PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDGAR TALABUCON Y ALMEIDA, ACCUSED-APPELLANT.

Ponente: LOPEZ, J.

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LOPEZ, J.:

Before this Court is an Appeal assailing the Decision[1] dated October 18, 2010 of Branch 17, Regional Trial Court of Roxas City (hereafter, the "court a quo") in Criminal Case No. C-123-03, entitled "People v. Edgar Talabucon y Almeida", which found Edgar Talabucon (hereafter, "accused-appellant") guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The dispositive portion of the Judgment reads:

> WHEREFORE, premises considered, accused Edgar Talabucon, is hereby found guilty beyond reasonable doubt of the crime of selling shabu weighing 0.03 grams, without any authority to sell, as charged in the Information, and he is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00. The subject dangerous drugs is to be turned over to the PDEA for appropriate disposition, while the two P100 bills are to be returned to the Roxas City PNP Station.
>
> Accused Edgar Talabucon Y Almeida shall be credited in the service of his sentence with the period of his preventive detention.
>
> SO ORDERED.

In an Information[2] docketed as Criminal Case No. C-123-03, herein accused-appellant was charged with violation of Section 5, Article II of Republic Act No. 9165, viz:

> That on or about the 21[st] day of April, 2003, in the City of Roxas, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, and without any justifiable motive, did then and there willfully, unlawfully and feloniously sell, distribute and deliver to PNP poseur buyer one (1) plastic sachet, containing Methamphetamine Hydrochloride (shabu), with a weight of 0.03 grams, a dangerous drug, without the authority to sell and distribute the same.
>
> CONTRARY LAW.

On July 15, 2003, accused-appellant was arraigned.[3] He pleaded not guilty. Pre-trial was conducted. Thereafter, trial on the merits ensued.

The Version of the Prosecution

The Prosecution's evidence as synthesized by the Office of the Solicitor General (OSG) is as follows:[4]

> On April 21, 2003 at around 10:00 o'clock in the evening, PO3 Gaulencio Azarcon (now SPO2 Azarcon) and PO3 Antonio Buenvenida (PO3 Buenvenida) of the PNP Roxas City Police Station were directed by their Chief of Police, P/Supt. Ildefenso S. Catedral to conduct a buy-bust operation against a certain Edgar Talabucon (appellant) a notorious peddler along Asis Street, Roxas City.
>
> They pre-marked two (2) pieces of one hundred peso bills bearing serial number HT158694 and FR 421370. It

> was agreed that SPO2 Azarcon will act as the poseur buyer while PO3 Buenvenida will be his back-up. Afterwards, they proceeded to the target area.
>
> When the police officers arrived at Asis Street, they immediately saw appellant conversing with a male companion. They approached him and transacted for two hundred pesos (Php 200) worth of shabu. After giving the marked money, appellant gave to SPO2 Azarcon a plastic sachet containing suspected shabu. Then SPO2 Azarcon introduced himself as a police officer and arrested appellant. Immediately, PO3 Buenvenida frisked appellant and was able to recover from his possession the marked money and three (3) sliced aluminum foil.
>
> Thereafter, they proceeded to the Roxas City Police Station where the joint affidavit of arrest, letter-request for drug test and other necessary documentation were made.
>
> The confiscated sachet recovered from appellant was immediately marked after his arrest with the initials "MAR". The qualitative examination of the specimen yielded positive for the presence of Methamphetamine Hydrochloride, otherwise known as "shabu", a dangerous drug.

The Version of the Defense

On the other hand, the version of the defense is synthesized by the Public Attorney's Offfice:[5]

EDGAR TALABUCON testified that in the evening of April 21, 2003, he was at home in Mabini St., Roxas City. Then his neighbor woke him up informing him that somebody is looking for him. His neighbor then requested to accompany him in seeing a friend in Mckinley St. of the same City. However, when they arrived he was suddenly grabbed and handcuffed by unknown persons. He was then made to board a tricycle and brought to a police station in the city. He denied the allegations that he was in possession of dangerous drugs.

On October 18, 2010, the court a quo rendered the assailed Decision,[6] which found accused-appellant guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165.

On November 4, 2010, a Notice of Appeal[7] was filed by accused-appellant. In the Order[8] dated December 3, 2010, the Notice of Appeal was given due course, and the Records of the case were ordered elevated to this Court.

On November 27, 2013, accused-appellant filed his Appellant's Brief[9] with the following assignment of errors:

> I
> THAT THE COURT A QUO ERRED IN CONVICTING EDGAR TALABUCON FOR VIOLATION OF SECTION 5 OF REPUBLIC ACT 9165 DESPITE FAILURE OF THE PROSECUTION TO PROVE THE IDENTITY OF THE CORPUS DELICTI;
>
> II
> THAT THE COURT A QOU (SIC) ERRED IN CONVICTING EDGAR TALABUCON DESPITE FAILURE OF THE PROSECUTION TO ADDUCE EVIDENCE SUFFICIENTLY SHOWING GUILT BEYOND REASONABLE DOUBT.

