



Republic of the Philippines  
**Supreme Court**  
Manila  
**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 179265**

Present:

**LEONARDO-DE CASTRO, J.,\***  
*Acting Chairperson,*  
**BERSAMIN,**  
**DEL CASTILLO,**  
**VILLARAMA, JR., and**  
**PERLAS-BERNABE,\*\* JJ.**

- versus -

**CRISTINA GUSTAFSSON y**  
**NACUA,**  
Accused-Appellant.

Promulgated:

**30 JUL 2012**

x-----x

**DECISION**

**VILLARAMA, JR., J.:**

Appellant Cristina Gustafsson y Nacua appeals the June 27, 2007 Decision<sup>1</sup> of the Court of Appeals (CA) which affirmed the Decision<sup>2</sup> of the Regional Trial Court (RTC) of Pasay City, Branch 119 convicting her of Violation of Section 16, Article III of Republic Act (R.A.) No. 6425 or the Dangerous Drugs Act of 1972.

\* Designated Acting Chairperson of the First Division per Special Order No. 1226 dated May 30, 2012.

\*\* Designated Acting Member of the First Division per Special Order No. 1227 dated May 30, 2012.

<sup>1</sup> *Rollo*, pp. 12-28. Penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Juan Q. Enriquez, Jr. and Vicente S. E. Veloso concurring. The dispositive portion reads:

WHEREFORE, the Decision of the Regional Trial Court of Pasay City, Branch 119 in Criminal Case No. 00-1675, finding accused-appellant Cristina Gustafsson y Nacua, guilty beyond reasonable doubt of violation of Section 16, Article III of R.A. 6425, and sentencing her to suffer the penalty of *RECLUSION PERPETUA* and to pay a fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00), without subsidiary imprisonment in case of insolvency, is **AFFIRMED**. No pronouncement as to costs.

SO ORDERED.

<sup>2</sup> *CA rollo*, pp. 38-69. Penned by Judge Pedro De Leon Gutierrez in Criminal Case No. 00-1675.

Appellant was charged under the following Information:

That on or about September 19, 2000, at the Ninoy Aquino International Airport, Pasay City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully, and feloniously possess methamphetamine hydrochloride, a regulated drug, that is commonly known as “shabu” and with an approximate weight of two thousand six hundred twenty[-]six point forty[-]nine (2,626.49) grams without the corresponding license or authority whatsoever.

Contrary to law.<sup>3</sup>

The facts, as summarized by the Office of the Solicitor General (OSG) and adopted by the appellate court, are as follows:

Around [6:00 P.M. on] September 19, 2000, Cabib Tangomay, a Customs Examiner of the Bureau of Customs assigned at the Departure Operation Division of the Ninoy Aquino International Airport (NAIA), Pasay City, received an information from Police Chief Inspector (P/Ins.) Elmer P[e]lobello, the Chief of the Philippine National Police (PNP) Intelligence Unit, that a departing passenger at the airport was suspected of carrying “shabu”. Tangomay, together with the chief of their office, Customs Examiner Boning Benito, the Duty Non-Uniformed Personnel Supervisor PO2 Paterno Ermino, SPO2 Jerome Cause and action officer Jun Fernandez, proceeded to the departure area[, specifically] near the x-ray machine at the check-in counter situated at the West Lane of the NAIA. About 6:20 P.M. of the same date, a lady passenger bound for Frankfurt, Germany, arrived.

About the same time, Lourdes Macabilin, a member of the Non-Uniformed Personnel of the First Regional Aviation Security Office (RASO), PNP, was assigned as an x-ray operator at the West Check-in area of NAIA, Pasay City. Her duty was to monitor all baggages brought by passengers that pass through the x-ray machine. While she was manning the x-ray machine and screening the luggages passing through the conveyor at that time, she noticed a black object which appeared on the monitor of the x-ray machine. Macabilin immediately called the attention of her supervisor on duty, PO2 Paterno Ermino, who was about two meters from her, about the black image or object inside a luggage bag appearing in the monitor of the x-ray machine. PO2 Ermino separated said luggage from the other bags in the conveyor. After a few seconds, the owner of the luggage, who had just passed through the walk-thru counter, picked up said luggage. The owner was later identified as appellant Cristina [Gustafsson]. PO2 Ermino then called Mr. Araracap, a baggage inspector, and asked Customs Examiners Tangomay and Benito to open the luggage in the presence of appellant. They checked the luggage but could not find the object inside appearing with the black image. Thus, they returned the luggage to the x-ray machine. For the second time, they saw on the monitor black images on the shoes inside the luggage. Tangomay opened the luggage, got the two pairs of shoes, together with a car air freshener, and put said items on the x-ray machine, where black objects appeared on the monitor. Tangomay then opened the soles of the

---

<sup>3</sup> Id. at 12-13.

shoes and found plastic sachets containing white crystalline substance concealed therein. The car air freshener was also opened and found to contain the same white crystalline substance. Thereafter, they brought appellant, together with her luggage (specifically, a bag) containing the plastic sachets with white crystalline substance to the First RASO within the NAIA complex.

