

FIRST DIVISION

[G.R. No. 175700, July 05, 2010]

SALVADOR V. REBELLION, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

DEL CASTILLO, J.:

The threshold issue confronting us is whether the facts presented in this case make out a legitimate instance of a warrantless arrest, *i.e.* under circumstances sufficient to engender a reasonable belief that some crime was being or about to be committed or had just been committed.

This petition for review assails the September 26, 2006 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 29248 which affirmed with modification the December 8, 2004 Decision^[2] of the Regional Trial Court (RTC) of Mandaluyong City, Branch 209, finding petitioner guilty of violation of Section 16, Article III of Republic Act (RA) No. 6425, as amended (otherwise known as the Dangerous Drugs Act of 1972, as amended).

Factual Antecedents

On July 31, 2000, an Information was filed charging petitioner Salvador V. Rebellion with violation of Section 16, Article III of RA 6425, as amended, the accusatory portion thereof reads:

That on or about the 27th day of July 2000, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not having been lawfully authorized to possess or otherwise use any regulated drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control one (1) heat-sealed transparent plastic sachet containing 0.03 gram of white crystalline substance and one (1) piece of aluminum foil strip with trace of white crystalline substance, which were found positive [for] Methamphetamine Hydrochloride, commonly known as "*shabu*", a regulated drug, without the corresponding license and prescription, in violation of the above cited law.

Contrary to law.^[3]

When arraigned on September 6, 2000, petitioner entered a plea of not guilty. After pre-trial, trial on the merits forthwith commenced.

At about 4:40 in the afternoon of July 27, 2000, PO3 George Garcia (PO3 Garcia) and PO3 Romeo Sotomayor, Jr. (PO3 Sotomayor), together with Michael Fermin and Joseph Apologista, all members of the Mayor's Action Command (MAC) of Mandaluyong City, were on routine patrol along M. Cruz St., Barangay Mauway, when they chanced upon two individuals chanting and in the act of exchanging something. The police officers introduced themselves and then inquired from petitioner what he was holding. Petitioner took out from his possession three strips of aluminum foil which PO3 Garcia confiscated. PO3 Sotomayor also found on petitioner a plastic sachet which contained white crystalline substance which looked like *tawas*. Suspecting that the substance was "*shabu*", he confiscated the plastic sachet. Petitioner and his companion, who was later identified as Clarito Yanson (Clarito), were brought to the MAC station at the Criminal Investigation Division (CID) for investigation. After laboratory examination, the contents of the plastic sachet weighing 0.03 gram were found positive for Methamphetamine Hydrochloride or *shabu*, a regulated drug. The test on the three strips of aluminum foil also yielded positive for traces of *shabu*.

On the basis thereof, petitioner was correspondingly charged with illegal possession of dangerous drugs. Clarito, on the other hand, was further investigated by the City Prosecutor's Office.

Petitioner denied the charge against him. He claimed that he was merely standing in front of a store waiting for the change of his P500.00 bill when he was suddenly accosted by the MAC team.

Ruling of the Regional Trial Court

The trial court found petitioner guilty as charged and sentenced him to suffer an indeterminate penalty of six months of *arresto mayor* as minimum to two years and four months of *prision correccional* as maximum. The trial court gave credence to the straightforward testimonies of the prosecution witnesses and ruled that the elements of the offense charged were duly established.

Ruling of the Court of Appeals

On appeal, petitioner insisted that his warrantless arrest was unlawful since he was not committing any crime when he was arrested.

On September 26, 2006, the CA affirmed the judgment of the RTC with modification. The appellate court sustained the validity of the warrantless arrest of petitioner holding that the latter was caught by the MAC team in *flagrante delicto* or while he was in the act of giving to Clarito a plastic sachet of *shabu*. The CA brushed aside the self-serving version of petitioner. The dispositive portion of the Decision provides:

WHEREFORE, the appealed Decision dated December 8, 2004 of the trial court is affirmed, subject to the modification of accused-appellant's imprisonment sentence which should be six (6) months of *arresto mayor* maximum, as the minimum penalty, to two (2) years, four (4) months and one (1) day of *prision correccional* medium, as the maximum penalty.

