

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. YONG FUNG YUEN, APPELLANT.*G.R. Nos. 145014-15. February 18, 2004*

Ponente: CALLEJO, SR., J.

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The Narcotics Group of the Philippine National Police based in Camp Crame, Quezon City, received reports from police units and civilian informants that the appellant, Chinese national Yong Fung Yuen,[1] was a member of the Chinese Triad and was engaged in the illegal drug trade in Southern Tagalog.[2] He had a pending case in the Regional Trial Court of Manila for violation of Republic Act No. 6425 (Dangerous Drugs Act), as amended, docketed as Criminal Case No. 09457,[3] in which he posted a personal bail bond of P60,000.[4]

Shortly after he assumed office in September 1997 as Acting Chief of the Narcotics Group, Chief Inspector John Campos met Yong at the Heritage Hotel Casino. He was with a civilian informant named Donna.[5] On September 9, 1997, a civilian informant of the Narcotics Group told Yong that he knew of a prospective buyer of shabu. Senior Inspector Romeo S. Aspe, posing as the buyer, agreed to buy 250 grams of shabu from the appellant. The transaction was arranged to take place at dawn of September 11, 1997 in front of the house rented by Yong at No. 58 France St., Better Living Subdivision, Parañaque City, for the price of P1,000 per gram of shabu, or a total of P250,000.[6] Yong and Aspe also agreed over the phone that Yong would call the civilian informant at 4:00 a.m. on September 11, 1997 to confirm the transaction.[7]

Campos formed a team to conduct buy-bust operations to entrap Yong. Campos, the team leader, designated Aspe as the poseur-buyer, SPO1 Danilo Castro as the arresting officer and Chief Inspector Teofilo M. Andrada as head of a security unit, with Senior Inspector Avelino Abogado, SPO2 Antonio Ventura and other police officers as members.[8] Campos designated Inspector Cesar Aquino to prepare the money to be used to purchase the shabu,[9] to monitor the operation and to conduct the post operations investigation. The Narcotics Group did not have P250,000 for its operation.[10] Aquino prepared two genuine P1,000 bills bearing Serial Nos. Z124028 and J865397 which he placed on top of a bundle of newspapers cut in the same size and shape. He also placed a genuine P500 bill bearing Serial No. V164455[11] on top of another bundle, making it appear that each bundle contained genuine P1,000 and P500 bills amounting to P250,000.[12] Aquino placed his initials on the said bills[13] and placed the bundles in a white plastic bag.[14]

At about 10:00 p.m. of September 10, 1997, Campos conducted a closed-door briefing on how the entrapment would be effected.[15] He gave the members of the team a description of Yong, the plate number of the car he was using and the arrangements on the particulars of the sale.[16] He explained that the civilian informant would introduce Aspe to Yong as the poseur-buyer. After completion of the “sale,” Aspe would give the signal by scratching his nape or raising his hand. Castro and the security unit, deployed in strategic places nearby, would then rush to the scene. Castro would be the one to place Yong under arrest. For his part, Campos would be driving within the vicinity of the house in his car.

At about 4:00 a.m. of September 11, 1997, the civilian informant told Campos that Yong had called and confirmed that the sale would proceed at about 5:00 a.m. Campos and the rest of the team, including the civilian informant, left Camp Crame and arrived in the vicinity at No. 58 France St., Better Living Subdivision, Parañaque City.[17] Aspe brought with him the bag containing the “bundles of money.” Campos was in his car monitoring the operation within the periphery of the house. The members of the security unit positioned themselves nearby. Castro was about ten meters away from the house. Aquino positioned himself at the corner of France and Doña Soledad Sts., about a hundred meters away from Yong’s house.[18] Aspe and the civilian informant waited beside an eatery[19] opposite the house at No. 58 France St. The police officers were in place before 5:00 a.m. and waited for Yong to arrive.