Appellant was officially turned over to SPO2 Jerome Cause at the headquarters of the PNP Aviation Security Group Pildera II, Pasay City. An inventory was conducted on the contents of appellant's luggage and her other personal belongings. The authorities placed markings on and signed the plastic sachets found inside appellant's bag. The inventory, however, was not finished on said day and was continued the following day, September 20, 2000. After the inventory of the contents of the subject bag had been finished, SPO2 Cause shook the bag in the presence of appellant, PO2 Samuel Hojilla, Tangomay and Benito to show that there was nothing left inside the bag when its wooden support was accidentally detached, revealing a plastic rubber containing four (4) plastic sachets with white crystalline substance. Another inventory was conducted on the four plastic sachets found at the bottom of the bag's wooden support. Thereafter, SPO2 Cause and PO2 Hojilla executed a joint affidavit [as] to the discovery of the four other plastic sachets containing white crystalline substance. Subsequently, P/Ins. Pelobello, as chief of the Intelligence Unit, prepared a report addressed to the Drug Interdiction Task Group (DITG)-NAIA, x x x for the turn-over of appellant's custody.

Around 9:16 P.M. on September 20, 2000, PO2 Orlando Tanega brought the specimen confiscated from appellant to the [NBI], with a request that the same be subjected to laboratory examination. Patricia Ann Prollamante, a forensic chemist of the [NBI], x x x asked their office's photographer to take pictures of the specimen. x x x The total weight of all the specimen was 2,626.49 grams. [Her] chemical testing [Marxis and Simons tests] x x x and Thin Layer Chromatographic test x x x revealed the presence of methamphetamine hydrochloride on all the specimen. x x x she reduced her findings into writing and submitted the same to their evidence custodian for safekeeping.<sup>4</sup>

The appellant, on the other hand, gave a different version<sup>5</sup> of the incident.

She claimed that on September 19, 2000, at around 6:00 p.m., she was at the NAIA, particularly at the conveyor of the x-ray machine, preparing to board a flight bound for Germany. While waiting in line, a Muslim-looking man who had been curiously looking at her, greeted her. She deposited her black trolley bag and black shoulder bag on the conveyor, while the same man likewise placed his bags numbering about four to five on the conveyor

---

<sup>4</sup> *Rollo*, pp. 13-16.

<sup>5</sup> *Id.* at 16-19; *CA rollo*, pp. 52-59.

belt. She noticed that one of the man's bags resembled her black trolley bag. All the while, the Muslim-looking man was behind her.

After she crossed over the walk-through machine, a civilian airport employee accosted her. At that time, she noticed that the Muslim-looking man was already out of sight. After about twenty minutes, she was told that she was carrying drugs taken from two pairs of sandals found inside her trolley. Appellant immediately professed that she had no knowledge about the drugs shown to her. The bag from where the sandals were allegedly taken was not shown to her.

Subsequently, a number of police officers made her sign a document without the assistance of a lawyer. She was told that she could still catch her flight after signing the said document, which she later identified in open court as her purported affidavit. Thereafter, she was brought to the National Bureau of Investigation and to the Department of Justice. In open court, appellant denied that the bag shown to her was her black trolley bag, but admitted that the personal belongings shown in the pictures were hers.

Collaborating appellant's version of the story was Racquell Redondo. Redondo testified that she knew Cristina Gustafsson personally as she was the friend of her siblings who were all based in Germany. Cristina was in fact a fiancée of one of her brothers. Redondo added that Cristina stayed with her at their house at 313 Captain Serino St. Mabolo II, Bacoar, Cavite when she arrived in the Philippines on September 1, 2000. Redondo claimed that she prepared Gustafsson's luggage before the latter left their house for the airport. She denied packing an air freshener canister inside the baggage. When shown of the pictures of the luggage confiscated by authorities, she denied that it was the same black bag that Cristina brought with her to the airport.

After trial, the RTC found appellant guilty beyond reasonable doubt of violation of Section 16, R.A. No. 6425, as amended by R.A. No. 7659. The *fallo* of the Decision promulgated on June 29, 2005 by the RTC reads:

WHEREFORE, in view of the foregoing, the Court finds the accused Cristina Gustafsson y Nacua guilty beyond reasonable doubt for violation of Section 16 of Republic Act [No.] 6425, as amended by RA 7659, and hereby sentences to a prison term of Reclusion Perpetua. Likewise, the said accused is ordered to pay a fine of P500,000.00, without subsidiary imprisonment, in case of insolvency and to pay the costs.

