

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO ILLORDE Y YAMANOHA, ACCUSED-APPELLANT.

Ponente: CORALES, J.

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CORALES, J.:

This is an appeal[1] from the April 24, 2014 Judgment[2] of the Regional Trial Court (RTC), Branch 204, Muntinlupa City in Crim. Case Nos. 09-279 and 09-280 finding accused-appellant Rolando Illorde y Yamanoha (Illorde) guilty beyond reasonable doubt of illegal sale and possession of shabu as respectively defined and punished under Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Antecedents

In Crim. Case No. 09-279, Illorde was charged with illegal sale of shabu under an Information[3] which reads:

That on or about the 18[th] day of May 2009, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully and unlawfully sell, trade, deliver and give away to another, Methamphetamine Hydrochloride, a dangerous drug weighing more or less 0.01 gram, contained in one (1) heat sealed transparent plastic sachet in violation of the above-cited law.

Contrary to law. (*Italics appears in the original text of the Information*)

In Crim. Case No. 09-280, he was charged with illegal possession of shabu under the following Information,[4] viz.:

That on or about the 18[th] day of May, 2009, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control of Methamphetamine Hydrochloride, a dangerous drug weighing more or less 0.02 gram contained in one (1) heat seal transparent sachet, in violation of the above-cited law.

Contrary to law. (*Italics appears in the original text of the Information*)

When arraigned, Illorde pleaded not guilty to both offenses.[5]

During pre-trial, the prosecution and the defense stipulated[6] on the following: P/S Insp. Abraham Verde Tecson (P/S Insp. Tecson), the forensic chemist in Philippine National Police Crime Laboratory, Southern Police District (SPD), Makati City conducted the laboratory examination on two (2) heat-sealed transparent plastic sachets each containing white crystalline substance with the following markings and recorded net weights: a) RI- 0.01 gram and b) RI-1- 0.02 gram; based on the qualitative examination, the specimen tested positive for methamphetamine hydrochloride; and the existence and due execution of the Request for Laboratory Examination[7] and of the Physical Science Report No. D-256-09S.[8]

In the ensuing joint trial, PO3 Norman Villareal (PO3 Villareal), the poseur buyer, and PO3 Dennis Bornilla (PO3

Bornilla), the backup officer, testified for the prosecution. Only Illorde testified in his defense.

The Version of the Prosecution

The Office of the Solicitor General (OSG) summarized the testimonies of the prosecution's witnesses in this wise:[9]

On May 18, 2009, a confidential informant (CI) arrived at the Station Anti-Illegal Drugs-Special Operation Task Group of the Muntinlupa City Police Station to report about the rampant selling of shabu made by a certain alias Olan in Purok 1, Barangay Sucat, Muntinlupa City. Upon receipt of the said information, the group of PO3 Villareal immediately informed their chief, Police Senior Superintendent Elmer M. Jamias (COP/TG Commander, SAID-SOTG) about the said information. P/Sr. Supt. Jamias then instructed his men to validate the said information, to which instruction his men complied. Subsequently, PO3 Villareal's group was able to confirm that indeed alias Olan was engaged in the illegal activity reported to them by the confidential informant.

Once the information was validated, P/Sr. Supt. Jamias conducted a briefing with his men in their office. During the said briefing, PO3 Villareal was designated as the poseur-buyer in the planned buy-bust operation, while PO3 Bornilla was tasked to act as the back-up officer of PO3 Villareal. Two (2) One Hundred Peso (P100.00) bills were given to PO3 Villareal to be used as marked money or buy-bust money. PO3 Villareal then placed markings on the said buy-bust money, by writing his initials "NV" on the collar of the person appearing on the One Hundred Peso (P100.00) bills. Thereafter, his group photocopied the buy-bust money. x x

In the same briefing, the police officers agreed on the pre-arranged signal to signify the consummation of the drug sale transaction. Thus, it was agreed during the briefing that the signal indicating that the drug sale transaction was already consummated was for PO3 Villareal to make a missed call to the cellular phone of PO3 Bornilla. Subsequently, they recorded the planned operation in their blotter. They also coordinated with the Philippine Drug Enforcement Agency concerning the planned buy-bust operation.