At about 5:30 a.m., a 1990 gray Toyota Corolla car bearing Plate No. PMM 306 stopped in front of the steel gate at No. 58 France St. Yong was at the wheel. Per record of the Land Transportation Office, the car was registered in the name of Marites Amto.[20] The passenger side of the car beside the driver’s seat was facing the gate of the house.[21] When a man alighted from the car, the civilian informant confirmed to Aspe that he was Yong.[22] Aspe and the informant were carrying two semi-transparent plastic bags containing the “money.” The two of them walked towards Yong.[23] The informant then introduced Aspe to Yong as the buyer of shabu.[24] Aspe told Yong that he had P250,000 in cash and showed him the two transparent plastic bags.[25] Yong looked inside the bag and told Aspe that he would get the merchandise. He went back to the gray Toyota, took a brown envelope[26] from it and returned to where Aspe and the civilian informant were.[27] He then opened the envelope and showed its contents to Aspe.[28] In the envelope were six sachets containing white crystalline substances.[29] Yong handed the envelope over to Aspe.[30] Instead of giving the plastic bags of “buy-money” to Yong, Aspe raised his left hand to his nape to signal the other members of the team that the transaction had already been concluded.[31] Castro, Abogado, Andrada and the other police officers forthwith rushed to the scene and identified themselves as members of the PNP Narcotics Group. Castro arrested and handcuffed Yong. When informed of the situation, Aquino contacted Campos and told the latter that the buy-bust operation had been concluded. The two rushed to the scene.

To avoid alerting his neighbors and the consequent embarrassment, Yong suggested to the group that they go inside the house to talk. Aspe balked at first, thinking that they could be killed inside the house. He relented when he realized that there were several police officers with him.[32] Yong, Aspe, Castro, Campos, Andrada and Abogado went inside with the handcuffed Yong in tow. They found Carla Bernabe, a 29-year-old native of Sto. Tomas, Pangasinan; Marites Amto, Yong’s 22-year-old common-law wife, and their young child inside the house.

Yong and Campos went up to the second floor where Yong gave about 40 grams of shabu to Campos in an effort to dissuade the latter from charging him for violation of the Dangerous Drugs Act. Campos took the drug and later turned it over to Aspe.[33] Campos and the other police operatives searched the rooms of the house without Yong’s permission and found 1.5 kilos more of the prohibited drug. Campos also turned this over to Aspe. Yong, Amto and Bernabe were brought to Camp Crame where they were detained.

Aspe turned over the 40 grams of shabu as well as the six sachets which also contained the drug to Aquino. The substance was placed in a brown envelope,[34] which, all in all, contained seven plastic bags, marked therein as Exhibits “A” to “G,” with a total weight of 286.31 grams. Campos wrote the Director of the PNP Crime Laboratory[35] requesting that an examination of the substance be conducted. SPO1 Paranal delivered the specimen to the Crime Laboratory[36] to Officer-on-Duty SPO2 Villanueva, who then turned it over to Forensic Chemist Leslie Maalad. Maalad placed his initials on the specimen, and conducted a qualitative examination using the Simon and Marquiz tests.[37] He also conducted another confirmatory test, the Thin Layer

Chromatograph Test. Maalad signed Report No. D-2402-97 stating that the tests confirmed that the substance contained in the envelope was methamphetamine hydrochloride, more popularly known as shabu.[38]

Castro executed an affidavit on the arrest of Yong, Bernabe and Amto.[39] Campos filed a letter-complaint against the three with the Department of Justice for violation of Rep. Act No. 6425, as amended.[40]

After the requisite preliminary investigation, the charges against Bernabe and Amto were dismissed. Two Informations were, thereafter, filed with the Regional Trial Court of Parañaque City, Branch 259, charging Yong for violation of Rep. Act No. 6425, as amended. The accusatory portion of each Information reads as follows:

Crim. Case No. 97-840
(Amended Information)

“That on or about September 11, 1997, in the Municipality of Parañaque, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously have in his possession about forty (40) grams of Methamphetamine Hydrochloride, otherwise known as “Shabu” a regulated drug in violation of the above-cited law.

CONTRARY TO LAW.”

Crim. Case No. 97-841

“That on or about September 11, 1997, in the Municipality of Parañaque, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously sell to a police poseur-buyer about two hundred fifty (250) grams of Methamphetamine Hydrochloride, otherwise known as “shabu,” a regulated drug, which were placed inside plastic sachets contained in a small brown envelope and for a consideration of P250,000.00.

CONTRARY TO LAW.”

When arraigned, with the assistance of counsel, Yong entered a plea of not guilty to both charges. A joint trial ensued.

