

## THIRD DIVISION

[ G.R. NO. 175783, September 03, 2007 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
BERNARDO TUAZON Y NICOLAS, ACCUSED-APPELLANT.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

For Review is the Decision<sup>[1]</sup> of the Court of Appeals promulgated on 31 July 2006 in CA-G.R. CR-HC No. 01799 entitled, "*People of the Philippines v. Bernardo Tuazon y Nicolas*," affirming the Decision<sup>[2]</sup> dated 14 October 2002 of the Regional Trial Court (RTC), Antipolo City, Branch 71, in Criminal Case No. 99-16114, finding accused-appellant guilty beyond reasonable doubt of violation of Section 16, Article III of Republic Act No. 6425,<sup>[3]</sup> as amended.

The Information filed against appellant alleged:

The undersigned State Prosecutor accuses BERNARDO TUAZON y NICOLAS of the crime of Violation of Section 16, Article III, R.A. 6425, as amended, committed as follows:

That, on or about the 7<sup>th</sup> day of March, 1999, in the City of Antipolo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess any regulated drug, did then and there willfully, unlawfully and feloniously have in his possession, custody and control seven (7) heat-sealed transparent plastic bags each containing 97.92 grams, 95.46 grams, 40.47 grams, 5.36 grams, 5.41 grams, 2.95 grams and 3.17 grams for a total weight of 250.74 grams of white crystalline substance, which after the corresponding laboratory examination conducted gave positive result to the test for methylamphetamine hydrochloride also known as "*shabu*" a regulated drug, in violation of the above-cited law.<sup>[4]</sup>

Upon arraignment, appellant, duly assisted by counsel de officio, pleaded not guilty.<sup>[5]</sup>

The prosecution's version of the case relied heavily on the testimony of PO3 Glenon Bueno (PO3 Bueno) who testified that in the morning of 7 March 1999, the Antipolo City Police Station received through telephone, a confidential information that a Gemini car bearing plate number PFC 411<sup>[6]</sup> would deliver an unspecified amount of *shabu* in Marville Subdivision, Antipolo City. Acting on said tip, Antipolo City Chief of Police Major Rene Quintana dispatched a team of policemen to the area to conduct a surveillance. When the team arrived in Marville Subdivision, they saw the said Gemini car and immediately flagged it down. The driver of the car pulled to a stop and opened a window of said vehicle giving the policemen the opportunity to identify

themselves as members of the Antipolo City Police Station. It was then that PO1 Manuel Padlan (PO1 Padlan) saw a gun tucked on appellant's waist. PO1 Padlan inquired about the gun and appellant allegedly replied it did not belong to him nor could he produce any pertinent document relating to said firearm. This prompted PO3 Bueno to order appellant to get down from the car. As soon as appellant stepped down from the vehicle, PO3 Bueno saw five plastic sachets on the driver's seat, the contents of which appellant allegedly admitted to be *shabu*. Appellant was thereafter immediately brought to the police station.

In the Joint Affidavit executed by PO3 Bueno and PO1 Padlan, it was stated that when they frisked appellant, they discovered "2 big plastic bag (sic) and 5 medium size plastic (sic) and a 9 mm. pistol marked Parabellum bearing serial number C-9890 with one loaded magazine with eleven ammunition."<sup>[7]</sup>

The white crystalline substance confiscated from appellant was then forwarded to the Philippine National Police Crime Laboratory in Camp Crame, Quezon City for examination. The test conducted on the specimen turned over to the crime laboratory yielded the following:

#### FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the test for Methylamphetamine Hydrochloride, a regulated drug. x x x.

#### CONCLUSION:

Specimens A-1 through A-7 contains Methylamphetamine Hydrochloride, a regulated drug. x x x.<sup>[8]</sup>

Expectedly, appellant presented a vastly different account of the events that led to his indictment. According to him, he used to work as a caretaker of "Curacha," a beer house/videoke bar located along Circumferential Road, Marville II Subdivision and owned by a certain Bong Reyes. On 6 March 1999, he reported for work at six o'clock in the evening. Later that night, unidentified men walked up to him. One of these men asked him regarding the ownership of the car parked outside the bar. He allegedly accompanied the men outside so he could confirm the identity of the owner of the car that the men were inquiring about. Thereupon, the men pointed to him a green colored Isuzu Gemini car which according to him was driven by his employer, Reyes. After revealing this information to the unidentified men, the latter purportedly pointed guns at him and ordered him to board an owner-type jeepney. The men allegedly asked him regarding the whereabouts of Reyes and threatened to include him in whatever trouble Reyes was in. A few hours passed and he was then brought to the police headquarters where he was asked regarding his address and the name of his employer. After two days, he was allegedly forced to admit that he was in fact the owner of the Gemini car as well as of the *shabu* and the gun recovered from said vehicle. He learned later on that he was charged with violations of Republic Act No. 6425 for illegal possession of *shabu* and Presidential Decree No. 1866 for illegal possession of firearm. The latter case was eventually dismissed. At the end of his direct examination, appellant reiterated that he should not have been the one charged with illegal possession of *shabu*, but Reyes who was driving the Gemini car.

