

THIRD DIVISION

[G.R. Nos. 144506-07, April 11, 2002]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JERRY TING UY, ACCUSED-APPELLANT.**

DECISION

MELO, J.:

Before the Court is an appeal from the September 16, 1996 decision of the Regional Trial Court of the National Capital Judicial Region (Branch XVII, Manila) finding Jerry Ting Uy guilty beyond reasonable doubt of violation of Sections 15 and 16, Article III of Republic Act No. 6425, as amended by Republic Act No. 7659, otherwise known as the Dangerous Drugs Act of 1972.

Appellant Jerry Ting Uy, a Taiwanese national, was charged on July 24, 1998 for violating the Dangerous Drugs Act in two separate Informations which read:

CRIM. CASE NO. 98-166675

That on or about July 21, 1998, in the City of Manila, Philippines, the said accused, without being authorized by law to possess or use any regulated drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control white crystalline substance contained in three (3) separate self-sealed transparent plastic bag weighing one thousand five hundred ten point eight grams (1,510.8 g) known as 'SHABU' containing methamphetamine hydrochloride, a regulated drug, without the corresponding license or prescription thereof.

Contrary to law.

CRIM. CASE NO. 98-166676

That on or about July 21, 1998, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there willfully, unlawfully and knowingly sell or offer for sale, dispense, deliver, transport or distribute white crystalline substance contained in a self-sealed transparent plastic bag weighing five hundred five point six gram (505.6 g) containing methamphetamine hydrochloride, a regulated drug, without the corresponding license or prescription thereof.

Contrary to law.

Upon arraignment, appellant pleaded not guilty to both Informations. A joint trial was thereafter conducted.

The record shows that at around 3:30 in the afternoon of July 21, 1998, a Chinese-Filipino police informant went to the Western Police District headquarters at U.N. Avenue, Ermita, Manila to inform the police officers assigned at the Drug Enforcement Unit thereat that a certain Jerry Ting Uy was engaged in illegal drug activities in Sta. Cruz, Manila. PO3 Luis Chico asked the police informant to contact appellant and to negotiate with him for the purchase of shabu. Around 4 o'clock that same afternoon, the police informant called appellant but was informed that shabu was not yet available. The police informant again called up appellant at about 5 o'clock in the afternoon, and they agreed that appellant would deliver half a kilo of shabu to the informant for P200,000.00 at Severino Street, near the corner of Remigio Street, Sta. Cruz, Manila at 6:30 in the evening of that same day. This information was recorded in the police blotter. Police officers, led by SPO2 Rodolfo Rival, then planned a buy-bust operation for the entrapment of appellant. Eight genuine P500.00 bills, marked with the letter "C", were prepared. These marked P500.00 bills were then placed at the top and at the bottom of four bundles of bogus money. The police designated PO3 Chico to be the poseur-buyer.

At around 6 o'clock in the evening, 13 police officers, including PO3 Chico, and the police informant left the police station and proceeded to the designated meeting place. Except for PO3 Chico and the police informant who waited at the meeting place, the rest of the police officers positioned themselves strategically in various places along Severino Street. Ten minutes later, appellant arrived on board a green Mitsubishi Lancer. Appellant stopped in front of the police informant and PO3 Chico, rolled down the window of his car, and talked to the police informant in Chinese. The police informant then told PO3 Chico to board appellant's car. PO3 Chico slid into the front passenger seat while the police informant sat at the backseat of the car. Appellant then asked for the payment of half a kilo of shabu. PO3 Chico handed the marked money to appellant. Appellant reached down under his seat, took a plastic bag and gave it to PO3 Chico. When PO3 Chico opened the plastic bag, he saw a transparent plastic bag containing substance which he suspected to be shabu. At this point, PO3 Chico introduced himself as a police officer and immediately arrested appellant. PO3 Chico then retrieved the marked money from appellant's lap. Thereafter, PO3 Chico inspected the space underneath the driver's seat and found three more plastic bags containing suspected shabu. After Chico's arrest of appellant, SPO2 Rival arrived and informed appellant of his constitutional rights. Appellant was then brought to the WPD headquarters. The marked bills of money and the four plastic bags seized from appellant were handed over to SPO2 Benjamin Nuguit, who then turned over the same to the National Bureau of Investigation (NBI) for laboratory examination.

The very next day, NBI Forensic Chemist Antonino de Belen issued a certification which reads:

This certifies that on the above-date at 4:05 p.m. one PO2 Gene Nelson Javier of the DES, DID, NPD, U.N. Ave., Manila submitted to his Office for laboratory examination/s to wit:

1. White crystalline substance contained in a self-sealed transparent plastic bag marked "LPCV- 1" and

Net weight of specimen = 505.6 grams

2. White crystalline substance contained in three (3) self-sealed transparent plastic bags marked "JTU-1" respectively.

Total Net Weight of specimen = 1,510.8 grams

All placed in a red plastic bag.