The Case for Accused

Dennis Añoaso testified that he had been Yong’s househelper for two years running at No. 58 France St., Better Living Subdivision, Parañaque City. At 10:30 p.m. of September 10, 1997, he and Yong went to the latter’s other house, at No. 28 J. Francisco St., BF Resort, Las Piñas City, where his wife Becky Yong resided. At around 1:30 a.m. the next day, September 11, 1997, Yong woke him up and told him that they were going back to No. 58 France St. Yong brought along Harriet “Mayette” Ciruelas. They stopped by the Shell station at Casimiro Village in Las Piñas City to inflate the tires of the car. As Yong did this, Ciruelas proceeded to the Select store at the station to buy food. Momentarily, another vehicle arrived and two armed men alighted. The men handcuffed and blindfolded Yong and Añoaso. Añoaso was then brought to the car of the armed men, while Yong was made to ride in his own car which one of the men drove. They went to a house near the Nayong Pilipino where the men removed their blindfolds. Añoaso was being compelled to admit something he could not understand, while Yong was brought to the upper floor of the house. At about 6:00 a.m., they were boarded in Yong’s car and brought to the latter’s house at No. 58 France St., Better Living Subdivision, Parañaque City. The two armed men were joined by other police officers. When they arrived at Yong’s house, he was led out of the car and ordered to open the gate. Añoaso did as he was told. Yong remained in the car. After the gate was opened, about nine or ten armed men in civilian attire rushed inside the house. They identified themselves as police officers. While Añoaso was seated in the sala, the men conducted searches in the ground and second floors of the house, including the kitchen.

After about thirty minutes, Yong was brought in and led to the second floor by five men. When they came down later, the men were carrying two bags – one green and the other black.

At 9:00 a.m., Añoaso and Yong were brought out of the house. The armed men ordered Añoaso to get the keys to Amto's vehicle, a Mitsubishi Lancer, which was parked in the garage. He did as he was told. They were brought to Camp Crame; Añoaso rode in Amto's car while Yong was in his own. When they arrived, he was made to sit and told to remain silent. Yong was brought to another room where Añoaso saw Aspe, Aquino, Campos, Andrada and "Big Ben." By 11:00 a.m., Añoaso was ordered to go home. He returned to Yong's house at No. 58 France St. Yong remained at Camp Crame.

At about 6:00 a.m. of September 12, 1997, Añoaso was sleeping on a sofa in the sala of the house at No. 58 France St. Suddenly, someone knocked at the door. When he peeped through the window, he saw that it was Campos. He suddenly poked a gun at Añoaso's head and ordered the latter to open the door. Fearing for his life, Añoaso did as he was told. Aquino, Andrada, Campos and two majors then entered the house. They searched the premises without presenting any warrant. Amto and Bernabe were in the house at the time. After about three hours, Campos and his companions took custody of the two and left.

Ciruelas corroborated Añoaso's testimony. She testified that she was Yong's personal secretary. There were times when she slept in Yong's house at No. 28 J. Francisco St. She was in charge of bringing out Yong's shipment of RTW clothes from Hongkong three times a month. She did not know where he sold the clothes.

At 10:00 p.m. on September 10, 1997, Ciruelas was in Yong's house at No. 28 J. Francisco St. At 2:00 a.m. of September 11, 1997, Yong brought her and Añoaso along on board his Toyota Corolla car. They were on their way to Yong's house at No. 58 France St. Yong carried with him a black-colored bag, and said that he would be entrusting the amount of P250,000 to her. She was told to deliver the money to the engineer who was constructing his new house at Liwanag St. in Las Piñas City. When Yong stopped the car at the Shell station, she went out of the car and proceeded to the Select store to buy food. As she was coming out of the store, she saw two armed men alighting from a white car and boarding Yong's vehicle.

Marissa Abenoja testified that she was Yong's househelper. Yong was engaged in the business of selling Giordano t-shirts and VCDs, and his customers purchased the goods at his house. At 6:00 a.m. on September 11, 1997, she was sleeping in her room in the ground floor of her employer's house at No. 58 France St. Suddenly, three armed men in civilian clothes barged in and ordered her to stay put. The armed men searched the room without asking her permission. They did not show her any search warrant. They then searched the rest of the house. After one hour, they took Yong and Añoaso with them. Añoaso returned at about 11:00 a.m. and told her that they were taken to Camp Crame and Yong was still there. At 6:00 a.m. the next day, the three armed men returned with three or six more companions. The intruders ordered her to answer the telephone if it rang and to use the speakerphone. When the intruders left at 11:00 a.m., they took Bernabe and Amto with them. She did not report the incidents to the barangay and police authorities.