The trial court found the evidence presented by the prosecution sufficient to support a guilty verdict and imposed upon appellant the penalty of reclusion perpetua and to pay a fine of P500,000.00.<sup>[9]</sup>

On 17 September 2003, we resolved to accept the appeal interposed by appellant, the records of the case having been forwarded to this Court by the RTC, Antipolo City, Branch 71. We also required the parties to file their respective briefs.<sup>[10]</sup>

In addition to the required brief, appellant filed a supplementary pleading in which he questioned the validity of his arrest and the admissibility of the evidence presented against him. He contends that at the time of his warrantless arrest, he was merely driving within Marville Subdivision. He had not committed, was not committing, and was not about to commit any crime which could have justified his apprehension. He goes on to argue that even if he had waived the issue regarding the validity of his arrest by his failure to raise the matter before entering his plea, such waiver did not affect the unlawfulness of the search and seizure conducted by the police. Appellant claims that as the confidential informant had been cooperating with the police for three weeks prior to his arrest, the authorities were already informed of his identity and his alleged illegal activities. They should have conducted a prior surveillance and then sought a search warrant from the court. Absent said warrant, the *shabu* seized from him should be excluded from evidence.<sup>[11]</sup>

On 23 February 2005, we ordered the transfer of this case to the Court of Appeals conformably with our decision in *People v. Mateo*, which modified the pertinent provisions of the Rules of Court with respect to direct appeals from the RTCs to this Court of cases where the penalty imposed is death, *reclusion perpetua*, or life imprisonment.<sup>[12]</sup>

The Court of Appeals affirmed the findings and conclusion of the court *a quo*. The dispositive portion of the Court of Appeals' Decision states:

WHEREFORE, the October 14, 2002 Decision of the Regional Trial Court, Branch 71, Antipolo City, in Criminal Case No. 99-16114, is hereby AFFIRMED.<sup>[13]</sup>

In sustaining the trial court, the Court of Appeals found PO3 Bueno's testimony to be "clear and unequivocal"<sup>[14]</sup> and should therefore prevail over appellant's defense of denial.<sup>[15]</sup> The Court of Appeals likewise brushed aside appellant's contention that he was a victim of frame-up as this defense has been viewed with disfavor and has become a standard line of defense in most prosecutions arising from violations of the Dangerous Drugs Act.<sup>[16]</sup> It also took note of appellant's failure to give any credible reason why the police singled him out considering that they were strangers to one another prior to the date of the incident.<sup>[17]</sup>

Appellant is again before this Court pleading his innocence by making a lone assignment of error —

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR VIOLATION OF SECTION 16, ARTICLE III, REPUBLIC ACT 6425, AS AMENDED.<sup>[18]</sup>

Appellant contends that the trial court's reliance on the prosecution's evidence was erroneous considering that he, as a mere grade school graduate, could not have concocted his narration of the events that led to his arrest.<sup>[19]</sup> He also maintains that he was an easy target of police operatives, since he was a new employee in the videoke bar and was therefore unfamiliar with the people who frequented said establishment. In addition, he insists that the prosecution failed to meet the exacting test of moral certainty required for conviction and that the trial court should not have applied the presumption of regularity in the performance of duties on the part of the police officers. <sup>[20]</sup>

Appellant likewise points out the trial court's supposed failure to substantiate the factual and legal bases for his conviction. He notes that the court *a quo's* evaluation of the facts and evidence was contained in only two paragraphs and was utterly lacking in substantial discussion, in contravention of this Court's edict that the decisions must distinctly and clearly express their factual and legal bases.<sup>[21]</sup>

On 19 February 2007, we required the parties to file their respective supplemental briefs, if they so desired. On 17 April 2007, appellant filed a Manifestation stating that he would no longer file a supplemental brief as all relevant matters for his defense were already discussed in his previous pleadings.<sup>[22]</sup> The Office of the Solicitor General likewise manifested that it would no longer file a supplemental brief.<sup>[23]</sup>

The appeal must fail.

In insisting that the trial court should not have given credence to the testimony of PO3 Bueno, appellant is basically making an issue about a witness's credibility. In this regard, we reiterate the rule that appellate courts will generally not disturb factual findings of the trial court since the latter has the unique opportunity to weigh conflicting testimonies, having heard the witnesses themselves and observed their deportment and manner of testifying.<sup>[24]</sup> Thus, unless attended with arbitrariness or plain disregard of pertinent facts or circumstances, the factual findings are accorded the highest degree of respect on appeal.<sup>[25]</sup> Our careful review of the records of this case reveals that the trial court did not err in relying on the testimony of PO3 Bueno. In open court, PO3 Bueno recounted their encounter with appellant as follows:

PROS. LUNA:

Thank you, your honor.

Q: Mr. Witness, where were you assigned as police officer sometime in the month of March 1999?

WITNESS:

A: At the Antipolo Police Station, sir.

Q: Mr. Witness, do you know accused Bernardo Tuazon?

A: Yes, sir.

Q: How did you come to know him?

A: Because we arrested Bernardo Tuazon.

Q: If the accused in this case is present before this Court, will you please point him out?

A: He is that person wearing yellow T-shirt.

LEGAL RESEARCHER ACTING AS INTERPRETER:

The witness is pointing to a male person inside the courtroom when confronted give his name as Bernardo Tuazon.

PROS. LUNA:

Q: Do you recall where were you at about 12:10 in the morning of March 7, 1999?

WITNESS:

A: At the Antipolo Police Station, sir.

Q: What were you doing then at that time?

A: We were doing our duty as police investigator, sir.

Q: Who were your companions at that time?

A: PO1 Manuel Padlan, and CA Ronald Naval, sir.

Q: While performing your functions, do you remember any unusual incident at that time?

A: One of our confidential agents gave an information thru telephone, sir.

Q: About what?

A: About delivery of *shabu* of undetermined amount in the area of Marville Subdivision, Antipolo City, sir.

Q: Do you know that person involved or who is the person supposed to deliver an undetermined amount of "*shabu*"?

A: The asset did not say who will deliver the *shabu* but he only said on the telephone that the car is a Gemini bearing plate number PFC 411 who will deliver at said place.

Q: Upon receipt of said information what did you do next?

A: We informed our Chief of Police Major Rene Quintana, sir.