

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODEL FIESTA Y BATINGA ALIAS RODEL BABOY, ACCUSED-APPELLANT.

Ponente: CASTILLO, M., J.

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CASTILLO, M., J.:

This is an appeal from the decision of the Regional Trial Court (RTC) of Laoag City, Branch 13 dated 7 September 2012 finding accused-appellant Rodel Fiesta guilty of illegal sale of dangerous drugs under Section 5, Article II of Republic Act (RA) No. 9165. The dispositive portion of the assailed decision reads:

WHEREFORE, judgment is hereby rendered finding accused Rodel Fiesta y Batinga GUILTY beyond reasonable doubt as charged of illegal sale of methamphetamine hydrochloride or shabu and is therefore sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

The shabu subject hereof being res nullius, it is hereby confiscated, the same to be disposed as the law prescribes.

SO ORDERED.[1]

The factual antecedents of the case are as follows:

In the Information dated 16 December 2010, accused-appellant was charged with illegal sale of dangerous drugs, to wit:

That on or about the 15th day of December 2010 in the City of Laoag, Philippines within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously sell and deliver one (1) heat sealed plastic sachet containing 0.0248 gram Methamphetamine Hydrochloride locally known as “shabu”, a dangerous drug, to a poseur buyer, without any license or authority, in violation of the aforesaid law.

CONTRARY TO LAW[2]

During the arraignment on 21 January 2011, accused-appellant pleaded “not guilty” to the foregoing charge.[3]

Evidence for the prosecution sought to establish the following:

On 5 December 2010, at around 3:00 in the afternoon, a concerned citizen went to the office of the Provincial Anti-Illegal Drugs Special Operations Task Group (PAIDSOTG) based in Camp Juan, Laoag City. This concerned citizen (informant) reported the illegal activity of accused-appellant who was selling and distributing dangerous drugs. He informed the PAIDSOTG officers that he could order shabu from accused-appellant. Police Inspector (PI) Jephre Taccad, the Action Officer of PAIDSOTG, asked the informant to place an order. Using his cellphone, the informant called accused-appellant who agreed to deliver to him shabu worth P2,000.00 at the house of a certain Carol in Barangay 4, Laoag City.[4]

PI Taccad conducted a quick briefing for the buy-bust operation against accused-appellant. PO2 Jefferson Sulmerin was designated as poseur buyer who would be accompanied by the informant, and the rest of the team as

back-up. To indicate the consummation of the transaction, the agreed signal would be PO2 Sulmerin's scratching of his head. PI Taccad coordinated the operation with the Philippine Drug Enforcement Agency (PDEA) through a text to said agency. After getting the control number from PDEA, he wrote the same in the Pre-Operational Report and Coordination Form. The intended buy- bust operation was also recorded in the police blotter[5]

The team proceeded to the target place. Before boarding a black Toyota Corolla, PI Taccad handed to PO2 Sulmerin the buy- bust money that was placed in an envelope. PO2 Sulmerin, SPO1 Columbano, PO2 Louie Orbeta, and the informant rode ahead in said black sedan. PI Taccad, PO2 Christopher Pola, PO2 Aninag, and PO2 Benigno followed in a white Nissan Sentra. Upon arrival at the target place which the informant knew, the black sedan parked across Lazaro Street in front of the house of Carol. The white sedan also parked along the same street but ten (10) meters away from the black sedan.[6]

PO2 Sulmerin and the informant alighted from the black sedan and proceeded to the front of Carol's house. After ten (10) minutes, a person coming from the west and riding on a blue violet Sym motorcycle arrived. The informant told PO2 Sulmerin that this person was accused-appellant. The latter stopped in front of them, and the informant briefly introduced PO2 Sulmerin as the interested buyer. Accused-appellant asked if the poseur buyer could be trusted. Afterward, accused-appellant handed a plastic sachet containing crystalline substance to PO2 Sulmerin who examined it, after which the latter scratched his head. The back-up police officers rushed to the crime scene and assisted in the arrest of accused-appellant. PO2 Orbeta handcuffed accused-appellant and informed him of his Miranda rights while PO2 Sulmerin asked accused-appellant if he had authority to sell shabu. Upon frisking accused-appellant, the police officers recovered a cellphone, medicines, and money. The buy-bust team boarded accused-appellant in the black sedan and brought him and his motorcycle to the office of PAIDSOTG.[7]

