

THIRD DIVISION

[G.R. No. 178202, May 14, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NORMAN SITCO AND RAYMUNDO BAGTAS (DECEASED),
ACCUSED-APPELLANTS.**

D E C I S I O N

VELASCO JR., J.:

This is an appeal from the October 19, 2006 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00038 entitled *People of the Philippines v. Norman Sitco y De Jesus and Raymundo Bagtas y Caparas*, which affirmed the Decision of the Regional Trial Court (RTC), Branch 72 in Malabon, in Criminal Case Nos. 19456-MN to 19459-MN for violation of Sections 15 and 16 of Republic Act No. (RA) 6425 or *The Dangerous Drugs Act of 1972*. The affirmed RTC decision adjudged accused-appellants Raymundo Bagtas and Norman Sitco guilty in Crim. Case No. 19456-MN for drug pushing and sentenced them to *reclusion perpetua*. For illegal possession of drugs, Bagtas was sentenced to two months and one day of *arresto mayor*, as minimum, to one year and one day of *prision correccional*, as maximum, in Crim. Case No. 19458-MN, and *reclusion perpetua* in Crim. Case No. 19459-MN. While the RTC convicted Sitco in Crim. Case No. 19457-MN, the CA would later overturn his conviction in this case.

The Facts

In Crim. Case No. 19456-MN, Sitco and Bagtas were charged with drug pushing in an information reading:

That on or about the 11th day of May 1998, in Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, being private persons and without authority of law, conspiring[,] confederating and mutually helping with one another, did then and there willfully, unlawfully and feloniously sell and deliver, in consideration of the sum of P2,000.00+, most of which were boodle or fake money to a poseur buyer[,] two (2) heat-sealed transparent plastic bags containing white crystalline substance with net weight of 108.40 grams and 105.84 grams respectively, which substance when subjected to chemistry examination gave positive result for Methamphetamine Hydrochloride, otherwise known as "Shabu," a regulated [drug].^[1]

The other informations for illegal possession of drugs that were separately filed against either Sitco or Bagtas read as follows:

Crim. Case No. 19457-MN against Sitco (illegal possession)

That on or about the 11th day of May 1998, in Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, being [a] private person and without authority of law, did then and there willfully, unlawfully and feloniously have in [his] possession, custody and control One (1) heat-sealed transparent plastic bag, containing white crystalline substance with net weight of 20.29 grams, which substance when subjected to chemistry examination gave positive result for Methamphetamine Hydrochloride otherwise known as "Shabu," a regulated drug.^[2]

Crim. Case No. 19458-MN against Bagtas (illegal possession)

That on or about the 11th day of May 1998, in Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, being [a] private person and without authority of law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control One (1) heat-sealed transparent plastic bag, containing white crystalline substance with net weight of 1.31 grams, which substance when subjected to chemistry examination gave positive result for Methamphetamine Hydrochloride otherwise known as "Shabu," a regulated drug.

Crim. Case No. 19459-MN against Bagtas (illegal possession)

That on or about the 11th day of May 1998, in Navotas, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, being [a] private person and without authority of law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control One (1) brick of suspected marijuana with net weight of 887.01 grams, which is a regulated drug.^[3]

During the arraignment, both accused-appellants entered a "not guilty" plea to all the charges. A joint trial then ensued.

Version of the Prosecution

From the testimony of the prosecution witness, Police Officer 3 (PO3) Alex Buan, the following version is gathered:

Acting on a tip from an informant, Senior Inspector Gatlet of the Navotas Police Station ordered the conduct of a buy-bust operation against accused-appellants, who were allegedly selling illegal drugs on Espina St. in Navotas, Metro Manila. The team consisted of Buan, as poseur-buyer, a confidential informant, and several police operatives as back-up. Marked money, consisting of four (4) PhP 500 bills for a total of PhP 2,000 and boodles or fake money amounting to PhP 196,000, was prepared.

