

SECOND DIVISION

[G.R. No. 232611, April 26, 2021]

**JASPER TAN Y SIA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

RESOLUTION

LOPEZ, M., J.:

Before this Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision^[2] dated February 14, 2017 of the Court of Appeals (CA) in CA-G.R. CR No. 01396.

ANTECEDENTS

Two (2) Informations^[3] dated June 24, 2002 were filed against Jasper Tan y Sia (Jasper) before the Regional Trial Court (RTC) of Dipolog City, Branch 6, charging him with Illegal Sale and Illegal Possession of Dangerous Drugs under Sections 15 and 16, Article III of Republic Act (RA) No. 6425:

CRIM CASE NO. 11265

That on June 22, 2002 at 2:15 in the afternoon, more or less, at Magsaysay corner Tomas Claudio Streets, Miputak, Dipolog City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that unauthorized sale and distribution of regulated drug is punishable by law, did then and there willfully, unlawfully, and feloniously sell, distribute, and deliver one (1) small transparent plastic sachet of Methyl [amphetamine] Hydrochloride, more particularly blown as "Shabu," approximately weighing 0.10 gram, to a poseur buyer with the use of two (2) pieces marked One Hundred Peso bills bearing Serial Nos. CX093824 and TL275508, without legal authority to sell the same, said act having been committed in gross violation of Section 15, Article III of R.A. 6425, as amended.

CONTRARY TO LAW.

CRIM CASE NO. 11266

That on June 23, 2002, at 2:15 in the afternoon, more or less, at Magsaysay corner Tomas Claudio Streets, Miputak, Dipolog City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that unauthorized use, possession and

control of regulated drug is punishable by law, did then and there willfully, unlawfully, and feloniously have in his possession and control six (6) big and two (2) small transparent plastic sachets of methyl amphetamine hydrochloride, more particularly known as "*shabu*["] a form of regulated drug, approximately weighing a total of 2.74 gram, one (1) piece Five Hundre[d] Peso bill, Fifteen (15) pieces One Hundred Peso bills and two (2) pieces Fifty Peso bill which were proceeds of the offense, without legal authority to possess the same in gross Violation of Section 16, Article III of R.A. 6425, as amended.

CONTRARY TO LAW.^[4]

On arraignment, Jasper pleaded not guilty to the crimes charged. Thereafter, trial on the merits ensued.^[5]

During trial, the prosecution presented two (2) witnesses,^[6] namely, PSI Susan Memoracion Cayabyab (PSI Susan), Forensic Chemical Officer,^[7] and PO2 Jose Rizaldy Calibugar (PO2 Jose), the police officer who conducted surveillance and buy-bust operation.^[8] The witnesses are members of the Philippine National Police (PNP) Dipolog City Station Anti-Vice Team.^[9]

The prosecution witnesses testified that they have been conducting surveillance operations against Jasper beginning the last week of May 2002.^[10] On June 21, 2002, the police officers applied for a search warrant with Judge Eustolia Mata of Municipal Trial Court in Cities (MTCC) Branch 2.^[11] The next day, the police officers gave two (2) marked 100-peso bills to the *poseur-buyer* who transacted with Jasper at the gate of the latter's house. The police officers were observing the transaction covertly. The buy-bust operation was successful so they handcuffed Jasper, and served him a search warrant dated June 21, 2002. Thereafter, they searched Jasper's room in the presence of Barangay Captain Emerenciana Velasco. Recovered were the marked money, amounting to P2,100.00, drug paraphernalia, and white crystalline substance inside six (6) big plastic sachets and two (2) small plastic sachets found on a table and on top of a cabinet inside Jasper's room. The sachets with white crystalline substance were delivered to the crime laboratory for examination and all tested positive for *shabu* (methamphetamine hydrochloride).^[12] For his part, Jasper offered the defense of denial and frame-up.^[13]

On November 10, 2015, the RTC rendered a Joint Decision ^[14] convicting Jasper of the charges against him. The trial court ruled that denial is a weak defense, and the prosecution was able to prove Jasper's guilt beyond reasonable doubt in both cases. The RTC disposed, thus:

WHEREFORE, judgment is rendered declaring accused JASPER TAN guilty beyond reasonable doubt of the crimes charged in these two (2) Informations, He is hereby sentenced to suffer the following:

1.) For Criminal Case No. 11265 for Violation of Sec. 15, Art. III of R.A.

6425, applying the Indeterminate Sentence Law, imprisonment from FOUR (4) years, TWO (2) months and ONE (1) day to SIX (6) years of prison correccional in its maximum period and to pay a FINE in the amount of TWELVE THOUSAND ([P] 12,000.00) PESOS with subsidiary imprisonment in case of insolvency.

2.) For Criminal Case No. 11266, applying the Indeterminate Sentence Law, imprisonment from ONE (1) year, EIGHT (8) months and TWENTY ONE (21) days to TWO (2) years, ELEVEN (11) months and TEN (10) days of prison correccional and to pay a FINE in the amount of FOUR THOUSAND ([P]4,000.00) PESOS with subsidiary imprisonment in case of insolvency.

The subject shabu and other items confiscated from the accused are hereby ordered confiscated in favor of the government and shall be disposed of appropriately in accordance with existing rules.

SO ORDERED.^[15]

Aggrieved, Jasper filed an appeal before the CA. He questioned the validity of the buy-bust operation, the prosecution's failure to account for each link in the chain of custody, the validity of the search warrant, and the sufficiency of PO2 Jose's testimony to establish his guilt.