Police Senior Inspector (PSI) Roanalaine Baligod, the forensic chemist at the Ilocos Norte Provincial Crime Laboratory, conducted the examinations on the contents of the seized plastic sachet and found the same to be positive for methamphetamine hydrochloride or shabu. Her findings were contained in the Initial Laboratory Report and Final Chemistry Report No. D-051-10.[8]

On the other hand, evidence for the defense sought to establish the following:

At around 3:00 in the afternoon of 15 December 2010, accused-appellant went to the house of Carol Blas to borrow money from her. Carol, who was playing cards with her children at that time, said that she had no money. Accused-appellant, however, insisted that Carol lend him P18.00 to add to his money which was only P12.00. Carol told him again that she had no money. Thereafter, accused-appellant sat outside the house of Carol when a black car coming from the west arrived and parked in front of him. He was shocked when two (2) men alighted and told him not to run while they were pointing their guns at him. The men, whom he knew later to be PI Taccad and PO2 Pola, asked about the shabu. When accused-appellant told them that he did not know what they were looking for, PO2 Pola held his shoulders, pointed his gun at him, and told him that they should go to their office. As they boarded the car, PI Taccad went to the driver's seat and showed accused-appellant a plastic sachet and asked him what it was. Accused-appellant told the police officer that it was him who should know since he was the one holding it. PI Taccad insisted that he was the first who boarded the car. Accused-appellant again told the police officer that he was the one holding the plastic sachet. PI Taccad ordered that they proceed to their office in the camp. While at the office, the policemen were insisting that accused-appellant set up his boss Marwin Calina. Accused-appellant refused and told the police officers that he did not have any reason to do so because he had not seen his boss doing what they said he was involved in. The policemen told accused-appellant that they would file a case against him.[9]

Accused-appellant further claimed that he already met PO2 Sulmerin in July 2009 when they were supposed to conduct a buy- bust operation against a certain Eric Martin. PO3 Marvin Pascua, the investigator in July 2009 at the PNP Provincial Investigation at Camp Juan, Laoag City received information that Eric received a kilo of shabu. After he reported this information to the Provincial Director, PO3 Pascua was asked to form a buy-bust team. PO3 Pascua asked his brother Melvin if he knew someone who could penetrate the subject. Melvin introduced him to accused-appellant who agreed to assist in the buy-bust operation against Eric. During the briefing on 12 July 2009, at 5:00 in the afternoon, they were joined by PO2 Pola and PO2 Sulmerin of the PAIDSOTG. They planned to buy P3,000 worth of shabu from Eric. Proceeding with the operation, accused-appellant was dropped at the church of Mormon where he took a tricycle going to Eric's house. The operation, however, later turned negative.[10]

After appraisal of the parties' respective evidence, the court a quo rendered the assailed decision convicting accused-appellant of the crime of illegal sale of shabu. It gave credence to the testimonies of the prosecution witnesses. It held that the prosecution was able to prove all the elements of the crime charged and that the chain of custody of the seized drug was also established.[11]

Aggrieved, accused-appellant filed the instant appeal with the following assignment of errors[12]:

- The Honorable Trial Court gravely erred in finding the accused guilty beyond reasonable doubt despite the fact that the testimonies of the arresting officers are of doubtful credibility;
- That the Honorable Trial Court erred in convicting the accused despite the finding of some inconsistencies in the testimonies of the prosecution witnesses;
- The Honorable Trial Court erred in denying the accused his right to presumption of innocence.

Since the foregoing assigned errors are interrelated, accused-appellant jointly discussed the same. He contends that there are facts and circumstances of weight and substance which were clearly overlooked, misunderstood, or misapplied by the court a quo, which if considered, would have resulted in his acquittal. First, the Chemistry Report stated that the seized shabu weighed 0.0243 grams, whereas the information charged that accused-appellant sold 0.0248 grams of shabu. The prosecution failed to explain such discrepancy, casting serious doubt as to the identity of the shabu examined by the forensic chemist. It grossly violated the right of accused-appellant to be informed of the nature and cause of the accusation against him. Second, the testimony of the defense is more credible than that of the prosecution. PO2 Sulmerin testified that he acted as a poseur buyer during the buy-bust operation against accused-appellant. However, PO2 Pascua testified that PO2 Sulmerin and accused-appellant had worked together in a buy-bust operation against Eric Martin in July 2009. Hence, accused-appellant could not possibly sell shabu to a person whom he knew was a police officer. The alleged buy-bust operation against accused-appellant was a mere imagination of the apprehending police officers. The presumption that police officers have regularly performed their official duties is not applicable in this case. Accused-appellant is presumed innocent until proven otherwise beyond reasonable doubt. The prosecution failed to prove the guilt of accused-appellant with moral certainty. Its evidence is fraught with irreconcilable contradictions and material inconsistencies.[13]

We are not persuaded.

