

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLLY BARIK RACAL A.K.A “TATA”, ACCUSED-APPELLANT.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal[1] from the January 7, 2011 Judgment[2] of the Regional Trial Court (RTC), Branch 57, Cebu City in Criminal Case No. CBU-80274 finding accused-appellant Rolly Barik Racal a.k.a. “Tata” guilty beyond reasonable doubt of illegal possession of dangerous drugs in violation of Section 11, Article II of Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002).

The Antecedents

Accused-appellant was charged under an Information[3] which reads:

The undersigned Prosecutor II of Cebu City, accuses ROLLY RACAL a.k.a. “Tata” for Violation of Sec. 11 Art. II of RA 9165, committed as follows:

That on or about the 7th day of June, 2007, at about 3:30 p.m., in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent and without being authorized by law, did then and there have in his/her possession and under his control the following:
one (1) heat-sealed transparent plastic packet of 0.01 gram of white crystalline substance

locally known as “shabu” which after laboratory examination conducted gave positive result for the presence of Methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.

Upon arraignment on August 9, 2007, accused-appellant, duly assisted by counsel, pleaded not guilty to the crime charged.[4]

During the pre-trial conference, no proposals for admission were proffered by the parties but submitted the following issues for resolution: 1) whether or not the accused is guilty of the crime charged; and 2) the legality of arrest and seizure.[5]

Thereafter, trial on the merits ensued.

The prosecution presented as its witnesses, PO1 Allan Abatayo[6] and PO1 Ramon Chinel,[7] and formally offered in evidence Exhibits “A” to “E,” namely: the Letter Request for Laboratory Examination dated June 7, 2007;[8] one (1) heat sealed plastic pack containing white crystalline substance marked “RBR”;[9] Chemistry Report No. D-606-2007;[10] police blotter;[11] certified true copy of information for violation of RA 8294;[12] and offered during rebuttal, acknowledgment receipt.[13]

For its part, the defense presented accused-appellant[14] as its lone witness and formally offered in evidence Exhibit “1” - Order dated January 8, 2008 in Criminal Case No. 138494-R for Violation of RA 8294.[15]

The Prosecution's Version

Culled from the records[16] is the version of the prosecution, which is substantially as follows:

In a nutshell, prosecution's evidence shows that PO1 Nilo Aventurado, PO1 Nap Kelly Segarra, SPO1 Allan Abatayo, PO1 Ramon Chinel and other CIIB personnel, were at Gaisano Street, Brgy. Tejero, Cebu City to conduct a check point.

In the course of the operation, a PUJ was flagged down and the male passengers were directed to disembark. Recovered from the accused, who was one of the passengers, a .38 cal. revolver firearm at his left waistline during a body search. Officer Chinel confiscated a plastic packet of shabu (Exh. "B") from accused's secret pocket. Said officer brought the shabu to the police station, where he placed the markings "RBR" on the packet of shabu and together with the letter-request (Exh. "A"), delivered it to the PNP Crime Laboratory. Examination conducted on the illegal drug by Jude Daniel Mendoza, an expert in the examination of dangerous drug, found that submitted specimen to contain methamphetamine hydrochloride, a dangerous drug, per Chemistry Report No. D-606-2007 (Exh. "C").

When presented in court, the arresting police officers testified in this manner:

PO1 Allan Abatayo recalled that on June 7, 2007, he was at David Gaisano St., Barangay Tejero, Cebu City, with other members of the CIIB conducting a checkpoint on public utility jeepneys (PUJ) that passed thereon. With him, among others, were PO1 Chinel, PO1 Aventurado and PO1 Segarra.[17]

