

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SINBAD SABEROLA Y MEMBRERE, ACCUSED-APPELLANT.

Ponente: INTING, S.B., J.

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INTING, S.B., J.:

This is an Appeal[1] from the Decision[2] dated April 30, 2013 of the Regional Trial Court (RTC) of Tayug, Pangasinan, Branch 52, finding Sinbad Saberola y Membrere ("APPELLANT") guilty beyond reasonable doubt of violation of Sections 5 of Article II of Republic Act No. 9165 (RA 9165), otherwise known as the "Comprehensive Dangerous Drugs Act of 2002" in Criminal Case No. T-5387.

Appellant was charged with violation of Article II, Section 5 of RA 9165 under the following information:

"That on or about 11:10 o'clock in the morning of June 22, 2012, at Brgy. Pemienta, municipality of Umingan, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously sell two (2) heat-sealed transparent plastic sachets containing Metamphetamine Hydrochloride weighing 0.011 gram marked as "GMM-1" and 0.032 gram marked as "GMM-2," a dangerous drug in exchange of two (2) pieces of Five Hundred Peso bill with serial numbers BA4010804 and SF404777 marked as "CAG-J" and "CAG-2"; respectively." [3]

Upon arraignment on July 4, 2012, the appellant, with the assistance of counsel, pleaded NOT GUILTY to the offense charged. Thereafter, trial on the merits ensued.

The factual backdrop of this case, as narrated in the trial court's Decision dated April 30, 2013, is as follows:

"EVIDENCE OF THE PROSECUTION

At 10:00 a.m. of June 22, 2012, a police confidential asset reported to PNP Umingan that the accused is selling shabu to him in Pimienta, Umingan, Pangasinan. Upon receipt of the information, Chief of Police, Police Chief Inspector Jesus Manalo designated PO2 Geoffrey Marcadejas and PO2 Charlito Gonzalez to conduct a buy-bust operation against the accused.

Accordingly, the Chief of Police conducted a pre-operational conference. The operation was coordinated with the PDEA by sending to said office via fax a coordination form. After the pre-operational conference, the Chief of Police gave two Php500.00 bills to PO1 Charlito Gonzales to be used as buy bust money.

PO2 Geoffrey Marcadejas, PO1 Charlito Gonzales and the confidential asset, who was designated as poseur-buyer, then proceeded to Pare Ko Restaurant in Brgy. Pimienta. Upon reaching the place, the asset was first frisked then he went inside the restaurant. The two policemen then positioned themselves fifteen meters away from the restaurant.

After less than an hour, the accused arrived in the restaurant, and had a conversation with the asset. After that, the asset handed the money to the accused and the latter gave him two plastic sachets of shabu. Then the confidential asset gave the pre-arranged signal by raising hand to signify that the sale of prohibited drugs had been consummated. PO2 Marcadejas and PO1 Gonzales immediately rushed inside Pare Ko Restaurant. Upon their instructions, accused brought out the contents of his pocket which yielded two Php500.00 bills. The

confidential asset turned over the two plastic sachets containing shabu to PO2 Marcadejas. Thereafter, in the same place, the plastic sachets were later marked with GMM-1 and GMM-2, representing the initials of PO2 Marcadejas.

Eventually, the two sachets were photographed in the place of incident. Thereafter, the accused as well as the plastic sachets and the buy bust money were brought to the police station and were eventually turned over to PO2 Jim Valdrez for the preparation of the necessary documents.

After the documentation, PO2 Valdrez and PO1 Gonzales turned over the plastic sachets containing shabu to the PNP Crime Laboratory, Urdaneta City, for examination. After examination of the items, Police Chief Inspector Emelda Besarra Roderos, found the contents of the two plastic sachets positive to the test of metamphetamine hydrochloride or shabu.

EVIDENCE OF THE ACCUSED

On June 22, 2012, accused went to Brgy. Pimienta to fill gas in his motorcycle, as unleaded gasoline was not available in town proper. After filling gasoline, he went to Pare Ko Restaurant to eat. While there, someone shouted, "Do not run!" Two uniformed policemen approached him. They brought him to the police station, telling him that he sold shabu to their confidential asset.