Emilio Balisa, a balut vendor, corroborated the testimonies of Añoaso and Ciruelas. He testified that he personally knew Ciruelas because she was his parokyano. He also sold balut at the Shell station along CAA Road, Las Piñas City. He was at the station when the car driven by Yong stopped at the station at about 2:00 a.m. of September 11, 1997. He saw Ciruelas as she alighted from the car and went to the Select store nearby. Momentarily, a silver-gray car arrived. Four armed men alighted and forced Yong and the latter's companion into their car. One of the armed men got into Yong's car, and both vehicles sped away. He did not notice if any of the station attendants reacted to the incident. He did not report the incident to the police or the barangay authorities.

Carla Bernabe testified that she was a temporary resident in Yong's house at No. 58 France St. as she was looking

for a job. She was in the house at about 6:00 a.m. of September 11, 1997. She heard someone knocking at the door. When she saw that it was Añoaso, she let the latter inside. She went back to her room to rest. Suddenly, an armed man barged into her room, introduced himself as a police officer and forced her to go to the sala. About five to eight more armed men forced the other members of the household into the sala. They searched the entire house but found nothing. Yong was handcuffed and was brought inside the house and on to the second floor. After an hour or so, the group came down. At around 11:00 a.m., the armed men left, bringing with them Yong and Añoaso.

The next day, at around 6:00 a.m., Bernabe was asleep. She suddenly heard someone knocking. Añoaso answered the door and inquired who it was. It was Campos, who shouted and threatened to kill Añoaso if he did not open the door. When Añoaso did as he was told, Campos and four to five other men, likewise armed, entered the house. They searched the premises without any search warrant. At around 11:00 a.m., the armed men left, and brought Yong's wife, Amto, with them.

Alfredo Uy, Jr. testified that Yong was his godfather. At 8:00 a.m. of September 12, 1997, he went to the house at No. 58 France St. to pay his obligation with Yong in the amount of P18,000. He had P100,000 in a plastic bag which he planned to deposit at the PCI Bank, Parañaque branch. The housemaid let him into the house. He was surprised when armed men accosted him by the door and asked why he was there. He replied that he was going to pay his account with Yong. When they learned that he had money, the armed men divested him of the same, totaling P118,000, and ordered him to remain in the sala.

Before noon, the armed men left the house, and brought Uy with them to Camp Crame. Uy was allowed to leave only at about 7:00 p.m. He was shocked at the incident and proceeded to the San Juan de Dios Hospital for medical examination. The next day, he went to the Parañaque police station and had the incident placed in the police blotter.

Marites Amto corroborated Bernabe's testimony. She testified that she had been the common-law wife of Yong since 1996. The latter had investments in the Hongkong stock market. He also bought RTW clothes in Hongkong and had the same sold in Baclaran.

Yong testified that he was a Chinese citizen from Hongkong and was a freelance tourist guide. He came to the Philippines in 1982 as a tourist and he was given a resident visa in 1983. He met then Major Campos for the first time towards the end of August 1997. Yong met him again during the first week of September 1997. Andy Chan, a stockbroker and a Chinese resident of Hongkong, was his good friend. He saw Chan in the Philippines three or four times. He gave Donna's beeper number to help him collect the P1,700,000 which she owed to Chan. Donna (the informant) was Major Campos' girlfriend. At 12:30 p.m. of September 10, 1997, he and Donna went to the Holiday Inn Hotel along Roxas Boulevard, Manila, where Donna paid Chan P1,200,000. She promised to remit the rest of the money at 5:00 p.m. that day, but failed to do so. In the meantime, he went back to No. 28 J. Francisco St., BF Resort, Las Piñas City. He intended to deposit the money at the Tim Hang Jewelry Shop in Ongpin St.

At about 2:00 a.m. of September 11, 1997, Yong, along with Ciruelas and Añoaso, went to the Shell station along the CAA Road to inflate the tires of the car. Ciruelas proceeded to the Select store. They had just come from his house at BF Resort and were on their way to Yong's house at No. 58 France St. Momentarily, a car arrived. Campos and Andrada alighted. Yong was brought to the car, blindfolded and handcuffed. Both cars drove off to a rest house. Campos demanded to know where the P1,700,000 was and replied that the money was in his house. After about three hours, Yong's blindfold was removed. He and Añoaso were then brought to No. 58 France St. Campos, Andrada and other police officers searched the house and found two bags containing P1,700,000. The

men took the money. At about 10:00 a.m., Campos and the police officers brought Yong and Añoso to Camp Crame, Quezon City, where they were detained. The P1,700,000 taken by Campos and the police officers was later returned to Chan.