At around 3:30 in the afternoon, after they flagged down a jeepney and ordered the male passengers to lift their shirts, they saw Rolly Racal in possession of a .38 caliber. Thereafter, they arrested the accused for illegal possession of firearms. Then, PO1 Chinel conducted a body search upon the accused who was found in possession of a small plastic sachet of shabu. The said sachet of shabu was found in the secret pocket of the accused's pants. Thereafter, they brought the accused to their officer for proper disposition of the case. It was PO1 Chinel who held the sachet of shabu from the crime scene to their office. At the police station, PO1 Chinel marked the seized plastic pack with the initials RBR and submitted the same to the PNP Crime Laboratory for examination. As per Chemistry Report No. D-606-2007, the specimen submitted to the PNP crime laboratory gave a positive result for shabu. The incident on June 7, 2007 was recorded in the police blotter. He identified the accused who was inside the courtroom.[18]

To refute and belie the allegation of accused that he planted evidence for Violation of R.A. 8294, he presented to the court the Acknowledgment Receipt signed by the Clerk of Court of Municipal Trial Court in Cities, Branch 7. However, he admitted that the said case was dismissed and never re-filed.[19]

PO1 Ramon Chinel testified that on June 7, 2007, he was with the group of CIIB Gorordo, Cebu City, conducting a check point on public utility jeepney (PUJ) at David Gaisano Street, Tejero, Cebu City. He recalled that they flagged down the PUJ with the number 10H from SM Cebu City to Bulacao. Thereafter, they informed the passengers that they were conducting a check point and it was this time that accused was rattled; then he noticed that an item was protruding from the waistline of the accused. At that time, the accused was just sitting inside the PUJ. Thus, they instructed the accused to disembark from the PUJ. PO1 Abatayo who conducted the search upon the accused recovered a handgun. When asked for the document for possessing a gun, the accused replied that he had no document to show. They then arrested the accused for possessing the firearm without the necessary document. When he searched the accused for other deadly weapon, he found a small plastic pack of white crystalline substance from the right pocket of the former's pants. Thereafter, they brought the accused to the police station. He was in possession of the seized plastic pack from the crime scene to the police station. At the police station, he marked the small plastic pack with "RBR", which stands for Rolly Baric Racal. The incident was reflected in the police blotter. He then submitted the small plastic pack together with the letter request to the PNP Crime Laboratory for examination. The result of the examination was reflected in Chemistry Report No. D-606-2007. He remembered that an Information for Violation of R.A.

8294 was filed against the accused. Aside from the accused, a certain Ramil Aniscal Abellar was also arrested during the checkpoint.[20]

He revealed that they were not able to prepare an inventory of the items confiscated on June 7, 2007; neither a photograph was taken of the seized items.[21]

On cross examination, he admitted that they approached the accused who was then frisked by PO1 Abatayo because the accused “had a suspicious look at the time and he stayed beside.” He was certain that he did not personally request the accused to raise his shirt; the accused also did not raise his shirt. However, they arrested the accused because they suspected that the item protruding on his left side was a weapon.[22]

The Appellant’s Version

Accused-appellant denied the charge against him. His narration of what purportedly transpired during the aforesaid time and date, is as follows:[23]

On the other hand, accused's evidence disclosed that on the date in question. At about 1:00 P.M., he was with Ramil Abellar at SM to hang around. At about past 10:00, they boarded a PUJ. At Barangay Tejero, there was a check point and all the male passengers were told to disembark. A firearm was recovered from Abellar but he was also brought together with Abellar for just being a companion of the latter. He together with Abellar, each [of them] was charged for Violation of RA 8294 and RA 9165. Abellar pleaded guilty to RA 8294 and was convicted of RA 9165.

The Ruling of the RTC

In its January 7, 2011 Judgment[24] the RTC convicted accused-appellant for illegal possession of drugs. The dispositive portion[25] of the assailed Decision reads:

“WHEREFORE, in view of the foregoing, accused Rolly Barik Racal is hereby sentenced him to suffer an imprisonment ranging from twelve (12) years and one (1) day to fifteen (15) years and a fine of P300,000.00.

He is credited for the period during his preventive imprisonment.

The plastic packet of shabu is forfeited in favor of the government.