Examination conducted on the above-mentioned specimen/s gave POSITIVE RESULTS for METHAMPHETAMINE HYDROCHLORIDE. XXX

(P. 47, Record.)

In his defense, appellant claimed that he is a victim of frame-up. Appellant's brief narrates the version of the defense as follows:

At about 2 o'clock in the afternoon of July 21, 1998, appellant deposited money in a bank at Masangkay Street near the Metropolitan Hospital in Manila. When appellant was about to board his car after coming from the bank, two vehicles blocked his way (p. 4, tsn., Feb. 9, 2000). Police operatives in civilian clothes, approached appellant and demanded P200,000 without telling him the reason (pp. 55-6, id.). When appellant told them that he could not produce the money, he was made to board one of their vehicles, blindfolded and taken to a house. While inside a room, the police operatives warned him that they would implicate him for drug pushing if he did not produce the money demanded. But appellant responded that he did not have money (pp. 7-9, id.). Later, he was taken at a police station where he was investigated and locked up in a cell (pp. 10-12, id.).

Alex Cruz, while selling buco at about past 2 o'clock in the afternoon of July 21, 1998 at the corner of Masangkay St. and Recto Ave., saw from about 20 meters distance, men in civilian clothes alight from their vehicles which suddenly blocked appellant's vehicle, appellant alight from his vehicle and board one of their vehicles (pp. 3-17, tsn., Nov. 18, 1990).

Appellant was booked and arrested for violation of Sections 15 and 16, Article III of RA 6425, as amended, committed on or about 6:30 p.m. of July 21, 1998 as per report of SPO2 Rodolfo Rival Jr. dated July 22, 1998 (p. 9, Rec.). a joint affidavit (Exh. F, pp. 6-7, Rec.) was executed on July 22, 1998 by police officers Rodolfo Rival Jr., Luis Chico, Gene Nelson Javier with seven (7) others, wherein they narrated how the buy-bust operation transpired wherein appellant was apprehended allegedly for illegal sale and possession of shabu.

(Appellant's Brief, pp. 7-9.)

After trial, the trial court rendered judgment on July 6, 2000, the decretal portion of which reads as follows;

WHEREFORE, in Crim. Case No. 98-166675, the accused, Jerry Ting Uy, is hereby convicted of the crime of Violation of Section 16 of R.A. 6425 as amended involving 1,510.8 grams of shabu and sentenced to suffer the penalty of *reclusion perpetua* and to pay a fine of P500,000.00, plus the costs.

In Crim. Case No. 98-166676, the accused, Jerry Ting Uy, is likewise, convicted of the crime of Violation of Section 15 of R.A. 6425 as amended involving one half kilogram of shabu and sentenced to suffer the penalty of *reclusion perpetua* and to pay a fine of P500,000.00, plus the costs.

The shabu recovered from the accused in the two cases is forfeited in favor of the government and is ordered turned over the Dangerous Drugs Board for proper disposition.

SO ORDERED.

(pp. 19-20, Rollo.)

Appellant now assails his conviction, raising the following as errors allegedly committed by the trial court:

- I. THE LOWER COURT GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF PROSECUTION WITNESS PO3 CHICO, THE ALLEGED POSEUR-BUYER, ON APPELLANT'S SALE AND POSSESSION OF SHABU DURING A BUY-BUST OPERATION.
- II. THE LOWER COURT GRAVELY ERRED IN NOT CONSIDERING THE PROSECUTION'S FAILURE TO PRESENT THE CHINESE INFORMANT AS A WITNESS AS A CIRCUMSTANCE WHICH RENDER DOUBTFUL THE TESTIMONY OF PO3 CHICO ON AN ALLEGED BUY-BUST OPERATION.
- III. THE LOWER COURT GRAVELY ERRED IN NOT GIVING FULL WEIGHT AND CREDENCE TO APPELLANT'S DEFENSE THAT HE WAS A VICTIM OF A FRAME-UP IN AN UNSUCCESSFUL EXTORTION ATTEMPT BY POLICE OPERATIVES.
- IV. THE LOWER COURT GRAVELY ERRED IN NOT FINDING AS INADMISSIBLE THE THREE BAGS CONTAINING SUSPECTED SHABU AS EVIDENCE IN CRIMINAL CASE NO. 98-166676 FOR BEING ILLEGALLY SEIZED EVIDENCE IN A WARRANTLESS ARREST.
- V. THE LOWER COURT GRAVELY ERRED IN NOT ACQUITTING APPELLANT FOR FAILURE OF THE PROSECUTION TO ESTABLISH HIS GUILT BEYOND REASONABLE DOUBT IN SAID CASES.

This Court has carefully examined the record of this case, and finds no justification to come to conclusions different from those made by the trial court.

Appellant was arrested by virtue of a buy-bust operation conducted by the Drug Enforcement Unit of the Western Police District. A buy-bust operation is a form of