The sole issue for resolution is whether or not there is proof beyond reasonable doubt to convict accused-appellant of the crime of illegal sale of drugs.

In his Appellant's Brief, accused-appellant strongly asserts that he should have been acquitted because the identity of the corpus delicti is dubious as no inventory and photographs were taken subsequent to the recovery of the contraband. It was also posited that there was failure to comply with Section 21, paragraph 1, Article II of Republic Act No. 9165, and that there were missing links in the chain of custody of the seized drugs. Moreover, accused-appellant points out that the presumption of regularity in the performance of official duty of the police

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officers should not prevail over the presumption of innocence and constitutionally protected rights of an individual.

The Office of the Solicitor General (OSG) in its Brief[10] alleges that the prosecution was able to prove beyond reasonable doubt the guilt of accused-appellant as all the elements necessary for his prosecution were present in this case. Further, the OSG asserts that the integrity and evidentiary value of the seized drug was preserved and the chain of custody not broken as there was substantial compliance with the law. The OSG claims that the defense of denial deserves scant consideration.

The Ruling of the Court
We grant the appeal.

The elements necessary for the prosecution of illegal sale of drugs are: (1) that the transaction or sale took place; (2) that the corpus delicti or the illicit drug was presented as evidence; and (3) that the buyer and seller were identified.[11] What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited or illegal drug.

While the Chemistry Report confirmed that the substance subject of the sale transaction contained methamphetamine hydrochloride or “shabu”, still accused-appellant cannot be convicted as charged because the Prosecution failed to establish the integrity of the corpus delicti.

Notably, the identity of the prohibited drug must be established with moral certainty. Apart from showing that the elements of possession or sale are present, the fact that the substance illegally possessed in the first place is the same substance offered in court as exhibit must likewise be established with the same degree of certitude as that needed to sustain a guilty verdict. [12]

In the instant case, the Prosecution failed to convincingly establish the identity of the sachet of shabu purportedly received from accused-appellant. There is no proof of the whereabouts of this item, from the time it came into the possession of the police officers, to the time it was tested in the laboratory, and up to the time it was offered in evidence before the court a quo.

We quote the testimony of SPO2 Azarcon during the cross-examination:[13]

> Q: Now, upon reaching the Roxas City Police Station, what did you do with that items that you recovered?
>
> A: I presented it to the police investigator to have it blottered, and after it was blottered I turned it over to the duty investigator.
>
> xxx
>
> Q: And who turned it over the recovered items to the police investigator?
>
> A: I turned it over my recovered items same as Buenvenida.
>
> Q: So, you were the one who personally delivered the alleged items you recovered to the police investigator?
>
> A: Yes, sir, because before that he questioned us.
>
> Q: But you could not recall anymore the police investigator to whom you transmitted the alleged items you recovered?
>
> A: Yes, sir, I forgot.
>
> Q: Now, after you turned over the items to the police investigator, what did you do then if any?

A: No more, sir, it was the duty investigator to investigate, to file the case, and bring it to the crime laboratory.

Q: Are you telling us Mr. Witness, that after you turned over the items that you recovered to the police investigator, you have no idea anymore of what did the police investigator did with the items that you recovered?

A: They took us some affidavit.

xxx

Q: Now, Mr, Witness, how about the items that you recovered. Do you know after you transmitted or turn it the same to the police investigator, do you know what happened to your alleged recovery?

A: As the duty investigator, he informed us that he filed the case and brought the recovered items to the prosecutor's office.

xxx.

Significantly, a perusal of the testimony of PO3 Buenvenida reveals that the focus of his testimony was with regard to the buy-bust operation. With respect to the chain of custody, he testified that the seized plastic pack was brought to the crime laboratory. Notably, when he was asked who was in possession of the item before it was submitted to the crime laboratory, he could no longer remember.[14]

From the aforequoted testimonies and the records of the instant case, it is clear that there are missing links, from the point when the illegal drug was allegedly received from accused-appellant, to the point when the same was placed in the custody of the crime laboratory for examination, which raise doubt as to the integrity of the drug allegedly seized from accused-appellant.

First. there was no testimony as to who was the investigator assigned to the case who allegedly received the seized contraband from SPO2 Azarcon. SPO2 Azarcon merely testified that he gave the small plastic pack to their investigator, whose name he could not recall.

Second. the records are silent as to who had actual possession, and what the person in possession did with the small plastic pack, from the time it was turned over to the unnamed investigator, until it was submitted for laboratory examination.

Third. SPO2 Azarcon and PO3 Buenvenida did not testify on who delivered the specimen to the crime laboratory. When asked during cross-examination, SPO2 Azarcon could not recall who brought the specimen to the crime laboratory. Moreover, PC Insp. Angela L. Baldevieso[15] merely testified that from a reading of the letter request, a certain SPO4 Manuel Bansale delivered the letter request together with the specimen. Notably, the letter request and the specimen were not received by PC Insp. Baldevieso herself but by a certain PO1 R.C. Magbanua.