The methamphetamine hydrochloride is forfeited in favor of the government and to be turned over to the Philippine Drug Enforcement Agency for proper disposition.

SO ORDERED.<sup>6</sup>

The RTC was convinced that the prosecution had adequately proven that the appellant was the one who picked up the baggage and was the one who claimed to be the owner when asked by PO2 Ermino. The charge being *malum prohibitum*, the intent, motive or knowledge of the accused need not be shown. The trial court also noted that the prosecution witnesses' narration of the incident was categorical and free from any serious contradiction. As such, it cannot be overcome by the plain denial of the appellant.

In her appeal before the CA, appellant made the following assignment of errors in her Brief:

I.

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES.

II.

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE PRESUMPTION OF REGULARITY IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES OF PROSECUTION WITNESSES – POLICE OFFICERS AND AIRPORT PERSONNEL.

III.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE [APPELLANT] GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTION 16, ARTICLE III, RA NO. 6425.<sup>7</sup>

---

<sup>6</sup> CA rollo, pp. 68-69.

<sup>7</sup> Id. at 80.

Summarily, appellant claimed that the RTC erred in its assessment of the credibility of the testimonies of the prosecution witnesses and in applying the principle of regularity in the performance of official duty.

Appellant argued that the testimonies of the prosecution witnesses who were all police officers and/or customs and airport personnel, lacked credibility and were self-serving. Likewise, the presumption of regularity in the performance of official duties was wrongly applied considering that the public employees concerned had violated her constitutional right to assistance of counsel and did not apprise her of her right against self-incrimination during her investigation. She also argued that the testimonies of the prosecution witnesses should not have been taken as gospel truth as prosecution witness Cabib Tangomay failed to identify which of the nine plastic packs of *shabu* were confiscated from her luggage.<sup>8</sup>

The plaintiff-appellee, through the OSG, countered that the trial court correctly gave credence to the testimonies of the prosecution witnesses. The OSG noted that when Tangomay, together with P/Ins. Elmer Pelobello, PO2 Ermino, SPO2 Cause and Jun Fernandez, asked appellant if she was the owner of the luggage containing *shabu* concealed inside some of the belongings therein, she replied in the affirmative. Appellant even acceded when they asked her to open the padlock of the bag. The OSG likewise stressed that the prosecution witnesses regularly performed their assigned tasks during the incident on September 19, 2000 and narrated in a consistent, straightforward and categorical manner how they discovered *shabu* in appellant's luggage. The OSG added that in cases involving violations of the Dangerous Drugs Act, appellate courts tend to rely heavily upon the trial court's assessment of the credibility of witnesses, as trial courts have the unique opportunity, denied to the appellate courts, to observe the witnesses and to note their demeanor, conduct, and attitude under direct and cross-examination.

---

<sup>8</sup> Id. at 88-92.

As to the failure of prosecution witness Tangomay to identify which of the plastic packs of *shabu* were taken from which pair of appellant's shoes, the OSG considered the failure too trivial an omission to cast doubt on his credibility. The OSG pointed out that Tangomay explained on re-direct examination that despite his failure to identify which of the nine packs of *shabu* came from which of the two shoes, he was very sure that the *shabu* came from appellant's bag because he had his signature on the nine plastic packs containing *shabu*.

As aforesaid, the CA affirmed appellant's conviction in the assailed Decision dated June 27, 2007.

According to the CA, contrary to appellant's contention, evidence is self-serving only when the statement is extrajudicially made, not when made in the course of judicial proceedings. The CA noted that in this case, the testimonies of the prosecution witnesses were made before the court *a quo* where the defense had the chance to cross-examine the witnesses. The CA also held that the prosecution witnesses who were police officers enjoy the presumption of regularity in the performance of official duties absent contrary evidence showing ill motive on their part or deviation from the regular performance of their duties.

The appellate court also believed that although the public employees concerned had violated appellant's constitutional rights because she was not given the assistance of counsel when she signed the affidavit nor was she apprised of her right against self-incrimination during the investigation, the modern trend in jurisprudence favors flexibility in believing the testimony of a witness. The appellate court stated that a court may accept or reject portions of a witness' testimony based on its inherent credibility or on the corroborative evidence in the case.

Undaunted, appellant now comes to this Court raising the same issues and arguments she raised in her brief before the CA.<sup>9</sup>

We affirm appellant's conviction.

In the case of *People v. Miguel*,<sup>10</sup> the Court held that for an accused to be convicted of the crime of illegal possession of dangerous drugs, it is necessary that the following elements be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug. In this case, the evidence on record established beyond reasonable doubt that appellant was caught in possession of the *shabu* found in her luggage. Upon examination by Forensic Chemist Patricia Ann Prollamante of the National Bureau of Investigation, the specimen contained in each of the nine plastic sachets confiscated from appellant also yielded positive results for the presence of *methamphetamine hydrochloride* or *shabu*.<sup>11</sup> Thus, all three elements were duly established.