SO ORDERED.”

The RTC found the prosecution’s allegations to be truthful. In concluding that the testimonies of the prosecution witnesses appear to be more credible, the RTC relied on the positive corroborated statements of the police officers and the presumption of regularity in the performance of official duty.

Insisting on his innocence, accused-appellant is now before Us with the following assigned errors:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT BECAUSE THE PROSECUTION FAILED TO ESTABLISH THE CHAIN OF CUSTODY OF THE ALLEGED CONFISCATED PLASTIC PACK OF SHABU.

II.

THE TRIAL COURT ALSO ERRED IN FINDING THE APPELLANT GUILTY OF THE CRIME CHARGED BY RELYING ON THE WEAKNESS OF THE DEFENSE RATHER THAN ON THE STRENGTH OF THE PROSECUTION'S EVIDENCE.[26]

This Court’s Ruling

The appeal lacks merit.

The foregoing issues being interrelated, they shall be discussed jointly hereunder.

Accused-appellant pointed out several errors that supposedly attended his conviction. Firstly, that he was arrested without a warrant under circumstances that do not justify a warrantless arrest and thus, rendered void all proceedings including those that led to his conviction. Secondly, that the small plastic pack containing the substance later found to be shabu was inadmissible in evidence as the same was a product of an unlawful search. Lastly, that the integrity of the seized illegal drugs which was the corpus delicti of the offense was questionable since the requirements provided under Section 21 of RA 9165 regarding the custody and disposition of seized drugs have not been complied with. Harping on these alleged procedural lapses, accused-appellant insisted that his guilt was not proven beyond reasonable doubt.

We do not agree with accused-appellant.

Proof of Guilt Beyond Reasonable Doubt Adequately Established by the Prosecution

After a careful examination of the records of this case, We are satisfied that the prosecution's evidence established the guilt of accused-appellant beyond reasonable doubt.

In deciding this appeal, this Court is guided by the legal aphorism that factual findings of the trial court are binding on this Court, unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness, or palpable error.[27]

Here, accused-appellant failed to show any palpable error, arbitrariness, or oversight on the findings of fact of the trial court as to warrant a reversal of such findings.

Accused-appellant was charged and convicted of the crime of illegal possession of dangerous drugs.

Under Section 11, Article II of R.A No. 9165, the elements necessary for the prosecution of illegal possession of dangerous drugs are: (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.[28]

All these elements were duly established by the prosecution. First, the small plastic pack seized subsequent to accused-appellant's arrest was found in his possession, particularly in the right pocket of his pants. The contents of the small plastic pack recovered from accused-appellant proved to be shabu as established by the results of the laboratory examination. Second, accused-appellant did not adduce evidence showing his legal authority to possess the shabu. Third, the attendant circumstances clearly showed that accused-appellant freely and consciously possessed the illegal drugs. Here, after being arrested for illegal possession of firearm, accused-appellant was bodily searched for any concealed weapons or illegal items which resulted to the discovery of a small plastic pack containing shabu.

These pieces of evidence, taken collectively, bear out that the accused-appellant was correctly charged and convicted for illegal possession of shabu. Likewise, We concur with the Office of the Solicitor General's (OSG's) standpoint that in the absence of convincing justification to overcome the presumption of knowledge in the possession of dangerous article, the trial court cannot be faulted in convicting accused-appellant for illegal possession of dangerous drugs.

While accused-appellant vehemently denies the charges against him, such a denial cannot prevail over the positive testimonies of the prosecution witnesses.

The defense of denial, like alibi, has been viewed by the court with disfavor for it can just as easily be concocted. Denial in drug cases requires strong and convincing evidence because of the presumption that the law enforcement agencies acted in the regular performance of their official duties.[29] Time and again, it has been held that denials unsubstantiated by convincing evidence are not enough to engender reasonable doubt particularly where the prosecution presents sufficiently telling proof of guilt.[30]

In the absence of any intent on the part of the police authorities to falsely impute such crime against the accused-appellant, the presumption of regularity in the performance of duty stands.[31] Especially here, where an astute analysis of police operatives' testimonies do not indicate any inconsistency, contradiction, or fabrication.

