

FIRST DIVISION

[G.R. No. 142885, October 22, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. WILLIAM TIU Y LIU AND EDGARDO DE PAZ Y DANA, APPELLANTS.

DECISION

AZCUNA, J.:

Appellants William Tiu y Liu and Edgardo De Paz y Danao were charged before the Regional Trial Court of Marikina City^[1] with violating Section 15, Article III of Republic Act 6425, as amended by Republic Act 7659, otherwise known as the Dangerous Drugs Act of 1972. Both were found guilty of the offense charged and sentenced to suffer the penalty of *reclusion perpetua* and solidarily to pay the mandatory conjunctive penalty of a fine of P1,000,000.^[2] The convictions are now up for review before the Court.

The Prosecution's Version of the Facts

The testimonies of prosecution witnesses PO3 Benedicto R. Tupil,^[3] P/Insp. Julieta Culili,^[4] P/Insp. Julius Mana^[5] and P/Insp. Isidro Cariño,^[6] are as follows:

On June 26, 1998, at about 2:30 p.m., police officers Tupil, Culili and Mana were on alert duty at the Philippine National Police Narcotics Group, Special Operations Division (SOD) situated in Camp Crame, Quezon City when a confidential informant (CI) walked in and reported that he had knowledge of two persons, going by the names "William" and "Edgar," who were engaged in the selling and/or delivering of large volumes of *shabu* in Metro Manila. The CI disclosed that Edgar promised him a commission if he can find a good buyer for their available stocks of *shabu*.

After interrogating the CI and evaluating the information given, Mana instructed the CI to contact Edgar and to arrange the purchase of 2 kilos of *shabu*. At about 7:30 p.m., the CI returned, claiming that he closed a deal with Edgar for the purchase of 2 kilos of *shabu* for P1,000,000. The exchange would take place between 5:00 a.m. and 8:00 a.m., the next day, at the 7-11 convenience store parking area located in Bayan-Bayan Ave., Concepcion, Marikina City.

A team was immediately formed comprising of Tupil, to act as the poseur-buyer, Culili and a certain P/Insp. Carlito Dimalanta, to give backup support, and six other police officers, to provide the perimeter security. The buy-bust money was also prepared using six pieces of marked P1,000 bills that were placed on top of ten bundles of "boodle" money^[7] and contained inside a paper bag. Thereafter, the police officers proceeded to the target area. In route, they dropped by the Eastern Police District Station to coordinate the buy-bust operation to avoid a misencounter with the local police.

The police officers arrived in the target area at around 3:30 a.m. Tupil and the CI parked their vehicle in the parking lot of 7-11, while Culili and Dimalanta took positions in front of a Meralco building some 10 to 15 meters away. The rest of the team stayed at a nearby gasoline station, about 20 meters away from 7-11.

At around 6:30 a.m., a metallic green Toyota Corolla XL, with license plate UHE 156, arrived carrying on board the two appellants. De Paz first approached Tupil and the CI. The CI immediately introduced Tupil to De Paz by saying "*Siya iyong interasadong bumili ng shabu.*" De Paz, in turn, requested to see the money, whereupon Tupil went to the car to retrieve the paper bag. Tupil then took out a bundle of boodle money and flashed it in front of De Paz. Satisfied, De Paz left to fetch Tiu who was, during all this time, waiting inside the Toyota Corolla. When De Paz returned with Tiu, the latter was carrying a black shoulder bag. Tiu handed the black bag over to Tupil saying "*Pare, ito iyong order nyo na bato. Dalawang kilo yan.*" After receiving the black bag, Tupil handed over to De Paz the paper bag containing the boodle money. As he was doing so, Tupil executed the prearranged signal by removing the cap he was wearing. Thereafter, Tupil identified himself as a police officer and grabbed Tiu. De Paz managed to run away at first, but was immediately caught by Dimalanta and Culili.