On May 11, 1998 at 11:15 in the evening, the team proceeded to a house in the

target place where Bagtas answered the knocking of the door. Thereupon, the confidential informant introduced him to Buan who, then and there, expressed his desire to buy *shabu*. Bagtas replied that he did not have enough supply of *shabu*, but manifested that *marijuana* was available. Buan, however, insisted on buying only *shabu*.^[4]

Bagtas informed Buan that someone would be delivering more *shabu*. After waiting for a few minutes, a man, who turned out to be Sitco, arrived. After the usual introductions, Sitco told Buan to follow him to his motorcycle. He asked for the payment and took out a bag with two plastic bags of *shabu* inside. Buan examined the contents, then identified himself as a police officer, and arrested Sitco. The back-up officers joined the scene and frisked Sitco and Bagtas. Sitco was found to have in his possession a loaded caliber .38 *paltik* revolver, the buy-bust money, and more *shabu*. Bagtas had in his possession marijuana and *shabu*.^[5]

The seized items were sent to Forensic Chemist Grace N. Eustaquio for laboratory examination and were found positive for *shabu* and *marijuana* per Physical Science No. D-411-98.

During trial, Buan identified accused-appellants, the four (4) PhP 500-bill marked money used, the *shabu* confiscated from both accused-appellants, and the *marijuana* seized from Bagtas. Buan explained during his testimony that the boodle money placed in-between the genuine marked money the buy-bust team used was unavailable as it had been confiscated by a policeman named "Barlin" when he himself (Buan) was arrested for violating Sec. 27 of the Dangerous Drugs Act.^[6]

Version of the Defense

The evidence for the defense consists of the testimonies of Sitco and Bagtas.

Bagtas branded as fabricated the accusations against him and Sitco. According to him, on the day of the alleged buy-bust operation, he was busy cleaning his motorcycle when, all of a sudden, policemen, led by Buan, entered his house. Buan came armed with an armalite rifle and a .45 caliber pistol, but did not show any document to justifying the police officers' entry into his (Bagtas') home. The intruders pointed guns at Bagtas, his common-law wife, his nephew, a certain Boy Macapagal, a certain Malou, a helper in his store, a girl applying for work as a househelper, and Sitco, who was visiting Buan at the time. They were ordered to lie face down as Bagtas' house was being searched. He was told that he was a suspect in the killing of a Navotas policeman named Ira. After the search was done, no illegal drugs were found. Yet the police officers took his camera, tape recorder, and the cash from his store's sales. The pieces of jewelry they were wearing, including his ring and necklace, were also confiscated. Afterwards, all of them were handcuffed and asked to board the police officers' vehicles. Two motorcycles belonging to Sitco and Bagtas were also seized.^[7]

At the police headquarters, Buan and the other police officers demanded payment for the release of Bagtas' group. After some haggling, the group relented and paid some amount for their freedom. Sitco and Bagtas, however, were detained. Instead, they were handcuffed to a steel post after being blindfolded by the police.^[8] Bagtas overheard the police officers dividing the jewelry among them. He was then beaten

along with Sitco to extort money for their release. The police officers eventually told them to pay a reduced amount, which they still could not afford to give. Complaints were thus filed against them, with the police officers manufacturing the evidence used by the prosecution. Bagtas ended his testimony with a declaration that he was filing complaints against the police officers once he was released from detention.^[9]

Sitco corroborated Bagtas' testimony, adding that Buan had already been dismissed from the service.^[10] He testified that the police officers frisked him and confiscated his wallet, watch, ring, and motorbike. He was told that they were suspects in the killing of a Navotas policeman. At the headquarters, he claimed being tortured. Eventually, he fell asleep. When he woke up, he saw Buan with two others sniffing *shabu*. He declined Buan's invitation to join the session. The police officer likewise instructed him to produce PhP 100,000 for his release. Sitco informed Buan that he could not afford the amount. The next day, May 12, Buan took some *shabu* from the cabinet and told Sitco that the charge against him would push through if he did not pay. Sitco was also warned about the difficulty of posting bail once charged. Since he could not raise the money, the police officers brought him to the prosecutor's office for inquest where manufactured evidence allegedly taken from him and Bagtas were shown to the fiscal.^[11] On cross-examination, he admitted to having been previously arrested for possession of *shabu* and violation of Presidential Decree No. 1866.^[12]

Ruling of the Trial Court

The RTC gave full credence to the testimony of Buan and, mainly on that basis, convicted Bagtas and Sitco of the crimes charged.