Further, accused-appellant's contentions of frame-up and that the dangerous drug or shabu was planted by the police officers do not deserve further considerations by this Court.

While We are aware that in some cases, law enforcers resort to the practice of planting evidence in order that to, inter alia, harass, nevertheless the defense of frame-up in drug cases requires strong and convincing evidence because of the presumption that the police officers performed their duties regularly and that they acted within the bounds of their authority.[32]

Frame-up, like alibi, is generally viewed with caution by the Court because it is easy to contrive and difficult to disprove. It is a common and standard line of defense in prosecutions of violations of the Dangerous Drugs Act.[33] In this case, the narration of the incident by police officers, buttressed by the presumption that they have regularly performed their duties in the absence of convincing proof to the contrary, must be given weight.

Legality of Warrantless Arrest and Seizure Upheld

Accused-appellant's theory that his arrest was illegal, making the small plastic pack of shabu recovered from him inadmissible in evidence equally lacks merit.

First of all, accused-appellant never raised this issue before his arraignment. He never questioned the legality of his arrest before he entered his plea. On this alone, the contention must fail.

It has been ruled time and again that an accused is estopped from assailing any irregularity with regard to his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground before his arraignment.[34] Any objection involving the procedure by which the court acquired jurisdiction over the person of the accused must be made before he enters his plea; otherwise, the objection is deemed waived.[35]

In the instant case, accused-appellant entered his plea of not guilty during his arraignment. He could have questioned the validity of his warrantless arrest at this time but he did not. Applying the foregoing jurisprudential touchstone, accused-appellant is now estopped from questioning the validity of his arrest since he never raised this issue before arraignment or moved to quash the Information.

Further, that the accused-appellant was illegally arrested is not a ground to set aside conviction duly arrived at and based on evidence that sufficiently establishes culpability. The illegal arrest of an accused in itself is not sufficient cause for setting aside a valid judgment rendered upon a sufficient complaint after trial free from error. The warrantless arrest, even if illegal, cannot render void all other proceedings including those leading to the conviction of the appellants and his co-accused, nor can the state be deprived of its right to convict the guilty when all the facts on record point to their culpability.[36]

On the issue of the admissibility of the object evidence presented against the accused-appellant. The 1987 Philippine Constitution recognizes the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures.[37] Apropos thereto, the 1987 Philippine Constitution likewise

provides for an exclusionary rule which excludes any evidence obtained in violation of the constitutional safeguard against unreasonable searches and seizures. However, jurisprudence has established certain recognized exceptions to the said rule, namely: (1) warrantless search incidental to a lawful arrest recognized under Section 12 [now Section 13], Rule 126 of the Rules of Court and by prevailing jurisprudence; (2) seizure of evidence in plain view; (3) search of a moving vehicle; (4) consented warrantless search; (5) customs search; (6) stop and frisk; and (7) exigent and emergency circumstances.[38]

In the present case, it must be emphasized that the accused-appellant was arrested during a checkpoint wherein he was caught to have an unlicensed firearm. The discovery of the unlicensed firearm led to his eventual arrest which, in turn, yielded to the recovery of the shabu in accused-appellant's possession.

Viewed from the OSG's standpoint to which We concur, the RTC was justified in upholding the legality of the arrest and search made on accused-appellant.