Accused denies the accusation and insists that the policemen had not taken anything from him."^[4]

On April 30, 2013, the trial court rendered a judgment of conviction, the dispositive portion of which reads:

"WHEREFORE, the Court finds the accused GUILTY as charged and sentences him to suffer life imprisonment and to pay a fine of Php500,000.00.

The destruction of the two sachets of shabu is likewise ordered.

SO ORDERED."^[5]

In this appeal, appellant assigns the following errors^[6] on the part of the trial court, to wit:

1. THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE PROSECUTION'S OBVIOUSLY CONJURED "BUY-BUST OPERATION" TO JUSTIFY A CONVENIENT "RULING" THAT THE APPELLANT IS "GUILTY BEYOND REASONABLE DOUBT."
2. THE TRIAL COURT ERRED IN NOT RENDERING A DECISION OF ITS OWN.
3. THE TRIAL COURT ERRED IN "FINDING" A JUSTIFIABLE GROUND FOR NON-COMPLIANCE BY THE POLICE WITH SECTION 21 OF REPUBLIC ACT 9165 BUT WITHOUT SPECIFYING WHAT THE ALLEGED GROUND IS.
4. THE TRIAL COURT ERRED IN BELITTLING THE APPELLANT'S DEFENSE OF DENIAL, ARBITRARILY CONDEMNING IT AS "LIKE ALIBI...A WEAK DEFENSE."

The appeal lacks merit.

Appellant seeks his acquittal mainly on the basis of the prosecution's failure to prove his guilt beyond reasonable doubt. Appellant faults the trial court for giving credence to the testimony given by witnesses for the prosecution despite what he claims to be inconsistencies in their declarations. Particularly, he calls attention to the narratives of prosecution witnesses PO2 Marcadejas and PO1 Gonzales as to when they were tipped off by the confidential asset, and the inconsistencies between the testimony of PO2 Marcadejas and Police Blotter Entry No. 134 as to how they were tipped off. Also suspicious, according to appellant, is that Police Blotter Entry No. 134 was recorded on June 22, 2012, while Police Blotter Entry No. 135 was recorded earlier on June 13, 2012.^[7]

The Court is not persuaded. We do not consider the abovementioned discrepancies to be so serious as to warrant a complete rejection of their questioned testimony. It is not unnatural for witnesses of the same incident to somehow perceive differently and to thereby vary in their respective accounts of the event. The contradiction of witnesses on minor details is nothing unusual and should be expected. Accordingly, We see no cogent reason for not according due respect to the findings of the trial court on the credibility of the witnesses.[8] More so, an inconsistency which has nothing to do with the elements of a crime is not a ground to reverse a conviction.[9]

We emphasize that in a prosecution for illegal sale of dangerous drugs, what is material is the proof that the transaction or sale actually took place coupled with the presentation in court of the corpus delicti as evidence. The commission of illegal sale merely consummates the selling transaction, which happens the moment the buyer receives the drug from the seller.[10] In this case, the prosecution has adequately proven all the elements constituting sale of illegal drug. This is evident from the testimony of PO2 Marcadejas as to the conduct of the buy-bust operation, to wit:

Q:

So, when you reached Brgy. Pemienta, what did you do?

A:

We positioned ourselves, sir.

Q:

Where was your confidential asset when you arrived at Brgy. Pemienta?

A:

He was inside the Pare Ko restaurant sitting, sir.

Q:

How do you know that he was inside the restaurant?

A:

We saw him, sir.

Q:

How far were you from him?

A:

Fifteen meters, sir.

Q:

When you positioned strategically yourselves, what happen (sic) next?

A:

Our confidential asset waited for Sinbad, sir.

Q:

Did Sinbad arrive?

A:

Yes, sir.

Q:

How long did Sinbad arrive from the time you arrived?

A:

Less than an hour, sir.

Q:

Could you tell me what time was that?

A:

11:10 a.m., sir.

Q:

What happened when Sinbad arrived?

A:

When he arrived they talked together because they were the only two at that time, sir.

Q:

Where?

A:

At Pare Ko restaurant, sir.

Q:

After that what else transpired?

A:

When our confidential asset made a sign that was the time we approached them, sir.

Q:

What was the sign then?

A:

By raising his hands, sir.

Q:

Was that discussed during the pre-operational conference?

A:

Yes, sir.

Q:

When your confidential asset raised his hands, what did you do?

