

## EN BANC

[ G.R. No. 143032, October 14, 2002 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
SEGUNDINO VALENCIA Y BLANCA, JOHNNY TADENA Y TORDA,  
AND DOMINGO DERROY, JR. Y SAROCAM, ACCUSED-APPELLANTS.**

### D E C I S I O N

#### PER CURIAM:

Accused-appellants Segundino Valencia y Blanca, Johnny Tadena y Torda and Domingo Deroy, Jr. y Sarocam were charged and convicted by the Regional Trial Court of Quezon City for violation of Section 15 of Republic Act (R.A.) 6425, otherwise known as the Dangerous Drugs Act, for unlawfully selling or offering to sell 634.0 grams of Psuedophedrine Hydrochloride which is a regulated drug. The trial court sentenced each of the accused to the supreme penalty of death and to pay a fine of P500,000.00. Hence, the case is now before us on automatic review.

It appears from the prosecution evidence that on September 22, 1998, a confidential informant of the PNP Narcotics Group confided to the group that he was able to negotiate the purchase of one kilo of drugs from a certain Junior and Johnny. The information was passed to the operatives' team leader, Insp. Ramon Arsenal and then to their commanding officer, Supt. Arturo Castillo. Supt. Castillo immediately formed a buy-bust operation team composed of P/Insp. Arsenal, P/Insp. Beasa, SPO2 Estrada and SPO1 Facto. SPO1 Larry Facto was designated as the poseur buyer. He was to buy the one kilo of drugs for the agreed price of P800,000.00. SPO1 Facto was given ten P100.00 bills which he used in preparing the boodle money.<sup>[1]</sup>

The team proceeded to the corner of Baler and Miller Streets in San Francisco Del Monte, Quezon City. SPO1 Facto and the informant waited at the corner of Baler and Miller Streets, while the other members of the team stayed about ten meters away. At about 10:50 in the evening, a white Mitsubishi Lancer with plate no. UET 384 arrived. The driver, Johnny Tadena, called the informant. The informant, together with SPO1 Facto, approached him. SPO1 Facto was introduced by the informant to Johnny Tadena as the buyer. SPO1 Facto asked Tadena where the stuff was. The latter replied, "It's here." He told him not to worry because their boss, a certain Dodong (Segundino Valencia), was present. SPO1 Facto saw three persons inside the car. Valencia was seated beside the driver while their other companion, Domingo Deroy, was at the backseat. Tadena then asked SPO1 Facto about the money and the latter showed him a plastic bag containing the money. When SPO1 Facto asked Tadena to show him the stuff, Valencia ordered Deroy to hand him the bag containing the drugs. Deroy did as instructed. Valencia then handed the stuff to SPO1 Facto in exchange for the money. SPO1 Facto examined the content of the bag and when he saw the white substance inside, he scratched his head to signal his companions that the transaction had been consummated. SPO1 Facto then introduced himself as a police officer and grabbed the car key from the ignition

switch. SPO1 Facto arrested Johnny Tadena while his companions seized the other accused. The three accused were brought to Camp Crame for investigation.<sup>[2]</sup> The substance was submitted for examination at the PNP Crime Laboratory. It tested positive for pseudo-ephedrine, a regulated drug.<sup>[3]</sup>

The defense, on the other hand, alleged that in the evening of September 22, 1998, Johnny Tadena went to see Segundino Valencia in Caloocan City to ask him if he knew anyone who would be interested in buying a 1995 Mitsubishi Lancer. Valencia was allegedly engaged in the business of buying and selling used cars. On the way home, Valencia rode with Tadena to go to Bago Bantay, Quezon City. As they were crossing an intersection along Iligan Street, an Isuzu van suddenly blocked their way. The passengers of the van who appeared to be police officers approached them. They took Valencia's gun which he bought from a police asset. The police brought Valencia and Tadena to Camp Crame. Tadena was placed in a jail cell while Valencia was brought before Col. Castillo. Col. Castillo showed Valencia a plastic bag and said that he would use it as evidence against him. Valencia claimed that the police mauled him and extorted from him the amount of P20,000.00. They also took his necklace worth P5,000.00 and his wallet containing P1,200.00.<sup>[4]</sup> Meanwhile, Domingo Derooy claimed that in the evening of September 22, 1998, he was picked up by the police without any reason at the house of Valencia's parents.<sup>[5]</sup>

On September 24, 1998, Assistant City Prosecutor Danilo B. Vargas filed the following information against the accused:

"That on or about the 22nd day of September 1998 in Quezon City, Philippines, the said accused, conspiring, confederating with and mutually helping one another, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there wilfully and unlawfully sell or offer for sale 634.0 grams of white crystalline substance containing Pseudoephedrine Hydrochloride which is a regulated drug.

CONTRARY TO LAW."<sup>[6]</sup>

Giving more weight to the testimony of the police officers who conducted the buy-bust operation, the trial court convicted the accused of the crime charged. It held that the denial and alibi of the accused were not sufficient to overturn the prosecution evidence which established the guilt of the accused.<sup>[7]</sup> The dispositive portion of the decision read:

"WHEREFORE, finding that the prosecution was able to establish the guilt of the accused beyond reasonable doubt, the Court hereby sentences each of them (1) to suffer the penalty of Death; (2) to pay a fine of P500,000.00; and (3) to pay the costs.

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

In this appeal, accused-appellants raise the following errors:

"1. The court a quo gravely erred in finding that the guilt of the accused-appellants for the crime charged has been proven beyond reasonable doubt.

