

## SECOND DIVISION

[ G.R. No. 164909, April 30, 2008 ]

**RONNIE AMBAIT Y SAURA, PETITIONER, VS. THE COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

This is an appeal to reverse and set aside the Decision <sup>[1]</sup> dated July 25, 2003 and the Resolution <sup>[2]</sup> dated August 11, 2004 of the Court of Appeals in CA-G.R. CR No. 26050. The appellate court affirmed the Decision <sup>[3]</sup> dated September 5, 2000 of the Regional Trial Court (RTC) of Bacolod City, Branch 41, in Criminal Case Nos. 95-17377 and 95-17378.

On September 5, 2000, the trial court found petitioner guilty beyond reasonable doubt of violation of Presidential Decree No. 1866, <sup>[4]</sup> Illegal Possession of Firearms, and violation of Section 16, <sup>[5]</sup> Article III of Republic Act No. 6425, the Dangerous Drugs Act of 1972, as amended by Batas Pambansa Blg. 179 <sup>[6]</sup> and Rep. Act No. 7659. <sup>[7]</sup>

Petitioner had been found, on October 13, 1995, to unlawfully possess one unlicensed/unauthorized Smith and Wesson revolver, caliber .38, and three rounds of live ammunition. On that same day, he was also found to have in his possession, one small sachet of methamphetamine hydrochloride, otherwise known as *shabu*, weighing more or less 0.10 gram without the corresponding license or prescription.

Affirming the trial court's decision, the Court of Appeals predicated its judgment on the following facts.

On October 13, 1995 just before midnight, Bacolod City PNP Chief Inspector Pedro Merced, SPO2 Freddie Natividad and SPO1 Arthur Yusay were on routine police patrol when an informant codenamed "Savio" tipped them that a certain Teddy Sta. Rita <sup>[8]</sup> of San Patricio, Banago District, Bacolod City was committing certain illegal activities within his residence. The patrol proceeded to the place reported by the informant. It was learned that the dwelling place was owned by one Nelia <sup>[9]</sup> Sta. Rita. <sup>[10]</sup>

Having been informed that petitioner Ronnie Ambait maintained an illegal gambling operation in the said house, the policemen conducted a surveillance and stake-out operation. Using an entrapment procedure, the group was expecting the informant to turn-over some *jai-alai* paraphernalia and bet collections to petitioner; thereupon they would swoop down on the latter. As the policemen watched the informant hand over the tally sheet and bet collections to a certain Barry, the latter handed the

paraphernalia to petitioner who was sitting behind a table with an open compartment. [11] The policemen thereafter entered the house and found three persons namely, petitioner, Teddy Sta. Rita and a Eufran Serfino. Noticing a bulge in petitioner's pocket, SPO2 Natividad asked him to stand up and empty his pocket. Petitioner let out a brown coin purse containing a small sachet. SPO1 Yusay then frisked petitioner and found a .38 caliber revolver and three live ammunitions. Gambling paraphernalia and bets amounting to P1,799 were found on the table. [12]

Thereafter, Informations against petitioner were filed as follows:

**In Criminal Case No. 95-17377:**

x x x x

That on or about the 13<sup>th</sup> day of October, 1995, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, did, then and there wilfully, unlawfully and feloniously keep, possess, hold and carry in his possession one (1) Revolver Caliber .38 Smith and Wesson (homemade) without Serial Number with three (3) rounds of live ammunitions without license and/or authority duly and legally issued and obtained for that purpose, in violation of the aforementioned law.

Act contrary to law. [13]

**In Criminal Case No. 95-17378:**

x x x x

That on or about the 13<sup>th</sup> day of October, 1995, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused not being lawfully authorized to possess, prepare, administer or otherwise use any regulated drug, did, then and there wilfully, unlawfully and feloniously have in his possession and under his custody one (1) small sachet of methamphetamine hydrochloride, otherwise known as *shabu*, weighing more or less 0.10 gram without the corresponding license or prescription therefor.

Act contrary to law. [14]

During trial, SPO4 Vicente Jalocon of the Firearms and Explosive Unit of the Bacolod City PNP testified that petitioner was not a registered firearm holder and had no license to possess any firearm. [15] Forensic chemist Rhea Villavicencio of the Bacolod City PNP, another prosecution witness, testified that on October 14, 1995, the Chief of the Vice & Narcotic Division requested for laboratory examination of the following specimen in connection with the case namely: an improvised tooter and an aluminum foil containing 1.5 grams suspected to be "*shabu*" in a coin purse. In her report, she found that the specimen, particularly the one placed in the coin purse weighing 1.5 grams, was positive for shabu. [16]

On September 5, 2000, the trial court rendered its decision convicting the petitioner of the offenses charged. The dispositive portion of the decision states:

WHEREFORE, judgment is hereby rendered: (a) finding the accused guilty beyond reasonable doubt of the crime of Violation of P.D. 186<sup>[6]</sup>, and sentenced to suffer imprisonment of four (4) months and one (1) day to six (6) years and a fine of P15,000.00 in Crim. Case No. 17377; and (b) finding the accused guilty beyond reasonable doubt of the crime of Violation of Sec. 16, Art. III of RA 6425, as amended by B.P. Blg. 179 and RA 7659, and is sentenced to suffer imprisonment of prision correc[c]ional, ranging from six (6) months and one (1) day to two (2) years and four (4) months, as minimum to four (4) months and [one] (1) day to six (6) years, as maximum.

SO ORDERED. <sup>[17]</sup>

On appeal, the Court of Appeals in its Decision dated July 25, 2003 affirmed the decision of the trial court.

WHEREFORE, finding no reversible error in the assailed Decision, the same is **AFFIRMED**.

SO ORDERED. <sup>[18]</sup>

A motion for reconsideration filed by the petitioner was also denied. Hence, this petition.

Petitioner cites the following grounds for the allowance of the petition:

I.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN GIVING FULL FAITH AND CREDIT TO THE TESTIMONIES OF PROSECUTION WITNESSES DESPITE THE GLARING INCONSISTENCIES AND IMPROBABILITIES THEREIN.

II.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE FINDINGS OF FACT OF THE TRIAL COURT ARE SUPPORTED BY THE EVIDENCE ON RECORD.

III.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE GUN, LIVE AMMUNITIONS AND *SHABU* THAT WERE CONFISCATED FROM PETITIONER ARE ADMISSIBLE IN EVIDENCE.

IV.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE SEARCH AND SEIZURE OF THE GUN, AMMUNITIONS AND *SHABU*