Contrary to accused-appellant's claim, the prosecution was able to explain the discrepancy between the weight of the seized shabu as contained in the final chemistry report[14] and the information[15] filed against him. Forensic

chemist PSI Baligod explained that the weight of the seized illegal drug in her final chemistry report was a mere typographical error.[16] In her initial laboratory report, the weight of the seized illegal drug was 0.0248 grams,[17] the same weight contained in the criminal information against accused-appellant. The filing of said information was based on said initial laboratory report prepared by PSI Baligod.[18] The latter explained that the weight of the subject drug determined initially was the same as the weight determined in the final chemistry report.[19] PSI Baligod explained that the apparent discrepancy of the seized drug's weight in the final chemistry report was an honest mistake on her part. Therefore, there was no actual discrepancy and no violation of accused-appellant's right to be informed of the nature and cause of the accusation against him.

The shabu specimen that PSI Baligod received for laboratory examination and subsequently tested positive for shabu was the same illegal drug that was recovered during the buy-bust operation against accused-appellant. This was shown by the unbroken chain of custody of the seized drug. Following the arrest of accused-appellant, PO2 Sulmerin took custody of the seized plastic sachet of shabu. At the office of PAIDSOTG, PO2 Sulmerin marked the seized sachet with JS and RF representing the initials PO2 Sulmerin and accused-appellant.[20] PO2 Sulmerin prepared the confiscation receipt and request for laboratory examination.[21] He executed the Joint Affidavit and prepared the police blotter, booking sheet, and sketch.[22] He then delivered the seized plastic sachet and letter-request for laboratory examination to the Crime Laboratory.[23] SPO3 Diosdado Mamotos received from PO2 Sulmerin the request for laboratory examination and one (1) plastic sachet of white crystalline substance with the markings JS and RF.[24] After receipt of the plastic sachet, SPO3 Mamotos placed his marking DCM on the plastic sachet representing his initials.[25] He turned over the letter-request for examination and the specimen to the forensic chemist PSI Baligod.[26] After conducting the required laboratory examinations, PSI Baligod reduced her findings in Chemistry Report No. D-051-2010, which showed that the seized one (1) plastic sachet of white crystalline substance tested positive for methamphetamine hydrochloride or shabu, a dangerous drug.[27]

The prosecution was, therefore, able to prove the corpus delicti of the crime charged. Every link in the chain of custody of the seized drug was shown, and the integrity and evidentiary value of the same were established. The prosecution witnesses were able to identify and verify in court the subject plastic sachet of shabu seized from accused-appellant during the buy-bust operation.[28] In the prosecution of illegal sale of drugs, the following elements must be proved: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment.[29] What is material in a prosecution for illegal sale of dangerous drugs is the proof that the transaction/sale actually took place, coupled with the presentation in court of the corpus delicti or the illicit drug in evidence.[30] Testimonial, documentary, and object evidence of the prosecution sufficiently proved that the subject transaction between the poseur-buyer and accused-appellant actually took place.

Accused-appellant contends that the testimonies of prosecution witnesses are doubtful because he could not have sold shabu to a person whom he knew as a police officer. He claimed that he met PO2 Sulmerin in July 2009 when he assisted in the buy-bust operation of Eric Martin. His testimony was corroborated by PO3 Pascua who was the investigator of said operation at that time.[31] These claims are untenable. While accused-appellant argued that he could not have sold shabu to someone he knew as a police officer, he could not, however, impute any motive on the part of PO2 Sulmerin why the latter would fabricate a charge and falsely testify against him. Accused-appellant did not present any clear and convincing evidence of the purported frame-up against him. If it were true that he and PO2 Sulmerin knew each other, the latter would have refused to act as the poseur buyer in the buy-bust operation and requested PSI Taccad to designate another police officer to act as one. The informant gave the name of accused-appellant to PI Taccad and PO2 Sulmerin prior to the buy-bust operation. PO2 Sulmerin knew beforehand the subject of said operation. The officers of PAIDSOTG, who are specifically tasked to combat illegal drugs activities, are certainly not so foolish as to assign a poseur buyer whom the suspect would

likely recognize as a police officer.