SO ORDERED.^[4]

Issue

Reconsideration having been denied, petitioner is now before us raising a singular issue on:

WHETHER THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT FINDING THE PETITIONER GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

Petitioner challenges the legality of his warrantless arrest by asserting that at the time he was apprehended, he was not committing or attempting to commit an offense. Petitioner argues that since his arrest was illegal, the eventual search on his person was also unlawful. Thus, the illicit items confiscated from him are inadmissible in evidence for being violative of his constitutional right against unreasonable searches and seizure.

Our Ruling

We sustain the appellate court in affirming petitioner's conviction by the trial court.

Petitioner's claim that his warrantless arrest is illegal lacks merit. We note that nowhere in the records did we find any objection interposed by petitioner to the irregularity of his arrest prior to his arraignment. It has been consistently ruled that an accused is estopped from assailing any irregularity of his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground before arraignment. Any objection involving a warrant of arrest or the procedure by which the court acquired jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived.^[5] In this case, petitioner was duly arraigned, entered a negative plea and actively participated during the trial. Thus, he is deemed to have waived any perceived defect in his arrest and effectively submitted himself to the jurisdiction of the court trying his case. At any rate, the illegal arrest of an accused is not sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after a trial free from error. It will not even negate the validity of the conviction of the accused.^[6]

A lawful arrest without a warrant may be made by a peace officer or a private individual under any of the following circumstances:^[7]

Sec 5. Arrest without warrant, when lawful - A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) hereof, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and he shall be proceeded against in accordance with Section 7, Rule 112.

Our own review discloses sufficient evidence that the warrantless arrest of petitioner was effected under Section 5(a), or the arrest of a suspect in *flagrante delicto*. The MAC team witnessed petitioner handing a piece of plastic sachet to Clarito. Arousing their suspicion that the sachet contains *shabu*, team members PO3 Garcia and PO3 Sotomayor alighted from their motorcycles and approached them. Clarito was not able to completely get hold of the plastic sachet because of their arrival. At the first opportunity, the team members introduced themselves. Upon inquiry by PO3 Garcia what petitioner was holding, the latter presented three strips of aluminum foil which the former confiscated. At a distance, PO3 Sotomayor saw petitioner in possession of the plastic sachet which contains white crystalline substance. There and then, petitioner and Clarito were apprehended and brought to the CID for investigation. After laboratory examination, the white crystalline substance placed inside the plastic sachet was found positive for methamphetamine hydrochloride or *shabu*, a regulated drug.

Under these circumstances, we entertain no doubt that petitioner was arrested in *flagrante delicto* as he was then committing a crime, violation of the Dangerous Drugs Act, within the view of the arresting team. Thus, his case comes under the exception to the rule requiring a warrant before effecting an arrest. Consequently, the results of the attendant search and seizure were admissible in evidence to prove his guilt of the offense charged. As correctly pointed out by the appellate court in addressing the matter of the purportedly invalid warrantless arrest:

In any event, the warrantless arrest of accused-appellant was lawful because he was caught by the police officers in *flagrante delicto* or while he was in the act of handing to Clarito Yanson a plastic sachet of "shabu". Upon seeing the exchange, PO3 Sotomayor and PO3 Garcia approached accused-appellant and Clarito Yanson and introduced themselves as members of the MAC. PO3 Sotomayor confiscated from accused-appellant the plastic sachet of "shabu" while PO3 Garcia confiscated the aluminum foil strips which accused-appellant was also holding in his other hand.

Jurisprudence is settled that the arresting officer in a legitimate warrantless arrest has the authority to search on the belongings of the offender and confiscate those that may be used to prove the commission of the offense. x x x