Fourth. The unnamed investigator and SPO4 Manuel Bansale were not presented during the trial, thus, they failed to identify in open court the plastic pack that they allegedly received from SPO2 Azarcon and which was submitted to the PNP Crime Laboratory. They were not able to state what they did with the plastic pack before it was submitted for laboratory examination. SPO4 Bansale failed to testify from whom he received the plastic pack, and when he submitted the same.

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in

which it was received, and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same. [16]

In all prosecutions for violation of the Dangerous Drugs Act, the existence of all dangerous drugs is a sine qua non for conviction. The dangerous drug is the very corpus delicti of the crime of violation of the Dangerous Drugs Act.[17]

In the case of People v. Casimiro,[18] the Supreme Court acquitted the appellant for failure of the Prosecution to establish the identity of the prohibited drug which constitutes the corpus delicti.

Further, in People v. Mapa,[19] accused-appellant was granted an acquittal after the prosecution failed to clarify whether the specimen submitted to the NBI for laboratory examination was the same one allegedly taken from the accused. In People v. Dismuke,[20] the Supreme Court held that the failure to prove that the specimen of marijuana examined by the forensic chemist was that seized from the accused was fatal to the Prosecution's case.

Evidently, in the instant case, the Prosecution has not proven the indispensable element of corpus delicti of the crime, which failure produces a grievous doubt as to the guilt of accused-appellant.

Settled is the rule that in all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved.[21] To justify the conviction of the accused, the Prosecution must adduce the quantum of evidence sufficient to overcome the constitutional presumption of innocence. The Prosecution must stand or fall on its evidence and cannot draw strength from the weakness of the evidence of the accused.[22] Accordingly, when the guilt of the appellant has not been proven with moral certainty, as in this case, it is a policy of long standing that his presumption of innocence must be favored and his exoneration be granted as a matter of right.

Again, it must be stressed that in our criminal justice system, the overriding consideration is not whether the court doubts the innocence of the accused, but whether it entertains a reasonable doubt as to their guilt.[23] Indeed, the constitutional right to be presumed innocent until proven guilty can be overthrown only by proof beyond reasonable doubt.[24]

WHEREFORE, the Appeal is GRANTED. The Decision dated October 18, 2010 of Branch 17, Regional Trial Court of Roxas City, in Criminal Case No. C-123-03 is REVERSED and SET ASIDE. Edgar Talabucon y Almeida is ACQUITTED of the crime charged against him. He is ordered to be released immediately, provided there is no other cause for his further detention.

The Director of the Bureau of Corrections is directed to implement this Decison and to report to this Court on the action taken within five (5) days from receipt of this Decision.

Let entry of judgment be made pursuant to Section 1(a), Rule VII of the 2009 Internal Rules of the Court of Appeals.[25]

SO ORDERED.

Ingles, Chairperson, and Lagura-Yap, JJ., concur.

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[1] Records, p. 293.

[2] Ibid., p. 1.

[3] Ibid., p. 16.

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[4] Rollo, pp. 50-51 (Appellee's Brief).

[5] Ibid., p. 17 (Appellant's Brief).

[6] Records, p. 293.

[7] Ibid., p. 299.

[8] Ibid., p. 300.

[9] Rollo, p. 8.

[10] Ibid., p. 55.

[11] People v. Frondozo, G.R. No. 177164, June 30, 2009.

[12] People v. Guzman, G.R. No. 186498, March 26, 2010, citing People v. Barba, G.R. No. 182420, July 23, 2009.

[13] TSN dated February 3, 2009, pp. 6-10.

[14] TSN dated October 28, 2008, p.6.

[15] Forensic Chemist of the Philippine National Police.

[16] Lopez v. People, G.R. No. 172953, April 30, 2008.

[17] People v. Kimura, G.R. No. 130805, April 27, 2004.

[18] G.R. No. 146277, June 20, 2002.

[19] G.R. No. 102358, March 30, 1993.

[20] G.R. No. 108453, July 11, 1994.

[21] Article III, Sec. 14 (2), Constitution.

[22] People v. Lim, G.R. No. 141699, August 7, 2002.

[23] People v. Asis, G.R. No. 142531, October 15, 2002, citing People v. Aspira, G.R. No. 138382-84, February 12, 2002; People v. Villarin, GR No. 136847, July 31, 2001; People v. Williams, G.R. No. 125985, April 20, 2001; People v. Pagaura, G.R. No. 95352, January 28, 1997.

[24] People v. Baulite, G.R. No. 137599, October 8, 2001.

[25] Section 1. Entry of Judgment.- Unless a motion for reconsideration or new trial is filed or an appeal taken to the Supreme Court, judgments and final resolutions of the Court shall be entered upon expiration of fifteen (15) days from notice to the parties.

a) With respect to the criminal aspect, entry of judgment in criminal cases shall be made immediately when the accused is acquitted or his/her withdrawal of appeal is granted.xxx

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