The prosecution presented Campos anew on rebuttal to controvert some portions of Yong's testimony. Campos denied that Donna was his girlfriend, and asserted that she was one of the civilian informants in connection with the buy-bust operation against Yong. He clarified that he had come to know her a month before the operation. Campos also testified that the police officers effected the buy-bust operation against Yong past midnight, at about 1:00 a.m. to 2:00 a.m. of September 11, 1997. He also said that the first time he saw Yong was when the latter was arrested.

The trial court thereafter rendered judgment convicting Yong of both crimes. The decretal portion of the decision reads:

WHEREFORE, PREMISES CONSIDERED, finding accused Yong Fung Yuen GUILTY beyond reasonable doubt in both cases, he is hereby sentenced to suffer imprisonment of six months of arresto mayor as minimum to 4 years and two months of prision correccional as maximum in Criminal Case No. 97-840 and the penalty of reclusion perpetua and to pay a fine of P500,000.00 in Crim. Case No. 97-841 in the absence of any aggravating or mitigating circumstances and to suffer the accessory penalties provided by law specifically Art. 41 of the Revised Penal Code.

The Clerk of Court is directed to prepare the Mittimus for the immediate transfer of the accused from the Parañaque City Jail to the New Bilibid Prison in Muntinlupa City and to forward all the specimens subject of these cases to the Dangerous Drugs Board for proper disposition.

SO ORDERED.[41]

On appeal, Yong, now the appellant, assails the decision contending that:

A. THE COURT A QUO ERRED IN NOT FINDING THAT THE POLICE OFFICERS CONDUCTED AN ILLEGAL ARREST OF THE PERSONS OF ACCUSED YONG AND DENNIS A×?OSO AT LAS PI×?AS CITY.

B. THE COURT A QUO ERRED IN NOT FINDING THAT THERE WAS NO BUY-BUST OPERATION, BUT ONLY AN OPERATION TO COVER-UP AN ILLEGAL ARREST CULMINATED BY ILLEGAL SEARCH AND SEIZURE.

C. THE COURT A QUO ERRED IN NOT FINDING THAT THE TESTIMONIES OF THE PROSECUTION WITNESSES WERE FATALLY INCONSISTENT, OUTRIGHTLY UNBELIEVABLE AND PROBABLY A PRODUCT OF LIES AND FABRICATIONS.

D. THE COURT A QUO ERRED IN NOT FINDING THAT THE PRESUMPTION OF REGULARITY OF PERFORMANCE OF DUTY IS NOT APPLICABLE IN THESE CASES.

E. THE COURT A QUO ERRED IN FAILING TO CONSIDER THAT INCULPATORY FACTS MUST FAVOR THE ACCUSED.

F. THE COURT A QUO ERRED IN NOT FINDING THAT THE PROSECUTION MUST RELY ON THE STRENGTH OF ITS OWN EVIDENCE.[42]

The threshold issue raised by the appellant may be synthesized, thus: whether or not the trial court erred in giving credence and probative weight to the collective testimonies of the police officers who testified for the prosecution that the appellant was arrested, detained and charged as an aftermath of a buy-bust operation, over the appellant's testimony and those of his witnesses that he was a victim of a vicious frame-up and huli-dap.