Appellant insists that the prosecution's witnesses lack credibility. However, we see no reason why the Court should overturn the appraisal of the trial court as regards the credibility of the prosecution's witnesses. It has been consistently held that in criminal cases the evaluation of the credibility of witnesses is addressed to the sound discretion of the trial judge, whose conclusion thereon deserves much weight and respect because the judge has the direct opportunity to observe said witnesses on the stand and ascertain if they are telling the truth or not.<sup>12</sup> Absent any showing in this case that the lower courts overlooked substantial facts and circumstances, which if considered, would change the result of the case, this Court gives deference to the trial court's appreciation of the facts and of the credibility of witnesses. This is especially so in this case since there is no showing that the prosecution witnesses were moved by ill motives to impute such a

---

<sup>9</sup> Id. at 29, 36.

<sup>10</sup> G.R. No. 180505, June 29, 2010, 622 SCRA 210, 221.

<sup>11</sup> CA rollo, pp. 51-52.

<sup>12</sup> See *People v. Sy*, G.R. No. 147348, September 24, 2002, 389 SCRA 594, 605.



serious crime as possession of illegal drugs against the appellant. Indeed, both courts a quo correctly applied the presumption of regularity in the performance of official duty and held the same to prevail over appellant's self-serving and uncorroborated denial.<sup>13</sup> Before the RTC, appellant denied ownership or possession of the luggage and suggested that the baggage which she picked up, or was about to pick up before she was caught, might be the one placed on the conveyor by the Muslim-looking man. The RTC correctly gave scant consideration to this contention considering that appellant admitted that some of the personal belongings retrieved from the luggage belong to her. It was highly improbable for a switching of baggage and/or some of the contents of appellant's luggage with that of a fellow passenger to have taken place during the time their luggage passed through the conveyor. Aside from the fact that the prosecution evidence showed that appellant was the one who picked up the baggage and was the one who claimed to be the owner when asked by PO2 Ermino, appellant also has not refuted that she was the one who opened the lock, or gave the key of the luggage inspected by the customs examiners. Given these circumstances, as well as some contradictions in appellant's testimony tending to diminish her credibility, we find that the trial court correctly disbelieved appellant and her defense of denial. Appellant's bare denial simply cannot overthrow the clear and convincing testimonies of the five prosecution witnesses as to her culpability.

Likewise, we find no merit in appellant's other contention that the RTC should not have applied the principle of regularity in the performance of official duty. Appellant claims that her constitutional rights were violated because she was not assisted by a counsel when she signed the affidavit<sup>14</sup> stating that she was carrying the luggage in which the drugs were found nor was she apprised of her right against self-incrimination during investigation. We agree with the trial court that there was indeed violation of the constitutional right of the accused to remain silent as she was made to admit

---

<sup>13</sup> See *People v. Dumlao*, G.R. No. 181599, August 20, 2008, 562 SCRA 762, 770, citing *Dimacuha v. People*, G.R. No. 143705, February 23, 2007, 516 SCRA 513, 522-523.

<sup>14</sup> Records, Vol. I, p. 24; records, Vol. II, p. 715.

her participation in the commission of the offense without informing her of her constitutional rights. However, the trial court correctly noted that “the prosecution did not, as it was the defense, [who] offered the said unsubscribed affidavit because it is inadmissible.”<sup>15</sup>

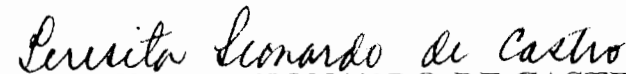
**WHEREFORE**, the Decision of the Court of Appeals, in CA-G.R. CR HC No. 01324 is hereby **AFFIRMED** *in toto*.

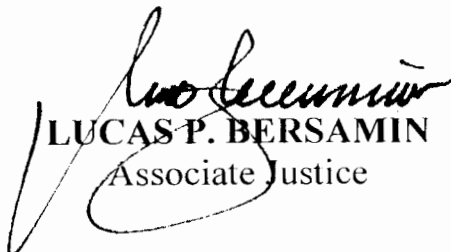
Costs against appellant.

**SO ORDERED.**


  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

WE CONCUR:

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Acting Chairperson

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

<sup>15</sup> CA rollo, p. 68.

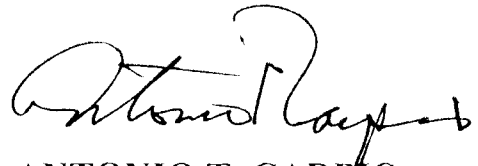
## ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Acting Chairperson

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, R.A. 296,  
The Judiciary Act of 1948, as amended)