After the briefing, the buy-bust team proceeded to the place of operation in Purok 1, Barangay Cupang, Sucat, Muntinlupa City. In particular, they went to the house of alias Olan. The confidential informant led PO3 Villareal towards the house of alias Olan. Meanwhile, PO3 Bornilla was just near them. It was around 9:20 in the evening when they reached the house of alias Olan (appellant). Upon reaching the house of alias Olan, the confidential informant knocked at the door of the said house. At that time, PO3 Villareal was sitting on a wooden bench in front of the house of alias Olan, and about one meter away from the confidential informant. After about one to two minutes of knocking at the door, an old man (alias Olan) peeped at his house's window and subsequently immediately opened its door. Alias Olan (appellant) then asked the confidential informant (CI) who his companion (PO3 Villareal) was. The CI then introduced PO3 Villareal as his friend, who was a taxi driver on a night shift. Thereafter, the CI told alias Olan that they wanted to buy shabu from him (alias Olan). Subsequently, alias Olan asked PO3 Villareal how much worth of shabu he would be buying, to which PO3 Villareal replied that he wanted to buy shabu worth Two Hundred Pesos (P200.00), saying: "two hundred lang pare bago pa lang ako papasada eh la pa kita." Olan replied that he had enough at that time saying: "tamang-tama may 2 pang kasa dito, bilihin mo na itong isa para panggamit ko na itong isa." At that juncture, PO3 Villareal gave to alias Olan the buy-bust money, which alias Olan received. After receiving the buy-bust money, alias Olan took out from his right pocket a small plastic sachet - the contents of which were later on confirmed as shabu, after a laboratory examination of the same was conducted - and gave it to PO3 Villareal. Meanwhile, alias Olan placed back in his pocket the other plastic sachet of shabu - which he referred to earlier as for his own use, - as well as the buy-bust money. Upon receipt of the plastic sachet of shabu, PO3 Villareal examined it, and thereafter, secretly executed a pre-arranged signal that the drug sale transaction had been consummated - which is making a missed call to PO3 Bornilla's cellphone. After the exchange of the money and the shabu between poseur-buyer PO3 Villareal and alias Olan, PO3 Villareal arrested alias Olan as the

latter was about to enter his house. He informed alias Olan of his constitutional rights and introduced himself as a police officer. Meanwhile, PO3 Bornilla, who was about ten (10) meters away from the place of the transaction, rushed to the scene and also introduced himself as a police officer. At the place of arrest, PO3 Villareal bodily searched alias Olan, and he was able to recover the other sachet of shabu which alias Olan placed back in his pocket. Also recovered by PO3 Villareal from alias Olan were the two One Hundred Peso (P100.00) bills used as marked money during the buy-bust operation. When PO3 Bornilla arrived at the scene, PO3 Villareal showed him the items he recovered from alias Olan - the plastic sachets of shabu and the buy-bust money. Thereafter, they brought the evidence recovered, as well as alias Olan to their office. According to PO3 Villareal, he was the one in possession of the recovered evidence - the plastic sachets of shabu and the buy-bust money - from the time they arrested alias Olan up to the time they reached their office.

At their office, PO3 Villareal and PO3 Bornilla learned that the real name of alias Olan is Rolando Illorde y Yamanoha. Meanwhile, both police officers also conducted an inventory of the seized items at their office, in the presence of appellant, the investigator, their team leader, and a DAPCO representative. During the inventory, PO3 Villareal took photographs of appellant, as well as the seized evidence - the buy-bust money and the plastic sachets of shabu - and placed markings on the plastic sachets of shabu. The shabu seized during the buy-bust operation was marked by PO3 Villareal as "R1" (Exhibit M), while the shabu recovered from appellant during the body search was marked by PO3 Villareal as "RI-1" (Exhibit M-1). x x x

After conducting the inventory, PO3 Villareal and PO3 Bornilla brought the seized plastic sachets of shabu to the Southern Police District (SPD) Crime Laboratory in Makati City for laboratory examination. They brought with them a Request for Laboratory Examination (Exhibit G), signed by P/Sr. Supr. Jamias, and dated May 18, 2009. According to PO3 Villareal, he had custody of the items subject of the laboratory examination from their office, until they reached the crime laboratory, where he turned-over the said items. As shown on the stamp mark on Exhibit G (Request for Laboratory Examination), the two plastic sachets of shabu were received at the SPD Crime Laboratory at around 12:30 in the morning of May 19, 2009. It was delivered by Police Officer Villareal.

