

THIRD DIVISION

[G.R. No. 180661, December 11, 2013]

GEORGE ANTIQUERA Y CODES, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

ABAD, J.:

This case is about a supposed warrantless arrest and a subsequent search prompted by the police officers' chance sighting through an ajar door of the accused engaged in pot session.

The Facts and the Case

On January 13, 2004 the second Assistant City Prosecutor of Pasay City charged the accused George Codes Antiquera* and Corazon Olivenza Cruz with illegal possession of paraphernalia for dangerous drugs^[1] before the Regional Trial Court (RTC) of Pasay City in Criminal Case 04-0100-CFM.^[2] Since the accused Cruz jumped bail, the court tried her *in absentia*.^[3]

The prosecution evidence shows that at around 4:45 a.m. of February 11, 2004, PO1 Gregorio Recio, PO1 Laurence Cabutihan, P/Insp. Eric Ibon, PO1 Rodelio Rania, and two civilian operatives on board a patrol car and a tricycle were conducting a police visibility patrol on David Street, Pasay City, when they saw two unidentified men rush out of house number 107-C and immediately boarded a jeep.

Suspecting that a crime had been committed, the police officers approached the house from where the men came and peeked through the partially opened door. PO1 Recio and PO1 Cabutihan saw accused Antiquera holding an improvised tooter and a pink lighter. Beside him was his live-in partner, Cruz, who was holding an aluminum foil and an improvised burner. They sat facing each other at the living room. This prompted the police officers to enter the house, introduce themselves, and arrest Antiquera and Cruz.^[4]

While inspecting the immediate surroundings, PO1 Cabutihan saw a wooden jewelry box atop a table. It contained an improvised burner, wok, scissors, 10 small transparent plastic sachets with traces of white crystalline substance, improvised scoop, and seven unused strips of aluminum foil. The police officers confiscated all these and brought Antiquera and Cruz to the Drug Enforcement Unit of the Philippine National Police in Pasay City for further investigation and testing.^[5]

A forensic chemical officer examined the confiscated drug paraphernalia and found them positive for traces of methamphetamine hydrochloride or "*shabu*."^[6]

Accused Antiquera gave a different story. He said that on the date and time in question, he and Cruz were asleep in their house when he was roused by knocking on the door. When he went to open it, three armed police officers forced themselves into the house. One of them shoved him and said, "*D'yan ka lang, pusher ka.*" He was handcuffed and someone instructed two of the officers to go to his room. The police later brought accused Antiquera and Cruz to the police station and there informed them of the charges against them. They were shown a box that the police said had been recovered from his house.^[7]

On July 30, 2004 the RTC rendered a Decision^[8] that found accused Antiquera and Cruz guilty of the crime charged and sentenced them to a prison term ranging from six months and one day to two years and four months, and to pay a fine of P10,000.00 each and the costs of the suit.

The RTC said that the prosecution proved beyond reasonable doubt that the police caught accused Antiquera and Cruz in the act of using *shabu* and having drug paraphernalia in their possession. Since no ill motive could be attributed to PO1 Recio and PO1 Cabutihan, the court accorded full faith and credit to their testimony and rejected the self-serving claim of Antiquera.

The trial court gave no weight to accused Antiquera's claim of illegal arrest, given PO1 Recio and PO1 Cabutihan's credible testimony that, prior to their arrest, they saw Antiquera and Cruz in a pot session at their living room and in possession of drug paraphernalia. The police officers were thus justified in arresting the two without a warrant pursuant to Section 5, Rule 113 of the Rules of Criminal Procedure.^[9]

On appeal, the Court of Appeals (CA) rendered a Decision^[10] on September 21, 2007 affirming in full the decision of the trial court. The accused moved for reconsideration but the CA denied it.^[11] The accused is now before this Court seeking acquittal.

The Issue Presented

The issue in this case is whether or not the CA erred in finding accused Antiquera guilty beyond reasonable doubt of illegal possession of drug paraphernalia based on the evidence of the police officers that they saw him and Cruz in the act of possessing drug paraphernalia.

Ruling of the Court

The prosecution's theory, upheld by both the RTC and the CA, is that it was a case of valid warrantless arrest in that the police officers saw accused Antiquera and Cruz through the door of their house, in the act of having a pot session. That valid warrantless arrest gave the officers the right as well to search the living room for objects relating to the crime and thus seize the paraphernalia they found there.

The prosecution contends that, since the seized paraphernalia tested positive for *shabu*, they were no doubt used for smoking, consuming, administering, injecting, ingesting, or introducing dangerous drug into the body in violation of Section 12 of Republic Act 9165. That the accused tested negative for *shabu*, said the prosecution,