A:

We went to their place, sir.

Q:

Who were with you?

A:

PO2 Gonzales, sir.

Q:

When you went to their place where Sinbad and your confidential asset were at that time, what happen next?

A:

We told him to bring out what was inside his pocket, sir.

Q:

Who between you and PO2 Gonzales asked Sinbad to bring out the contents of his pocket?

A:

PO2 Gonzales, sir.

Q:

How did PO2 Gonzales ask to Sinbad to bring out the contents of his pocket?

A:

PO2 Gonzales asked Sinbad asked (sic) him if possibly to bring out the contents of his pocket, sir.

Q:

What did Sinbad do, if any?

A:

He brought out what was inside his pocket, sir.

Q:

What was the content of his pocket?

A:

The two (2) P500 peso bills were brought out, sir.

Q:

These two (2) P500 peso bills brought out by Sinbad, what relation to the buy bust money prepared or used in the buy bust operation?

A:

The same, sir.

Q:

Did you check the markings?

A:

Yes, sir.

Q:

What were the markings?

A:

Initial of PO2 Gonzales, sir, CAG-1 and CAG-2, sir.

x x x x

Q:

After Sinbad brought out two (2) P500 peso bills and PO2 Gonzales took it from his possession, what transpired next?

A:

The confidential asset turned over the shabu, sir.

Q:

To whom did your confidential asset turned over the shabu?

A:

To me, sir.

Q:

What did you do with the shabu?

A:

I placed my initial, sir.

Q:

What did you place:

A:

GMM-1 and GMM-2, sir.

Q:

How many sachets of shabu?

A:

Two (2), sir.[11]

PO2 Marcadejas positively identified in open court the two (2) plastic sachets as the same sachets seized from the appellant.[12] The substance contained in the said sachets yielded positive result for methamphetamine

hydrochloride or shabu, as evidenced by the Chemistry Report given by PCI Emelda Roderos. In addition, PO2 Marcadejas likewise confirmed that two (2) P500 peso bills recovered from appellant's possession were the same marked money prepared by the police operatives during the pre-operation conference. Thus, the clear and positive testimony of PO2 Marcadejas, which was corroborated by PO1 Gonzales, is more than sufficient to prove that an illegal transaction or sale of shabu took place.

Equally unavailing is the appellant's contention that the trial court did not render a decision of its own and merely cited cases without evaluating the evidence before it. An examination of the records show that the trial court explained in its assailed decision the factual findings and legal justifications, at least in minimum essence, which led to the conviction of appellant. It summarized the evidence for the prosecution and the defense; and concluded that the prosecution has overwhelmingly established the guilt of the appellant beyond reasonable doubt. We are not unmindful of the constitutional requirement that every decision must state distinctly and clearly the factual and legal bases therefor which should indeed be the primordial concern of courts and judges. Nevertheless, there should not be a mechanical reliance on this constitutional provision. The courts and judges should be allowed to synthesize and to simplify their decisions considering that at present, courts are harassed by crowded dockets and time constraints.[13] In *Del Mundo vs. Court of Appeals*[14], the Supreme Court held:

"It is understandable that courts with heavy dockets and time constraints, often find themselves with little to spare in the preparation of decisions to the extent most desirable. We have thus pointed out that judges might learn to synthesize and to simplify their pronouncements. Nevertheless, concisely written such as they may be, decisions must still distinctly and clearly express at least in minimum essence its factual and legal bases."

In his last attempt to persuade this Court of his innocence, the appellant relied on the allegation of broken chain of custody of evidence.

Once more, the Court is not swayed by appellant's assertion.

As in all drugs cases, compliance with the chain of custody rule is crucial in any prosecution that follows such operation. Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. The rule is imperative, as it is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that requisite to make a finding of guilt.[15]

In the present case, the different links to establish the chain of custody are sufficiently established by the prosecution. As correctly found by the trial court:

"In this case, Marcadejas immediately marked the two sachets of shabu with his initials GMM-1 and GMM-2 at the crime scene right after accused was arrested. The seized items were likewise photographed in the crime scene. Then the items were brought to the police station where PO2 Marcadejas prepared a Receipt/Inventory of Property/ies Seized. The items were turned over to PO1 Jim Valdrez who prepared the Request for Laboratory Examination. In the afternoon of the same day, the Request and the items were submitted by PO1 Valdrez and Gonzales to the PNP Crime Laboratory, Urdaneta City and they were received by Mercedita Velasco in the presence of Forensic Chemist Emelda Roderos. The latter conducted an examination and found them to be positive to the test of shabu. x x x"[16]