At around 2:50 in the morning of May 19, 2009, the qualitative examination of the specimens (A/RI and B/RI-1) submitted by PO3 Villareal to the SPD Crime Laboratory was completed. In Physical Science Report No. D-256-09S, Police Chief Inspector Abraham Verde Tecson, who conducted the qualitative examination, concluded that both Specimens A and B submitted to the crime laboratory contained methamphetamine hydrochloride, a dangerous drug. x x x (Emphasis and italics appear in the original text of the Brief for the Plaintiff-Appellee)

The Version of the Defense

Illorde denied the charges against him. Allegedly, at around 7:00 in the evening of May 18, 2009, he was home watching television when he heard knocks on the door. When he opened it, one (1) of the four (4) armed men informed him that they were looking for a person who entered in that area. They asked him if he noticed the person they were looking for, to which he replied in the negative. Suddenly, one (1) of the armed men grabbed, handcuffed, and frisked him. This armed man took the money from Illorde's pocket while the rest of them searched the house but found nothing. Illorde was then brought to the police station and one (1) of the armed men showed him a small plastic sachet of shabu, saying that it was taken from him. After being forced to sign some documents, Illorde was eventually detained.[10]

The Ruling of the RTC

In its April 24, 2014 Judgment,[11] the RTC found Illorde guilty beyond reasonable doubt of illegal sale and possession of shabu. It gave full faith and credence to the direct and unwavering testimonies of the police officers who are accorded the presumption of regularity in the performance of their duties, there being no evidence of ill

motive on their part. It further held that the police operatives have taken the appropriate measure to insure that the corpus delicti had not been tampered with. It then disposed the case in this wise:

WHEREFORE, premises considered and finding the accused GUILTY beyond reasonable doubt of the crimes herein charged, ROLANDO ILLORDE y YAMANOHA is sentenced to LIFE IMPRISONMENT in Criminal Case No. 09-279 and to pay a FINE of Five Hundred Thousand Pesos (Php 500,000.00).

In Criminal Case No. 09-280, accused ROLANDO ILLORDE (sic) is sentenced to Twelve (12) years and one (1) day of imprisonment to Fourteen (14) years as maximum and to pay a FINE of Php 300,000.00.

The drug evidence is ordered transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.

Insisting on his innocence, Illorde interposed the present appeal with the following assignment of errors:[12]

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE PROSECUTION'S VERSION DESPITE THE PATENT IRREGULARITIES IN THE CONDUCT OF THE BUY-BUST OPERATION.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE IDENTITY AND INTEGRITY OF THE ALLEGED CONFISCATED DRUGS CONSTITUTING THE CORPUS DELICTI OF THE CRIME.

III

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED.

In essence, Illorde alleges that the prosecution failed to prove the material details of a buy-bust operation and PO3 Villareal deliberately targeted and arrested him, ignoring the other two (2) suspects identified in the Pre-Operational Report.[13] His appeal also capitalizes on the procedural lapses of the police officers, particularly in failing to photograph and inventory the confiscated items at the place of arrest and in the presence of a representative from the media, the Department of Justice, or an elected official as required under Section 21, Article II of R.A. No. 9165.[14]

The OSG counters that the testimonies of PO3 Villareal and PO3 Bornilla gave a categorical and complete detail on how the buybust operation against Illorde was planned and executed. Their testimonies were properly accorded faith and credence considering Illorde's failure to overturn the presumption that the police officers regularly perform their duties. The OSG further contends that the police officers substantially complied with the requirements of Section 21 of R.A. No. 9165 and had established the continuous chain of custody over the seized evidence.[15]

This Court's Ruling

Illorde's conviction stands.

Buy-Bust Operation: Valid

The objective test, as first laid down in *People v. Doria*,^[16] is still used in determining the credibility of prosecution witnesses regarding the conduct of buy-bust operation. Under this test, the details of the purported transaction during the buy-bust operation must be clearly and adequately shown, i.e., the initial contact between the poseur buyer and the pusher, the offer to purchase, and 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 through an informant, the offer to purchase the drug, the payment of the buybust money, and the delivery of the illegal drug, whether to the informant alone or the police officer, must also be subject of strict scrutiny by courts to insure that law-abiding citizens are not unlawfully induced to commit an offense.^[17]

