

## FIRST DIVISION

[ G.R. No. 132389, November 19, 2002 ]

**PEDRO CUPCUPIN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**YNARES-SANTIAGO, J.:**

This is a petition for review on certiorari, seeking to set aside the November 27, 1997 decision of the Court of Appeals,<sup>[1]</sup> in CA-G.R. CR No. 17334, which affirmed with modification the November 18, 1994 decision<sup>[2]</sup> of the Regional Trial Court of Malabon, Branch 170, wherein petitioner Pedro Cupcupin was found guilty of the crimes of violation of Section 16, Article III, Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, and of violation of Section 1, Presidential Decree 1866, otherwise known as the Unlawful Possession of Firearms and Ammunition, in Criminal Case No. 13374-MN and Criminal Case No.13375-MN. 5784, respectively.

The Informations filed against petitioner read:

In Criminal Case No. 13374-MN for violation of Section 16, Article III, Republic Act 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended:

That on 05 March 1993 in Malabon and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously possess approximately 38.2085 grams of methamphetamine hydrochloride, popularly known as "shabu", a regulated drug, without the corresponding license or prescription therefor.

CONTRARY TO LAW.<sup>[3]</sup>

In Criminal Case No. 13375-MN for violation of Section 1, Presidential Decree 1866, otherwise known as the Unlawful Possession of Firearms and Ammunition:

That on 05 March 1993 in Malabon and within the jurisdiction of this Honorable Court, the above-named accused did then and there wilfully, unlawfully and feloniously have custody, control and possession of:

one (1) M16 Baby Armalite rifle with defaced serial no. and fully loaded magazine  
without serial no. with fully loaded magazine  
one (1) Browning pistol

two (2) empty magazine for Armalite

without lawful authority therefore.

CONTRARY TO LAW.<sup>[4]</sup>

Upon arraignment on August 5, 1993, petitioner pleaded not guilty. Trial on the merits thereafter ensued.<sup>[5]</sup>

The version of the prosecution can be synthesized as follows: Based on a confidential information that petitioner, Pedro Cupcupin is engaged in selling methamphetamine hydrochloride (shabu), and in possession of firearms and ammunitions without the necessary license, NBI Agent Timoteo Rejano of the National Capital Region, conducted a surveillance on the vicinity of petitioner's residence at Int. David Santos, C. Arellano Streets, Malabon, Metro Manila. After confirming said confidential information, Agent Rejano applied for the issuance of search warrants before Judge Romeo J. Callejo,<sup>[6]</sup> of the Regional Trial Court of Manila, Branch 49.<sup>[7]</sup>

On March 3, 1993, Judge Romeo J. Callejo issued the following search warrants:

PEOPLE OF THE PHILIPPINES

Plaintiff,           SEARCH WARRANT NO. 56-93

- versus -

FOR: VIOLATION OF SECTION 16

PEDRO CUPCUPIN

ARTICLE III, of REPUBLIC

Int. David Santos, C. Arellano

ACT 6425, AS AMENDED

Street, Malabon, Metro

Manila

Accused.

x ----- x

SEARCH WARRANT

TO ANY PEACE OFFICER:

Upon sufficient showing of the existence of probable cause, after determination personally by the Judge on examination under oath of the applicant and his witness by means of searching questions and answers thereto, based on the facts personally known to them that Respondent Pedro Cupcupin residing at said address, had been and still is using the said premises, for the possession and/or use of regulated substance known as methamphetamine hydrochloride (SHABU) in violation of section 16 of Republic Act 6425, as amended.

WHEREFORE, the Court commands you to conduct an immediate search, at any time of the day or night, including Saturdays and Sundays, on the premises at the above address, including the rooms located therein, and seize the following:

"UNDETERMINED QUANTITY OF METAMPHETAMINE HYDROCHLORIDE (SHABU)"

and to bring the same before the Court for proper disposition in accordance with law.

You shall make a return of the warrant to the Court within ten (10) days from today.

SO ORDERED.<sup>[8]</sup>

PEOPLE OF THE PHILIPPINES

Plaintiff,               SEARCH WARRANT NO. 57-93

- versus -

FOR: VIOLATION OF

PEDRO CUPCUPIN

PRESIDENTIAL DECREE 1866

Int. David Santos, C. Arellano               (SECTION 1)

Street, Malabon, Metro

Manila

Accused.

x ----- x

SEARCH WARRANT

TO ANY PEACE OFFICER:

Upon sufficient showing of the existence of probable cause, after determination personally by the Judge on examination under oath of the applicant and his witness by means of searching questions, and answers thereto, based on the facts personally known to them, that Accused Pedro Cupcupin residing at said address, had been and still in possession of assorted firearms herein below listed, without the requisite license therefore, in violation of Presidential Decree No. 1866.

WHEREFORE, the Court commands you to conduct an immediate search, at any time of the day and night, including Saturdays, on the premises at the above address including the rooms located therein and seize the following:

- a) Two (2) .45 cal. pistols;
- b) One (1) .38 cal. revolver;
- c) One (1) .9 mm. pistol;
- d) Two (2) M-16 armalite rifles; and
- e) One (1) .22 cal. pistol

and bring the same before the Court for proper disposition in accordance with law.

You shall make a return of the warrant to the Court within ten (10) days from today.