The appellant asserts that the credibility of Campos, Castro, Aquino and Aspe and the probative weight of their testimonies were debilitated by substantial self-contradictions and inconsistencies, leaving no other conclusion that he was a victim of a vicious frame-up and huli-dap staged and managed by Campos. He contends that he was arrested and detained without a warrant of arrest; that his house was searched without any search warrant therefor, solely to compel him to return the P1,700,000 that Donna, Campos' girlfriend, had paid to Chan through him. According to the appellant, Aspe, Castro and Aquino and even Campos himself were one in saying that the buy-bust operation was effected at about 5:30 a.m. in September 1997. However, on rebuttal, Campos testified that the operation was effected by the police officers past 1:00 a.m. on to 2:00 a.m. Campos also testified that he met the appellant for the first time only when the latter was arrested on September 11, 1997, but contradicted himself when he testified on rebuttal that he had already met the appellant at the casino of the Heritage Hotel even two weeks before. Aquino, Castro and Aspe, likewise, testified that the civilian informant was a male, only to be later contradicted by no less than Campos himself, who testified on rebuttal that the civilian informant was Donna. According to the appellant, while Aquino and Castro testified that the civilian informant was in attendance during the pre-operation briefing, Aspe testified that the civilian informant arrived only after the conference. Aspe's testimony that he met the appellant for the first time only during the buy-bust operation was belied by Campos when the latter stated that a day or two before September 11, 1997, Aspe was already introduced to the appellant. Furthermore, Castro's testimony on the quantity of shabu confiscated from the appellant during the operation was discordant. He at first claimed that the appellant sold 250 grams of shabu to Aspe, only to contradict himself later when he testified on cross-examination that the shabu weighed only 40 grams. Considering Campos' self-contradicting account, the inconsistencies in his testimony as well as those of Aspe, Castro and Aquino on the evidence-in-chief of the prosecution, the appellant contends that the evidence of the prosecution falls short of the quantum of proof required for his conviction.

For its part, the Office of the Solicitor General (OSG) brushed aside, as minor and peripheral, the inconsistencies catalogued by the appellant. According to the OSG, such inconsistencies did not affect the substance of the testimony of the witnesses of the prosecution, and even served to strengthen their credibility.

The appeal is dismissed.

The appellant's reliance on Campos' answers to questions propounded by his counsel on cross-examination to support a plea for acquittal is unacceptable. It is hornbook doctrine that a witness' testimony must be considered in its entirety and not by truncated portions or isolated passages thereof.[43] In *People v. Ortega*,[44] we held that it is sound policy that self-contradictions in testimonies should be reconciled, if possible; contradictory statements should be considered in light of explanations and attending circumstances and whether inconsistencies result from misconceptions of an innocent witness or are a result of mere willful and corrupt misrepresentation. This Court has held that even the most candid of witnesses commit mistakes and may even make confused and inconsistent statements. Evidently, the testimony of Campos on rebuttal, that the buy-bust operation against the appellant on September 11, 1997 was launched past 1:00 a.m. on to 2:00 a.m., is inconsistent with the testimonies of Aspe, Castro, Aquino and even Campos himself on the prosecution's evidence-in-chief that the buy-bust operation against the appellant on the said date took place at 5:30 a.m. But after calibrating the testimonies of the witnesses of the prosecution on its evidence-in-chief, vis-à-vis the testimony of Campos on rebuttal, we find the testimony of Campos on rebuttal unreliable and cannot prevail over his previous testimony and those of Aspe, Castro and Aquino on the evidence-in-chief of the prosecution.

Aspe, Castro, Aquino and Campos testified on the evidence-in-chief of the prosecution, from January to May 1998, that the buy-bust operation took place at 5:30 a.m. Campos testified on June 24 and July 8, 1998 for the prosecution on its evidence-in-chief and corroborated the testimony of Aspe, Castro and Aquino. It was only on

June 15, 2000, or two years after his testimony on the evidence-in-chief of the prosecution, that Campos testified on rebuttal and claimed that the buy-bust operation took place at about 1:00 a.m. and on to 2:00 a.m. In *United States v. Chandler*,^[45] the appellate court ruled that the testimony of a person relating the circumstances of an incident at a time comparatively nearer to its occurrence, when his memory may be presumed to have been fresh will go far towards impeaching the accuracy of a different or contradictory account delivered by him or a witness at a much later time. As between the collective testimonies of Aspe, Castro, Aquino and Campos in 1998 when the circumstances of the buy-bust operation were still fresh in their minds, and Campos' unexplained testimony on rebuttal only on June 15, 2000, two years after the buy-bust operation, we find the testimonies of Aspe, Aquino, Castro and Campos in 1998 more reliable. Moreover, the fact that Campos testified falsely on rebuttal is no reason why the testimonies of Aspe, Aquino and Castro should be disregarded.^[46]

There is no inconsistency between the testimony of Aspe and Campos on the prosecution's evidence-in-chief that the civilian informant who accompanied the police officers from Camp Crame to France St. was a male, and Campos' testimony on rebuttal evidence that Donna was a civilian informant in the buy-bust operation against the appellant. Campos testified on rebuttal that Donna was only one of the civilian informants in connection with the buy-bust operation. Campos did not testify that Donna was the only civilian informant involved in the buy-bust operation against the appellant:

Q.