The Appellants' Version of the Facts

Appellants claim that the buy-bust operation never took place. Instead, they depicted an elaborate frame-up perpetrated by the police. Gathered from the testimonies of appellants^[8] and witnesses Lorna Perez,^[9] Nerio Cercado,^[10] Eduardo Balamiento,^[11] Tessie Lesiguez,^[12] Carmelita Villanueva,^[13] and Erna Boadilla,^[14] the whole incident transpired as follows:

On June 26, 1998, Lorna Perez, the common-law wife of Tiu, was in route to Manila on board Tiu's Mitsubishi Lancer GRS, with license plate WLT 111, driven by Nerio Cercado. She had just left Olongapo City, where she had a medical check-up. Somewhere in Sta. Cruz, Pampanga, their vehicle was stopped by armed men who introduced themselves as narcotics policemen stationed in Olongapo City. The policemen accused them of riding in a "hot" car and told them that they must be brought to Camp Crame. Because the men were armed, Perez and Cercado had no choice but to go to Camp Crame.

Upon arrival in Camp Crame at about 8:00 p.m., Perez and Cercado were interrogated by Dimalanta, Culili, Tupil and Mana regarding the whereabouts of Tiu. Both replied that Tiu resides in Marikina and that he may already be home. The police officers then proceeded to Tiu's house with Perez and Cercado. After seeing that Tiu was not yet home, the police officers decided to wait for him.

Tiu arrived at around 5:30 a.m. the following day, accompanied by De Paz. He just came from an all-night card game in the house of De Paz's brother. As they entered the gate, the police officers immediately drew their weapons and ordered them to lie on the ground. One police officer told Tiu that their superior, Director Acop, is very mad at him because of false rumors Tiu was allegedly spreading against Director Acop in Olongapo City. Tiu, De Paz, Perez and Cercado were thereafter brought to Camp Crame.

Later, at around 10:00 a.m., the police brought Tiu and Perez back to Marikina because the police wanted Tiu to get in touch with a certain Paul Chua. When he was unable to contact Paul Chua, they were taken back to Camp Crame. The following day, around 8:00 p.m., Director Acop arrived. Upon seeing Tiu, Director Acop took off his shoes and used them to hit Tiu. Director Acop also punched and kicked Tiu, telling him "*Putang ina mo William, kung anu-ano ang pinagsasabi mo sa Olongapo. Siniraan mo ako at pinag taguan mo pa kami.*"

Subsequently, the police officers offered to release Perez, Cercado and the Mitsubishi Lancer for P270,000. Tiu managed to raise the money and it was brought in by Perez's father early the next morning on June 28, 1998. Thus, Perez and Cercado were set free and the vehicle released. However, Tiu and De Paz were brought before the Marikina Prosecutors Office for inquest proceedings.

Appellants filed separate briefs. In Tiu's brief, the following alleged errors were assigned:

I

THE TRIAL COURT GROSSLY MISAPPRECIATED THE FACTS AND CIRCUMSTANCES OF THE CASE.

II

THE TRIAL COURT ERRED IN GIVING UNDUE WEIGHT AND CREDENCE TO THE EVIDENCE PRESENTED BY THE PROSECUTION DESPITE THE FACT THAT THE SAME INDICATES IMPROBABILITIES.

THE TRIAL COURT ERRED WHEN IT ENGAGES IN GIVING UNDUE WEIGHT TO THE EVIDENCE PRESENTED BY THE PROSECUTION DESPITE THE EXISTENCE OF CLEAR, POSITIVE AND CREDIBLE EVIDENCE EFFECTIVELY CONTROVERTING THE EVIDENCE PRESENTED BY THE PROSECUTION.

III

THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT ON THE GROUND OF REASONABLE DOUBT.

De Paz, in his brief, assigns the following errors for consideration:

I

THE COURT A QUO ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE POLICE OFFICERS WHO CONDUCTED THE ALLEGED BUY-BUST OPERATION WHICH LED TO THE CAPTURE OF WILLIAM TIU AND EDGARDO DE PAZ.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THAT WILLIAM TIU AND EDGARDO DE PAZ WERE CAUGHT IN FLAGRANTE DELICTO IN AN