2. The court a quo gravely erred in giving weight and credence to the improbable testimonies of the witnesses for the prosecution.
3. The court a quo gravely erred in finding that there was conspiracy in the case at bar.”<sup>[9]</sup>

The appeal is without merit.

Accused-appellants were caught *in flagrante delicto* in a buy-bust operation. A buy-bust operation is a form of entrapment whereby ways and means are resorted to for the purpose of trapping and capturing the lawbreakers in the execution of their criminal plan. Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimony on the operation deserves full faith and credit. When the police officers involved in the buy-bust operation have no motive to falsely testify against the accused, the courts shall uphold the presumption that they have performed their duties regularly.<sup>[10]</sup> The trial court in this case correctly upheld the testimony of the prosecution witnesses, the police officers who conducted the buy-bust operation. It did not err in applying the presumption of regularity in the performance of duty by law enforcement agents. We laid down in the case of **People vs. Doria**<sup>[11]</sup> the test in determining the credibility of the testimony of police officers regarding the conduct of buy-bust operations. The Court said:

“It is thus imperative that the presumption, *juris tantum*, of regularity in the performance of official duty by law enforcement agents raised by the Solicitor General be applied with studied restraint. The presumption should not by itself prevail over the presumption of innocence and the constitutionally-protected rights of the individual. It is the duty of courts to preserve the purity of their own temple from the prostitution of the criminal law through lawless enforcement. Courts should not allow themselves to be used as an instrument of abuse and injustice lest an innocent person be made to suffer the unusually severe penalties for drug offenses.

We therefore stress that the ‘objective’ test in buy-bust operations demands that the details of the purported transaction must be clearly and adequately shown. This must start from the initial contact between the poseur-buyer and the pusher, the offer to purchase, the promise or payment of the consideration until the consummation of the sale by the delivery of the illegal drug subject of the sale. The manner by which the initial contact was made, whether or not through an informant, the offer to purchase the drug, the payment of the ‘buy-bust’ money, and the delivery of the illegal drug, whether to the informant alone or the police officer, must be the subject of strict scrutiny by courts to insure that law-abiding citizens are not unlawfully induced to commit an offense. Criminals must be caught but not at all cost. At the same time, however, examining the conduct of the police should not disable courts into ignoring the accused’s predisposition to commit the crime. If there is overwhelming evidence of habitual delinquency, recidivism or plain criminal proclivity, then this must also be considered. Courts should look at all factors to determine the predisposition of an accused to commit an

offense in so far as they are relevant to determine the validity of the defense of inducement.”<sup>[12]</sup>

In the case at bar, SPO1 Facto, the poseur-buyer, gave the complete details of how the transaction was conducted from beginning to end -- the negotiation between the confidential agent and the drug dealers, the preparation made by the buy-bust team before conducting the operation, when the informant introduced him as the supposed buyer to the drug dealers, the exchange of the stuff and the payment between the pushers and the poseur buyer, and the arrest of said drug dealers. SPO1 Facto positively identified accused-appellants as the drug dealers. His testimony went as follows:

“xxx xxx xxx

Q: Can you recall, Mr. Witness, if you reported for duty on September 22, 1998?

A: Yes, ma’am.

Q: What time did you report?

A: Nine o’clock in the morning, ma’am.

Q: Now, while you were on duty was there any specific assignment given to you by your chief?

A: Yes, sir.

Q: What was that assignment?

A: To conduct surveillance against drug traffic in Quezon City.

Q: Was there any specific person whom you were supposed to conduct surveillance on December 22 ... September 22, 1998?

A: Yes, ma’am. The group of a certain Johnny alias Paniki group.

Q: And who ordered you or instructed you to conduct the surveillance?

A: Our team leader, Police Inspector Ramon Arsenal.

Q: Now, how did you know the group of Paniqui would be the subject of surveillance?

A: Through our confidential agent, ma’am.

Q: Were you able to talk to this confidential agent?

A: Yes, ma’am.

Q: And what is the gender of this confidential agent?

A: A male, ma’am.

Q: What did he tell you, if any?

A: He told me that he was able to negotiate the one kilo drug deal to a certain Junior and Johnny, ma’am.

Q: And upon receiving this information, what did you do?  
A: We informed our team leader, Police Inspector Ramon Arsenal the information of our confidential agent, ma'am.

Q: And what happened after giving that information to your team leader?  
A: Our team leader Ramon Arsenal told our CO Col. Castillo about that drug transaction.

Q: What happened next, if any?  
A: Inspector Arsenal formed a team to conduct buy bust operation.

Q: Was there any briefing?  
A: There was a briefing in our office, ma'am.

Q: What was taken up in that briefing?  
A: In the briefing, I would pose as poseur buyer.

Q: And how much were you supposed to buy?  
A: Eight Hundred Thousand Pesos per kilo, ma'am.

Q: So, what else were taken up during the briefing?  
A: Inspector Arsenal furnished me ten (10) pieces of One Hundred Peso-bill. Then I prepared the three bundles with numbers inside and make it appear, parang tingnan mo P800,000.00, parang may boodle sa loob.

Q: After that ... By the way who are the members of the team?  
A: P/Insp. Arsenal, P/Insp. Beasa, SPO2 Estrada, myself and others.

Q: You mentioned of a confidential informant, was he present during that briefing?  
A: Yes, ma'am.

Q: And after preparing the boodle money and 10 pieces of P100-bill, what else happened?  
A: After I prepared the boodle on the night, we proceeded to the area.

Q: Where is this area?  
A: Corner Baler and Miller Streets, San Francisco del Monte, Quezon City.

Q: Were you able to reach the area?  
A: Yes, sir.

Q: What happened next if any?  
A: Around 10:30 p.m., 22 September 1998, minutes later,