Searches conducted in checkpoints are valid for as long as they are warranted by the exigencies of public order and are conducted in a way least intrusive to motorists.[39] For as long as the vehicle is neither searched nor its occupants subjected to a body search, and the inspection of the vehicle is limited to a visual search, said routine checks cannot be regarded as violative of an individual's right against unreasonable search.[40]

Although the general rule is that motorists and their vehicles as well as pedestrians passing through checkpoints may only be subjected to a routine inspection, vehicles may be stopped and extensively searched when there is probable cause which justifies a reasonable belief of the men at the checkpoints that either the motorist is a law offender or the contents of the vehicle are or have been instruments of some offense.[41]

Probable cause has been defined as such facts and circumstances which could lead a reasonable, discreet and prudent man to believe that an offense has been committed, and that the objects sought in connection with the offense are in the place sought to be searched. The required probable cause that will justify a warrantless search and seizure is not determined by any fixed formula but is resolved according to the facts of each case.[42]

In *People v. Malmstedt*,[43] warrantless search of the personal effects of an accused has been declared by the Supreme Court as valid, because of existence of probable cause, where the smell of marijuana emanated from a plastic bag owned by the accused, or where the accused was acting suspiciously, and attempted to flee.

That probable cause existed to justify the search conducted by the police officers at the checkpoint is gathered from the following circumstances, to wit: during the conduct of the search, accused-appellant appeared nervous and at the same time had something protruding on his left waist. When asked to alight from the jeepney, it was found that he had an unlicensed firearm in his possession. Again, had nothing been shown to have been hidden inside his shirt, accused-appellant would not have been subjected to further inspection. It was this circumstance which led the police officers to suspect that accused-appellant might be guilty of an offense. True enough, when bodily searched, accused-appellant was found to have an unlicensed firearm. After effecting his arrest, it was found that he too had with him a small pack containing shabu.[44]

In light then of accused-appellant's suspicious and nervous gestures, there existed probable cause to justify a reasonable belief on the part of the law enforcers that accused-appellant was an offender of the law.

Identity and Integrity of Seized Shabu Preserved; Chain of Custody: Unbroken

The dangerous drug itself constitutes the corpus delicti of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt. Of chief concern in drug cases then is the requirement that the prosecution prove that what was seized by police officers is the same item presented in court. This identification

must be established with moral certainty and is a function of the rule on chain of custody.[45]

People v. Obmiranis[46] defined chain of custody as “the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.”

The importance of establishing the chain of custody was first emphasized in the case of Malillin v. People,[47] where the Supreme Court said:

Prosecutions for illegal possession of prohibited drugs necessitates that the elemental act of possession of a prohibited substance be established with moral certainty, together with the fact that the same is not authorized by law. The dangerous drug itself constitutes the very corpus delicti of the offense and the fact of its existence is vital to a judgment of conviction. Essential therefore in these cases is that the identity of the prohibited drug be established beyond doubt. Be that as it may, the mere fact of unauthorized possession will not suffice to create in a reasonable mind the moral certainty required to sustain a finding of guilt. More than just the fact of possession, the fact that the substance illegally possessed in the first place is the same substance offered in court as exhibit must also be established with the same unwavering exactitude as that requisite to make a finding of guilt. The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.

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.

The case of People v. Nandi[48] enumerated the links that should be established in the chain of custody of the confiscated item, thus:

First, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer;

Second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer;

Third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and

Fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.

We find that the different links to establish the chain of custody are here present. The testimonies of prosecution witnesses duly established the identity of the shabu seized and the integrity and evidentiary value thereof duly preserved. The RTC, in ruling that the identity, integrity and evidentiary value of the shabu was duly preserved, made the following observations quoted hereunder:

The identity and chain of custody of the shabu has been duly established by the testimony of Officer Chinel, who recovered the shabu, brought it to the police station, placed the markings RBR and delivered it together with the letter-request (Exh. “A”) to the PNP Crime Laboratory. It was duly received at said office by PO3 Sudaria, examined by Jude Daniel Mendoza and presented in Court. The Court entertains no doubt since it is apparent that officer Chinel was the only person in custody of shabu from the time of its confiscation up to its

delivery to the PNP Crime Laboratory. There is no doubt that officer Sudaria, as standard operating procedure[,] turned over the submitted evidence which was already marked to Jude Daniel Mendoza for examination and presented it in court.[49]

Clearly, from the foregoing, there was no hiatus or confusion in the confiscation, handling, custody and examination of the shabu. The illegal drug that was confiscated from accused-appellant, taken to the police station, subjected to qualitative examination at the crime laboratory, and finally introduced in evidence against appellant were the same illegal drug that was confiscated from the accused-appellant's possession.