The testimony of defense witness PO3 Pascua deserves scant consideration. He also failed to attribute any motive or reason why the officers of PAIDSOTG would falsely charge accused-appellant of a very serious crime. Besides, PO3 Pascua and the other defense witnesses, Carolina Blas and Nico Blas, had no personal knowledge of the buy-bust operation against accused-appellant. Thus, accused-appellant's claim that he was forced to admit to having knowledge of a plastic sachet of shabu and threatened to be incarcerated by the arresting police officers unless he would agree to set up his employer remains uncorroborated. Frame-up and denial are weak defenses when they are not substantiated by clear and convincing evidence.[32] Such defenses have been constantly viewed with disfavor by the Supreme Court for they can easily be concocted.[33]

Even assuming that accused-appellant had met PO2 Sulmerin in July 2009, more than a year before the subject buy-bust operation, it does not negate the fact that the subject transaction took place. Between the straightforward and categorical testimonies of the police officers and the unsubstantiated defense of denial and frame-up, the former should prevail. In cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary suggesting ill motive on the part of the police officers.[34] Without proof of any odious intent to falsely impute a serious crime, the self-serving defense of denial and unsubstantiated claim of frame-up can never prevail over the positive testimonies of the prosecution witnesses.[35]

In the midst of the overwhelming evidence of the prosecution, accused-appellant cannot validly invoke the equipoise rule. This rule provides that where the evidence of the parties in a criminal case is evenly balanced, the constitutional presumption of innocence should tilt the scales in favor of the accused.[36] Hence, if the evidence is not evenly balanced, there is no equipoise.[37] The prosecution in this case was able to present direct, positive and competent evidence to prove the guilt of accused-appellant beyond reasonable doubt.

Finally, in the prosecution for violation of the dangerous drugs law, a case becomes a contest of the credibility of witnesses and their testimonies. When it comes to credibility, the assessment of the trial court deserves great weight.[38] Such assessment is even conclusive and binding if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence.[39] Having the full opportunity to observe directly the deportment and manner of testifying of the witnesses, the trial court is in a better position than the appellate court to evaluate the testimonial evidence properly.[40] After careful examination of the evidence on record, We cannot find any reason to depart from the factual findings of the court a quo.

WHEREFORE, premises considered, the instant appeal is DISMISSED. The decision of the Regional Trial Court of Laoag City, Branch 13 dated 7 September 2012 is AFFIRMED.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Lazaro-Javier, A.C., and Corales, P.B., JJ., concur.

[1] Rollo, p. 105.

[2] Rollo, p. 10.

- [3] Rollo, p. 13.
- [4] Rollo, p. 119.
- [5] Rollo, p. 120.
- [6] Id.
- [7] Rollo, pp. 120-121.
- [8] Rollo, p. 121.
- [9] Rollo, pp. 75-76.
- [10] Rollo, pp. 77-78.
- [11] Rollo, pp. 97-105.
- [12] Rollo, p. 78.
- [13] Rollo, pp. 78-90.
- [14] Records, p. 18; Exhibit H.
- [15] Records, p. 1.
- [16] TSN dated 2 March 2011, pp. 18-19.
- [17] Records, p. 11.
- [18] TSN dated 2 March 2011, p. 17.
- [19] Id, p. 19.
- [20] TSN dated 10 March 2011, pp. 16-17; Exhibit L.
- [21] Id, pp. 18-19; Exhibits F and N, respectively.
- [22] Id, pp. 19-21.
- [23] Id, pp. 22-23.
- [24] TSN dated 2 March 2011, p. 4.
- [25] Id.
- [26] Id, pp. 4-5.
- [27] Id, pp. 5-19.
- [28] TSN dated 10 March 2011, pp. 16-17; See also TSN dated 2 March 2011.
- [29] People of the Philippines . Montevirgen, G.R. No. 189840, December 11, 2013.
- [30] Id. Emphasis supplied.
- [31] Supra, note 10.
- [32] People v. Velasquez, G.R. No. 177224, April 11, 2012.
- [33] Id.

[34] Id; People of the Philippines v. Arriola, G.R. No. 187736, February 8, 2012.

[35] Id.

[36] Malana v. People, G.R. No. 173612, March 26, 2008.

[37] Id.

[38] People of the Philippines v. Santos, G.R. No. 193190. November 13, 2013.

[39] Id.

[40] Id.

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