The instant case satisfied the "objective test". The sequence of events during the buy-bust operation was described by prosecution witnesses PO3 Villareal and PO3 Bornilla, viz.: the first contact was established through a confidential informant (CI) who relayed to the police authorities that a certain "Olan" was selling shabu in Purok 1, Barangay Sucat, Muntinlupa City, which led to a surveillance operation; there was offer to purchase when the CI told Olan that they want to buy shabu from him to which the latter asked how much; PO3 Villareal, the poseur buyer, replied that he wanted to buy P200.00-worth of shabu and Olan responded "tamang-tama may 2 pang kasa dito, bilihin mo na itong isa para panggamit ko na itong isa"; PO3 Villareal handed Olan the two (2) P100-peso bills marked money, which constituted the payment or consideration; Olan in turn handed to PO3 Villareal one (1) sachet of shabu, thus, consummating the sale; the moment PO3 Villareal received the shabu, he gave the pre-arranged signal leading to the arrest of Olan.^[18] We find no irregularity or questionable conduct on the part of the CI or the apprehending officers that would invalidate the buy-bust operation. In the absence of such evidence showing any irregularity in any material aspect of the conduct of the buy-bust operation, the police officers were therefore presumed to have performed their duties in a regular manner.^[19]

The fact that PO3 Villareal and the buy-bust team only apprehended Illorde despite two (2) other identified suspects in the pre-operation report neither invalidates the buy-bust operation nor creates doubt in the testimonies of the prosecution witnesses. It bears stressing that a pre-operation report is not indispensable in a buy-bust operation. Even the lack of it has no effect on the legality and validity of the buy-bust operation.^[20] Thus, such minor inconsistency in the names listed in the pre-operation report would not affect the guilt of accused-appellant.

Integrity and Evidentiary Value of the Seized Items: Preserved

It may very well be conceded that PO3 Villareal and PO3 Bornilla did not comply with the procedure laid down in Section 21 of R.A. No. 9165, as well as its implementing rules and regulations, considering that the seized shabu were marked and inventoried at the police station. However, such non-compliance would not necessarily render the items seized or confiscated in a buy-bust operation inadmissible. R.A. No. 9165 itself lays down exceptions to the requirements. In fact, in a catena of cases, the Supreme Court had sustained the convictions of accused-appellant even if the physical inventory and photograph of the seized items were conducted at the nearest police station,^[21] such as in this case. It has been held time and again that strict compliance with the letter of Section 21 is not required if there is a clear showing that the integrity and evidentiary value of the seized item have been preserved, i.e., the item being offered in court as exhibit is, without a specter of doubt, the very same one recovered in the buy-bust operation.^[22]

After a careful perusal of the records, We agree with the OSG that the integrity and evidentiary value of the seized items were preserved because the unbroken chain of custody of the subject specimen was established by the prosecution and supported by the evidence on hand. There is nothing on the records that would indicate that the confiscated items left the hands of PO3 Villareal from the moment he seized the same from Illorde until the buy-bust team reached the police station, where PO3 Villareal marked the seized sachets with "RI" and "RI-1",

respectively, and prepared the Certificate of Inventory[23] in Illorde's presence. PO3 Villareal then handed over the custody of the seized items to the SPD Crime Laboratory for examination. As stipulated by the prosecution and the defense, P/S Insp. Tecson received the two (2) sachets of shabu marked "RI" and "RI-1" which were found positive for methamphetamine hydrochloride or shabu, a dangerous drug.[24] During the trial, the seized items were presented and identified by PO3 Villareal as the same items sold to him and confiscated by him, respectively, from Illorde.[25] With the foregoing sequence of events, the prosecution clearly established an unbroken link in the chain of custody of the subject items which is the proof of the corpus delicti.[26]

Elements of Illegal Sale and Possession of Dangerous Drugs: Sufficiently Proven

To secure a conviction for illegal sale of shabu, the following essential elements must be established: (a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing.[27] The commission of this offense merely requires the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller. As long as the police officer went through the operation as a buyer, whose offer was accepted by appellant, followed by the delivery of the dangerous drugs to the former, the crime is already consummated.[28]

Here, the testimony of PO3 Villareal established the consummation or perfection of the sale. He acted as the poseur buyer and there was an exchange of sachet of shabu for P200.00 between him and Illorde. The substance subject of the transaction, which weighed 0.01 gram, was examined and found to be methamphetamine hydrochloride or shabu, a dangerous drug. As stated earlier, both the sachet of shabu subject of the sale and the buy-bust money used in the buy-bust operation were presented during the trial before the court a quo and were found to be the same items recovered from accused-appellant.[29] Accordingly, Illorde was caught in flagrante delicto and the validity of his arrest is beyond dispute.