The function of the chain of custody requirement is to ensure that the integrity and evidentiary value of the seized items are preserved, so much so that unnecessary doubts as to the identity of the evidence are removed. To be admissible, the prosecution must show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.[50]

The accused-appellant also highlighted the non-compliance of certain requisites provided under Sec. 21, Art. II of R.A. 9165 and the implementing rules such as lack of physical inventory and photograph. However, the substantial compliance with the procedure is provided for in Sec. 21 (a) of the Implementing Rules and Regulations of R.A. No. 9165 which reads:

Sec. 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory so confiscated, seized and/or surrendered, for disposition in the following manner:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given copy thereof. Provided, that the physical inventory and the photograph shall be conducted at the place where the search warrant is served; or at least the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending team/officer, shall not render void and invalid such seizures of and custody over said items.

Clearly, the implementing rules sanction substantial compliance with the procedure to establish a chain of custody, as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending team/officer.

Jurisprudence supports the acceptance of substantial compliance with the procedure on custody of evidence in drug cases. As held in *People of the Philippines v. Ara*:^[51]

“RA 9165 and its subsequent Implementing Rules and Regulations (IRR) do not require strict compliance as to the chain of custody rule. xxx We have emphasized that what is essential is "the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.”

Briefly stated, non-compliance with the procedural requirements under RA 9165 and its IRR relative to the custody, photographing, and drug-testing of the apprehended persons, is not a serious flaw that can render void the seizures and custody of drugs in a buy-bust operation.

In *People v. Lorena*:^[52]

People v. Pringas^[53] teaches that non-compliance by the apprehending/buy-bust team with Section 21 is not necessarily fatal. Its non-compliance will not automatically render an accused's arrest illegal or the items seized/confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. We recognize that the strict compliance with the requirements of Section 21 may not always be possible under field conditions; the police operates under varied conditions, and cannot at all times attend to all the niceties of the procedures in the handling of confiscated evidence.”

On a final note, it may be well to stress that accused-appellant wants this Court to weigh the credibility of the prosecution witnesses vis-à-vis his bare and lame assertions, a task entrusted to the trial court, which is in the best position to discriminate between truth and falsehood because of its untrammelled opportunity to observe the deportment and demeanor of witnesses during trial.^[54]

In addition, it is a hornbook doctrine that the evaluation of the trial court of the credibility of the witnesses and their testimonies is entitled to great weight and is generally not disturbed upon appeal. However, such rule does not apply when the trial court has overlooked, misapprehended, or misapplied any fact of weight or substance.^[55] In this case, the circumstances that, when properly appreciated, would warrant the acquittal of accused-appellant, are wanting. Thus, We uphold the presumption of regularity in the performance of official duties and find that the prosecution has discharged its burden of proving the guilt of accused-appellant beyond reasonable doubt.

WHEREFORE, the appeal is hereby DENIED. The Decision of the RTC, Branch 57, Cebu City dated January 7, 2011 in Criminal Case No. CBU-80274 is hereby AFFIRMED in toto.

SO ORDERED.

Ingles,^[*] and Azcarraga-Jacob, JJ., concur.

[*] Acting Chairperson in lieu of J. Ramon Paul L. Hernando, per Office Order No. 19-14-GTI dated July 7, 2014.

[1] Records, pages 80-81.

[2] Penned by Judge Enriqueta Loquillano-Belarmino, records, pages 72-76.

[3] Records, pages 1-2.

[4] See Certificate of Arraignment, records, page 13.