The dispositive portion of the RTC Decision^[13] reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the two accused, namely Norman Sitco y de Jesus and Raymundo Bagtas y Caparas guilty beyond reasonable doubt of the offenses charged against them in these cases. In the absence of any mitigating or aggravating circumstances and applying the provisions of the Indeterminate Sentence Law (where applicable), the two accused are hereby sentenced as follows:

1) In Crim. Case No. 19456-MN: for drug pushing under Section 15, Article III, RA 6425, as amended by RA 7659, involving more than 200 grams of shabu, for each of them to suffer imprisonment of *reclusion perpetua* and for each of them to pay a fine in the amount of PhP500,000.00;

2) In Crim. Case No. 19457-MN against Sitco only for illegal possession of 20.29 grams of *shabu* under Section 16, Article III, RA 6425, as amended by RA 7659, to a prison term ranging from SIX (6) MONTHS of *arresto mayor* as minimum, to SIX (6) years of *prision correccional*, as maximum;

3) In Crim. Case No. 19458-MN against Bagtas only for illegal possession

of 1.31 grams of *shabu* under Section 16, Article III, RA 6425, as amended by RA 7659, to a prison term ranging from TWO (2) MONTHS and ONE (1) DAY of *arresto mayor*, as minimum, to ONE (1) YEAR and ONE (1) DAY of *prision correccional*, as maximum;

4) In Crim. Case No. 19459-MN against Bagtas only for illegal possession of 887.01 grams of marijuana under Section 8, Article II, RA 6425, as amended by RA 7659, said accused is sentenced to suffer the prison term of *reclusion perpetua* and to pay a fine of P500,000.00.

Since the death penalty was imposed, the case came to this Court on automatic review. In accordance with *People v. Mateo*,^[14] however, we ordered the transfer of the case to the CA for intermediate review.

Pending CA review of the case, or on May 5, 2006, Bagtas died at the National Bilibid Prison Hospital.

Ruling of the Appellate Court

Before the CA, Sitco argued against the credibility of Buan as witness, the latter having been involved in drug-related activities and was in fact dismissed from the service in March 1999. He also claimed that the alleged drug sale involving him was improbable as no one would sell drugs to a stranger.

On October 19, 2006, the CA acquitted Sitco of illegal possession of drugs but affirmed his conviction of the other offenses charged. It reasoned that Buan's testimony was focused only on the two (2) plastic bags of *shabu* which were the object of the buy-bust; no attempt was made to make a distinction between the said bags and the additional bag of *shabu* supposedly recovered from Sitco when he was frisked. The quantum of proof necessary to sustain a conviction for illegal possession of *shabu* was, thus, not met. However, as to the other charges, the CA ruled that the factual findings of the trial court on Buan's credibility must be respected and upheld.

The *fallo* of the CA's Decision^[15] reads:

WHEREFORE, premises considered, the assailed Joint Decision dated August 26, 1999 of the RTC of Malabon, Metro Manila, Branch 72 in Criminal Case Nos. 19456-MN to 19459 is hereby **AFFIRMED** with modification **ACQUITTING** accused-appellant Norman Sitco y De Jesus in **Criminal Case No. 19457-MN** for violation of Sec. 16, Art. II of RA 6425, as amended by RA 7659, on the basis of reasonable doubt. The rest of the Joint Decision stand[s].

SO ORDERED.

On November 14, 2006, Sitco filed his Notice of Appeal of the appellate court's Decision.