Similarly, the prosecution had convincingly proven the following elements of illegal possession of dangerous drug, to wit: (a) the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession is not authorized by law; and (c) the accused freely and consciously possessed the drug.[30] As a result of a valid buy-bust operation, the police officers seized another sachet of shabu from Illorde. The records are bereft of any evidence showing that Illorde had the legal authority to possess the said drug recovered from him. It has been settled that possession of dangerous drugs constitutes prima facie evidence of knowledge or animus possidendi sufficient to convict an accused in the absence of a satisfactory explanation of such possession.[31] Hence, the burden of evidence is shifted to the accused to explain the animus possidendi. However, Illorde failed to discharge this burden.

The Court also notes that the RTC gave full credence to PO3 Villareal's testimony. Well-settled is the rule that when it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. Having the full opportunity to observe directly the witness' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly.[32] There being no arbitrariness or oversight on the findings of the trial court, We find no reason not to give credence to the positive testimonies of the prosecution's witness.

Further, PO3 Villareal positively identified Illorde in open court to be the same person he caught red-handed selling shabu. Accused-appellant's bare denial, therefore, cannot prevail over such positive identification made by the prosecution's witness. In the same way, accused-appellant's denial cannot overcome the presumption that the police officers in this case have performed their duties in a regular and proper manner. Besides, this Court held in a line of cases that the defense of denial, like alibi, has been viewed with disfavor for it can just as easily be

concocted and is a common and standard defense ploy in most prosecutions for violation of the Dangerous Drugs Act.[33]

WHEREFORE, the instant appeal is hereby DENIED. The April 24, 2014 Judgment of the Regional Trial Court, Branch 204, Muntinlupa City in Crim. Case Nos. 09-279 and 09-280 is AFFIRMED.

SO ORDERED.

Villon (Chairperson), and Zalameda, JJ., concur.

[1] See Notice of Appeal in relation to the April 28, 2014 Order giving due course thereto, records, pages 206-207 and 208, respectively.

[2] Penned by Presiding Judge Juanita T. Guerrero, rollo, pages 50-58.

[3] Records, pages 1-2.

[4] Ibid., pages 3-4.

[5] See June 4, 2009 Order, *ibid.*, page 26.

[6] See January 28, 2010 Pre-Trial Order, *ibid.*, pages 63-65.

[7] *Ibid.*, page 169.

[8] *Ibid.*, page 170.

[9] See pages 5-9 of Brief for the Plaintiff-Appellee, rollo, pages 82-86.

[10] TSN, Rolando Illorde, October 24, 2013, pages 3-10.

[11] *Supra*, at note 2.

[12] See pages 3-4 of Brief for the Accused-Appellant, rollo, pages 36-37.

[13] Records, page 161.

[14] See Brief for the Accused-Appellant, rollo, pages 34-48.

[15] See Brief for the Plaintiff-Appellee, *ibid.*, pages 74-118.

[16] G.R. No. 125299. January 22, 1999.

[17] See *People v. Pagkalinawan*, G.R. No. 184805. March 3, 2010, citing *People v. Doria*.

[18] TSN, PO3 Norman Villareal, April 25, 2010, pages 6-9.

[19] See *People v. Abedin*, G.R. No. 179936. April 11, 2012, citing *People v. Navarro*, G.R. No. 173790. October 11, 2007.

[20] See *People v. Handaya*, G.R. No. 197250. July 17, 2013.

[21] See *Imson v. People*, G.R. No. 193003. July 13, 2011; *People v. Domado*, G.R. No. 172971. June 16, 2010.

[22] See *People v. Cunanan*, G.R. No. 198024. March 16, 2015 citing *People v. Roa*, G.R. No. 186134. March 6, 2010.

[23] Records, page 164.

[24] See Pre-Trial Order and Physical Science Report No. D-256-095, *supra*, at notes 6 and 8.

[25] TSN, PO3 Norman Villareal, April 25, 2010, pages 13-14.

[26] See *People v. Cunanan*, *supra*, at note 22.

[27] G.R. No. 198794. February 6, 2013, citing *People v. Del Rosario*, G.R. No. 188107. December 5, 2012.

[28] *Ibid*.

[29] See TSN, PO3 Norman Villareal, April 25, 2010, pages 5-6 and 11-12.

[30] *People v. Villahermosa*, G.R. No. 186465. June 1, 2011.

[31] *Ibid*.

[32] *People v. dela Cruz*, G.R. No. 177324. March 30, 2011.

[33] *Ibid*.

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