By the way, what do you mean by confidential informant?

A. She is providing us intelligent informations of illegal activities of such persons, sir.

Q. And what was the participation of this Donna in the buy-bust operation against Yong Fung Yuen on September 11, 1997?

A. She was one of the informants used by Capt. Aspe, sir.

Q. And how long has this Donna been your informant in your office?

A. Only during that particular operation, sir.^[47]

Neither is the case of the prosecution enfeebled by the discordant testimony of Aquino and Castro that the civilian informant was at the pre-operation briefing, vis-à-vis Aspe's testimony that the civilian informant was not at the conference. The presence of a civilian informant at the briefing is not indispensable, as he or she is not to know all the details of the buy-bust operation. The principal role of the civilian informant at the scene of the transaction is to merely introduce the poseur-buyer to the suspected drug dealer and facilitate the negotiation and consummation of the sale. Whether or not Campos had met the appellant at the casino before the buy-bust operation, and whether the car of the appellant came from Las Piñas City on September 11, 1998 are matters not pertinent to the operation. Campos, after all, was not present at the scene of the buy-bust operation.

The appellant highlighted Castro's testimony on cross-examination that the 40 grams of shabu brought to Camp Crame was not the same substance that was handed to Aspe during the buy-bust operation to discredit the prosecution's case.^[48] Castro's testimony should be considered in its entirety, not in its isolated or truncated parts. The fact is that Castro testified that he did not actually see the shabu that the appellant handed over to Aspe during the buy-bust operation. Indeed, he was about ten meters away from Aspe, and the latter did not bring the six sachets of shabu out of the envelope. Moreover, Castro testified that aside from the shabu that was the subject

of the buy-bust operation, the police officers recovered over 40 grams from the appellant:

Q: And how about Sr. Insp. Aspe, what did he do?

A: He gave the plastic sachet containing alleged shabu.

Q: What else, if any, did he get from Mr. Yung (sic) at that time, if there was any?

A: Maj. Campos talked to Mr. Yung and after that, we proceeded to Mr. Yung's house.

Q: My question is, please understand the question. Will you please read the last question?

STENOGRAPHER:

What else, if any, did he get from Mr. Yung at that time, if there was any?

A:

I did not see other alleged shabu from Mr. Yung.

Q:

Aside from the shabu, were there anything else that was recovered from Mr. Yung by your group?

A: There was an alleged 40 grams.[49]

An allegation of frame-up and extortion by the police officers is a common and standard defense in most dangerous drugs cases. It is, however, viewed by this Court with disfavor, for such defenses can be easily concocted and fabricated. To prove such defenses, the evidence must be clear and convincing.[50]

The police officers are presumed to have performed their duties in accord with law. While such presumption is not conclusive, the appellant was, however, burdened to dispose of the same by clear and convincing evidence. In this case, the evidence of the appellant is utterly insufficient and unconvincing. We agree with the ruling of the trial court:

True enough that the defense presented an array of witnesses but the Court noted that most of them are one way or another dependent upon accused Yong except perhaps balut vendor Emilio Balisa who mysteriously appeared to testify although he allegedly returned to the province five months after this incident happened in September 1997. The Court carefully scrutinized the demeanor of the accused and sad to say, he left an impression of a drug syndicate dealer not perhaps unlike the so-called infamous triad ganglords of the neighboring Asian mainland countries.[51]

Furthermore, the following circumstances serve to weaken the appellant's claim that he was a mere huli-dap victim:

First. Neither Andy Chan nor the appellant charged Campos and the other police officers with robbery for the alleged taking of P1,700,000 from the house rented by the appellant at France St. and the P50,000 contained in the

latter's shoulder bag. Neither did the appellant charge Campos and the other police officers with arbitrary detention for arresting and detaining him without any lawful cause.

Second. The appellant failed to present Andy Chan to corroborate his testimony and to testify that Donna owed him P1,700,000.

Third. Campos and the other police officers were not charged with violation of domicile for the warrantless search of the house rented by the appellant on September 12, 1997.

Fourth. Balisa, the balut vendor, contradicted the testimony of Añoaso and Ciruelas when he testified that he saw not only two but four armed men alighting from a car.

Fifth. Uy never filed a criminal complaint against Campos and the other police officers for robbery of the P218,000 loan or for physical injuries. His testimony that the police officers detained him in the house of the appellant in the morning of September 12, 1997 up to almost noontime is implausible, considering that when they testified, Ciruelas, Añoaso and Abenoja never mentioned that Uy was detained in the appellant's house that day.