Moreover, PO2 Marcadejas identified the two (2) plastic sachets of shabu seized from appellant and confirmed his initials thereon, when he testified before the trial court. Likewise, PCI Emelda Roderos who conducted the chemical examination of the contents of the sachets bearing PO2 Marcadejas' initials and she confirmed on the witness stand that the said contents tested positive for methamphetamine hydrochloride or shabu. Thus, while the

trial court found that the police officers failed to require the appellant to sign the Inventory of Property Seized, nevertheless, the integrity and evidentiary value of the two (2) plastic sachets of shabu presented in evidence against appellant was properly preserved in substantial compliance with Section 21(1) of Republic Act No. 9165.

Verily, appellant's defense of denial cannot prevail over the prosecution witnesses' positive testimonies on the conduct of a legitimate buy-bust operation against him, coupled with the presentation in court of the corpus delicti. The testimonies of police officers are usually credited with more weight and credence in the absence of evidence that they have been inspired by an improper or ill motive, as compared to the accused's defense of denial which have been invariably viewed with disfavor for the same can easily be concocted. In order to prosper, the same must be proved with strong and convincing evidence, which the appellant in this case failed to produce.[17]

In consideration of all the foregoing, the Court finds no cogent reason to overturn appellants' conviction.

Under Section 5, Article II of RA 9165, the crime of illegal sale of shabu, regardless of the quantity and purity thereof, is punishable with life imprisonment to death and a fine ranging from Five Hundred Thousand Pesos (P500,000.00) to Ten Million Pesos (P10,000,000.00). Hence, the imposition by the trial court of the penalty of life imprisonment and a fine of Five Hundred Thousand Pesos (P500,000.00) upon the appellant is correct.

WHEREFORE, the instant appeal is DENIED. The assailed Decision dated April 30, 2013 of the Regional Trial Court (RTC) of Tayug, Pangasinan, Branch 52 in Criminal Case No. T-5387 is hereby AFFIRMED.

SO ORDERED.

Reyes, Jr., (Chairperson), and Lopez, JJ., concur.

[1] Rollo, pp. 27-41

[2] Ibid, pp. 42-48

[3] Records, p. 1

[4] Rollo, pp. 43-44

[5] Ibid, pp. 48

[6] Ibid, pp. 29

[7] Ibid, p. 79

[8] People vs. Figueroa, G.R. No. 97143, October 2, 1995

[9] People vs. Ocfemia, G.R. No. 185383, September 25, 2013

[10] People vs. Langcua, G.R. No. 190343, February 6, 2013

[11] TSN, Delos Reyes, M.D., January 16, 2013, pp. 7-10

[12] Ibid, pp. 10-11

"x x x x

Q:

You claimed that you marked the two (2) plastic sachets of shabu with your initial?

A:

Yes, sir.

Q:

And you put your initial GMM-1 and GMM-2?

A:

Yes, sir.

Q:

If that two (2) plastic sachets of shabu will be presented to you, can you still identify the same?

A:

Yes, sir.

Q:

The prosecution marked as their evidence two (2) plastic sachets of shabu according to the testimony of the Chemist. The two (2) plastic sachets of shabu were marked as Exhibit "B" and "B-1" and there was a writing Exhibit "GMM-1", do you know what relation to the plastic sachet of shabu to the one turned over to you by your confidential asset?

A:

These are the ones turned over to me by our confidential asset, sir.

Q:

There was another plastic sachets of shabu with marking "B-1" and in this plastic sachet of shabu, there was a writing Exhibit "GMM-2", do you know what relation to the plastic sachet of shabu to the one turned over to you by your confidential asset?

A:

This was the second plastic sachet of shabu given to me by the confidential asset, sir."(Emphasis supplied)

[13] People vs. Sadosa, G.R. No. 107084, May 15, 1998

[14] G.R. No. 104576, January 20, 1995

[15] People vs. Guzon, G.R. No. 199901, October 9, 2013

[16] Rollo, p. 47

[17] Supra note 9.

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