SO ORDERED.<sup>[9]</sup>

On March 5, 1993, at about 7 a.m., the team composed of Supervising Agent Eduard Villarta, NBI agents Timoteo Rejano, Ruel Lasala, Narciso Peña, Jr., Joel Consador, Ceres Delapa-Cabrera, Ernesto Cabrera and Special Investigators Arthur Oliveros and Ariel Nuñez and SPO1 Olazo, raided the house of petitioner located at Int. David Santos and C. Arellano Streets, Malabon, Metro Manila,<sup>[10]</sup> which consisted of a 2-storey house made up of strong materials and a workshop room at the ground floor made up of light materials.<sup>[11]</sup>

The NBI agents presented the search warrants and introduced themselves to the petitioner and his wife, Adelfa Cupcupin. Upon their request, the NBI agents waited for petitioner's mother, Iluminada Cupcupin and in their presence, the team searched the bedroom at the second floor and found a fully-loaded M16 armalite rifle underneath the bed. They likewise found a semi-automatic browning pistol and two empty magazines of armalite inside a drawer of a table found in the same bedroom. Agents Rejano and Consador inscribed their respective initials and date on the handle of the rifle and the pistol.<sup>[12]</sup> An Inventory of the items seized was thereafter signed by Adelfa Cupcupin, Elumina Cupcupin, and the petitioner.<sup>[13]</sup>

Thereafter, the team searched the workshop room, again in the presence of petitioner, his wife, and his mother.<sup>[14]</sup> Seized from petitioner's workshop room were the following: "1) nine (9) plastic packs of white crystalline substance found inside a box [of] 'ETERNITY'; 2) one improvised water pipe; 3) one (1) improvised burner; 4) one (1) weighing scale marked 'TAVITA'; 5) three (3) small tooters; 6) one pack of plastic pouches; 7) one electric resealer; 8) aluminum foils; 9) five (5) assorted magazines for pistols; 10) one (1) rifle grenade; 11) assorted bullets for M16, .45 cal and 9 mm."<sup>[15]</sup> An inventory of the items seized was prepared and thereafter signed and acknowledged by Adelfa Cupcupin, Elumina Cupcupin, and the petitioner.<sup>[16]</sup>

Upon examination by NBI Forensic Chemist Aida R. Vilorio-Magsipoc, the nine plastic packs of white crystalline substance seized from the workshop room of petitioner, turned out to be 38.0201 grams of Methamphetamine Hydrochloride, popularly known as shabu.<sup>[17]</sup>

Petitioner, on the other hand, raised the defense of frame-up. He alleged that between 6:00 to 7:00 in the morning of March 5, 1993, while he was resting at the ground floor of his house in the company of his wife, Adelfa Cupcupin and their two children, the team of NBI agents arrived. They searched his house and detained him and his family at the ground floor. He denied ownership and possession of the illegal items allegedly seized from his house but admitted ownership of the automatic browning pistol found in his bedroom. He produced a Certification from the PNP Firearms and Explosive Division showing that said browning, cal. 9mm pistol with Serial No. 245PZ84617 is registered in his name.<sup>[18]</sup> After the search and while in

handcuffs, he was forced to sign some documents which turned out to be an inventory receipt and a search warrant.<sup>[19]</sup>

Petitioner further declared that the charges against him are purely harassment because in 1991 he had been previously charged, but was subsequently acquitted of illegal possession of regulated drugs and firearms in Criminal Case Nos. 10108-MN and 10109- MN, respectively, before Branch 72, of the Regional Trial Court of Malabon.<sup>[20]</sup>

On November 18, 1994, a decision was rendered by the trial court convicting petitioner, to wit:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. 13374, finding accused Pedro Cucupin guilty beyond reasonable doubt of Violation of Section 16, Article III, Republic Act 6425, as further amended by Republic Act 7659 and considering the quantity of the Methamphetamine Hydrochloride involved in this case, hereby sentences him to suffer an indeterminate penalty of One (1) Year, Eight (8) Months and Twenty (20) Days as minimum, to Four (4) Years, Two (2) Months and One (1) Day as maximum, & to pay the cost;
2. In Criminal Case No. 13375, finding accused Pedro Cupcupin guilty beyond reasonable doubt of Violation of Presidential Decree No. 1866, hereby sentences him to suffer an indeterminate penalty of Seventeen (17) Years, Four (4) Months and One (1) Day as minimum, to Eighteen (18) Years, Eight (8) Months and One (1) Day as maximum, and to pay the cost of this suit.

The unlicensed M16 baby armalite, magazines, assorted ammunitions, methamphetamine hydrochloride and the paraphernalia presented as evidence are all forfeited in favor of the government, and the Branch Clerk of Court is directed to turn over the same to the PNP Firearms and Explosive Office and Dangerous Drugs Board for proper disposition.

The 9mm automatic pistol is hereby ordered returned to accused Pedro Cupcupin.

SO ORDERED.<sup>[21]</sup>

On appeal, the judgment of conviction was affirmed, but modified as to the penalties, to wit:

WHEREFORE, the decision subject of this appeal is AFFIRMED with modifications as to the penalties imposed:

- (1) In Criminal Case No. 13374-MN for violation of R.A. No. 6425, accused-appellant is sentenced to suffer the indeterminate penalty of imprisonment of Six (6) Months of *arresto mayor*, as minimum, to Four (4) Years and Two (2) Months of *prision correccional*, as minimum.
- (2) In Criminal Case No. 13375-MN for violation of P.D. No. 1866, accused-appellant shall suffer an indeterminate penalty of imprisonment of Six (6) Years of *prision correccional*, as minimum, to Eight (8) Years of