However, the CA affirmed Jasper's conviction in a Decision dated February 14, 2017:

WHEREFORE, the assailed Joint Judgment dated November 10, 2015 of the Regional Trial Court of Dipolog City, 9th Judicial Region, Branch 6, convicting the appellant Jasper Tan y Sia for violation of Sections 15 and 16, Article III of Republic Act No. 6425, as amended, otherwise known as the Dangerous Drugs Act is AFFIRMED with MODIFICATION, Accused-appellant Jasper Tan y Sia is hereby sentenced to suffer the following:

1.) For Criminal Case No. 11265 for Violation of Section 15, Article III of Republic Act No. 6425, accused-appellant Jasper Tan y Sia is sentenced to an indeterminate penalty imprisonment of six (6) months of *arresto mayor*, as minimum, to four (4) years, two (2) months and one (1) day of *prision correccional*, as maximum;

2.) For Criminal Case No. 11266, for Violation of Section 16, Article III of Republic Act No. 6425, accused-appellant Jasper Tan y Sia is sentenced to an indeterminate penalty of imprisonment of six (6) months of *arresto mayor*, as minimum, to four (4) years, two (2) months and one (1) day of *prision correccional*, as maximum.

SO ORDERED.^[16]

Hence, this recourse. Jasper assails the validity of the search warrant because it does not have a specific description of the house and its premises.^[17] Furthermore, he asserts that the search was invalid because he was already arrested and his movement restricted when the search was conducted, so his right to witness the search was violated.^[18] Jasper likewise argues that the prosecution did not comply with the rule on chain of custody. In sum, he posits the seized drugs are not admissible as evidence, and the buy-bust operation as well as his arrest were illegal.^[19]

On the contrary, the People of the Philippines (People), through the Office of the Solicitor General, contends that the prosecution has clearly established Jasper's guilt beyond reasonable doubt in both charges of Illegal Sale and Illegal Possession of Prohibited Drugs.^[20] The People states that the prosecution has established the conduct of the buy-bust operation, and consequently, the legality of Jasper's arrest.^[21] They further aver that the non-presentation of the informant, who acted as *poseur-buyer*, is not essential^[22] because what matters are the unbroken chain of custody of the illegal drugs and that the integrity and evidentiary value thereof have not been compromised.^[23] The People also maintain that there was a lawful search by virtue of a valid search warrant^[24] and Jasper's defense of denial cannot exculpate him from criminal liability.^[25] Finally, the cited error in the Information in Criminal Case No. 11266 is inconsequential.^[26]

RULING

The petition is meritorious.

The right of the accused to be presumed innocent until proven guilty is a constitutionally protected right. To overturn this presumption, the prosecution must proffer proof beyond reasonable doubt, or that quantum of proof sufficient to produce a moral certainty as to convince and satisfy the conscience of those who act in judgment.^[27] The constitutional presumption of innocence requires the courts to take a more than casual consideration of every circumstance or doubt favoring the innocence of the accused.^[28] If there is doubt, that doubt should be resolved in favor of the accused in order to give flesh and bones to this constitutionally-protected right. Applying this precept in the case at bar, this Court is convinced that the prosecution failed to prove Jasper's guilt beyond reasonable doubt, hence, he must be acquitted.

The prosecution failed to establish the buy-bust operation through the "objective test."

To determine the validity of a buy-bust operation, the Court has consistently applied the "objective test" In *People v. Doria*,^[29] the Court explained that the "objective test" requires the details of the purported transaction during the buy-bust operation to be clearly and adequately shown, *i.e.*, the initial contact between the *poseur-buyer* and the pusher, the offer to purchase the drug, and the promise or payment of the consideration, payment using the buy-bust or marked money, up to the

consummation of the sale by the delivery of the illegal drug subject of the sale whether to the informant alone or the police officer.^[30] All these details must be subject of strict scrutiny by courts to ensure that citizens are not unlawfully induced to commit an offense.^[31]

Here, the prosecution failed to clearly establish the details of the purported sale. Nothing in the records shows the initial contact between the *poseur-buyer* and the seller, and the manner by which the initial contact was made. The offer to buy, the willingness to sell, and the agreed purchase price were not satisfactorily shown. PO2 Jose's testimony as to the details that led to the consummation of the sale is lacking in detail to satisfy the rigid requirements of the "objective test." What is more, considering that PO2 Jose admitted that it was the confidential informant who transacted with Jasper, he was not privy to the entire transaction. There was no indication that PO2 Jose directly saw an illegal drug being sold to the *poseur-buyer*. According to PO2 Jose, he went to Jasper's house with PO2 Cesar Maghinay, SPO4 Orlando Villabito, SPO3 Abunda, and SPO1 Abrasaldo.^[32] He gave two (2) 100-peso bills, marked with his initials,^[33] to the informant who acted as *poseur-buyer*. The police officers were hiding when the transaction occurred at the gate of Jasper's house.^[34] They were positioned 10 to 15 meters away from Jasper and the informant,^[35] but PO2 Jose said he saw Jasper gave the informant *shabu* in exchange for P200, to wit:

Q Now, so what happened after that because you decided to conduct first an entrapment or buy-bust operation to determine if there were still stocks of shabu in the possession of Jasper Tan?

A We requested one of our informants, sir, to act as poseur buyer.

Q And what was to be used during the entrapment?

A Marked money, sir.

X X X X

Q Now, to whom did you give this marked money?

A To our poseur buyer.

X X X X

Q How many meters were you from them that you could see the transaction going on?

A 10 to 15 meters.

Q You were hiding or you were exposed?

A Hiding, sir.