G.R. No. 103394, 2 September 1994.

[32] *People v. Simon*, Note 30, exhaustively discusses the application of penalties with respect to the peculiar provision of the second par. of Sec. 20, Art. IV, of R.A. 6425, as amended by Sec. 17 of R.A. 7659.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.