Sixth. The appellant's claim that Campos and the police officers arrested and detained him because they were looking for Andy Chan and wanted to retrieve the P1,700,000 which Donna had paid to the latter on September 10, 1997 is hard to believe. If, indeed, the appellant's claim were true, there was no need for Campos and the police officers to still charge him with violation of Sections 15 and 16 of Article III, Rep. Act No. 6425, as amended. There was no need for them to still return to the appellant's house in the morning of September 12, 1997 to conduct another intensive search of the premises. After all, if the appellant were to be believed, Campos had already taken the P1,700,000 which Donna had earlier paid to the appellant and the P50,000 from his shoulder bag.

The testimonies of Ciruelas and Abenoja, that the appellant was engaged in the business of importing RTW clothes and VCDs, is belied by the appellant's own testimony that he was a freelance tourist guide. He failed to adduce any documentary evidence from the Bureau of Internal Revenue and the Parañaque City government to prove that he was engaged in business in Parañaque City, or elsewhere in the Philippines for that matter. Thus, the appellant failed to prove that he had a legitimate source of income. He maintained two families and rented two houses: one at No. 28 J. Francisco St., BF Resort, Las Piñas City, and the other at No. 58 France St., Better Living Subdivision, Parañaque City. He also maintained a girlfriend, Harriet "Mayette" Ciruelas, who was residing with his wife, Marites Amto. Certainly, supporting two families, two households, and a girlfriend required much more than the earnings of a mere freelance tourist guide.

IN LIGHT OF ALL THE FOREGOING, the appeal is DISMISSED. The Decision of the Regional Trial Court of Parañaque City, Branch 259, subject of the appeal is AFFIRMED in toto. Costs against the appellant.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Also known as Johnny Yong or Robert Yong.

[2] TSN, 24 June 1998, pp. 7-8.

[3] Exhibit "S."

[4] Exhibit "R."

- [5] TSN, 8 July 1998, p. 22.
- [6] TSN, 24 June 1998, pp. 14-17.
- [7] Id. at 18.
- [8] Id. at 10-14.
- [9] TSN, 20 May 1998, pp. 13-14.
- [10] TSN, 29 April 1998, pp. 24-26.
- [11] Exhibit "P."
- [12] Exhibits "C-1" to "C-2."
- [13] Exhibit "P."
- [14] Exhibit "C-3."
- [15] TSN, 29 April 1998, p. 19.
- [16] TSN, 24 June 1998, p. 17.
- [17] Id. at 18-19.
- [18] Id. at 20.
- [19] TSN, 29 April 1998, p. 61.
- [20] Records, p. 72.
- [21] TSN, 29 April 1998, p. 57.
- [22] Id. at 48; TSN, 13 January 1998, pp. 40-41.
- [23] TSN, 13 January 1998, p. 41.
- [24] TSN, 29 April 1998, p. 50.
- [25] TSN, 13 January 1998, p. 42.
- [26] Exhibit "E."
- [27] TSN, 18 March 1998, p. 20.
- [28] TSN, 29 April 1998, pp. 54-55.
- [29] Exhibits "F," "G," "I," "J," "K" and "L."
- [30] TSN, 18 March 1998, p. 20; TSN, 13 January 1998, p. 45.
- [31] TSN, 13 January 1998, p. 45.
- [32] TSN, 29 April 1998, p. 91.
- [33] Exhibit "H."
- [34] Exhibits "B" and "D."
- [35] Exhibit "E."

[36] Exhibit “B-2.”

[37] TSN, 2 April 1998, pp. 39-40.

[38] Exhibits “M” and “N” and submarkings.

[39] Exhibit “A.”

[40] Exhibit “O.”

[41] Rollo, p. 134.

[42] Id. at 82.

[43] People v. Mahinay, G.R. No. 139609, November 24, 2003.

[44] 360 SCRA 159 (2001).

[45] 65 Fed. Rep. 308.

[46] Francisco, Revised Rules of Court, Part II, Vol. VII, 1997, p. 514.

[47] TSN, 25 June 2000, pp. 6-7.

[48] TSN, 18 March 1998, p. 25.

[49] Id. at 22-23.

[50] People v. Boco, 309 SCRA 42 (1999).

[51] Rollo, pp. 132-133.

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