[5] See Order dated August 9, 2007, records, page 11.

[6] TSN-Abatayo, June 27, 2008, pages 4-17; August 13, 2009, pages 4-10; December 16, 2010, pages 4-8.

[7] TSN-Chinel, July 15, 2010, pages 4-14; August 18, 2010, pages 3-12.

[8] Exhibit “A”, records, page 49.

[9] Exhibit “B”, retained at the RTC, Br. 57.

[10] Exhibit “C”, records, page 48.

[11] Exhibit “D”, records, page 6.

[12] Exhibit “E”, records, pages 50-51.

- [13] Exhibit “A” - rebuttal, records, page 65.
- [14] TSN-Racal, November 18, 2010, pages 3-21.
- [15] Exhibit “1” - rebuttal, records, page 62.
- [16] Seepages 2 of RTC Judgment, records, page 73.
- [17] See page 3 of Accused-appellant's Brief, rollo, page 26.
- [18] See page 3 of Accused-appellant's Brief, rollo, page 26.
- [19] See pages 3-4 of Accused-appellant's Brief, rollo, pages 26-27.
- [20] See pages 4-5 of Accused-appellant's Brief, rollo, pages 27-28.
- [21] See page 5 of Accused-appellant's Brief, rollo, page 28.
- [22] See page 5 of Accused-appellant's Brief, rollo, page 28.
- [23] See page 2 of RTC Judgment, records, page 73.
- [24] Supra, at note 2.
- [25] Page 6 of RTC Decision, records, page 85.
- [26] See Accused-Appellant’s Brief, rollo, page 24.
- [27] People v. Belo, G.R. No. 187075, July 5, 2010; citing Fuentes v. Court of Appeals, G.R. No. 109849, February 26, 1997, 268 SCRA 703, 705.
- [28] People v. Gutierrez, G.R. No. 177777, December 4, 2009, 607 SCRA 377, 390-391; citing People v. Pringas, G.R. No. 175928, August 31, 2007, 531 SCRA 828, 846.
- [29] People v. Soriano, G.R. No. 173795, April 4, 2007, 520 SCRA 458, 468 citing People v. Dulay, 468 Phil. 56, 65 (2004) citing further People v. Barita, 381 Phil. 832, 846-847 (2000); People v. Vinecario, 465 Phil. 192, 215 (2004); People v. Ahmad, 464 Phil. 848, 869-870 (2004); People v. Chua Uy, 384 Phil. 70, 85-86 (2000) citing People v. Dichoso, G.R. Nos. 101216-18, June 4, 1993, 223 SCRA 174, 187; People v. Constantino, G.R. No. 109119, August 16, 1994, 235 SCRA 384, 391; People v. Tranca, G.R. No. 110357, August 17, 1994, 235 SCRA 455, 462-463; People v. Lee Hoi Ming, 459 Phil. 187, 194 (2003); People v. Saludes, 451 Phil. 719, 726-727 (2003).
- [30] People v. Eugenio, G.R. No. 146805, January 16, 2003, 395 SCRA 317, 326; citing People v. Del Mundo, G.R. No. 138929, October 2, 2001, 366 SCRA 471.
- [31] People v. Cruz, G.R. No. 185381, December 16, 2009, 608 SCRA 350, 368.
- [32] Chan v. Secretary of Justice, G.R. 147065, 14 March 2008, 548 SCRA 337, 353; Dacles v. People, G.R. No. 171487, 14 March 2008, 548 SCRA 643, 658.
- [33] Chan v. Secretary of Justice, G.R. 147065, 14 March 2008, 548 SCRA 337, 353; Dacles v. People, G.R. No. 171487, 14 March 2008, 548 SCRA 643, 658.
- [34] Rebellion v. People, G.R. No. 175700, July 5, 2010.
- [35] Rebellion v. People, supra, citing People v. Alunday, G.R. No. 181546, September 3, 2008.

[36] *People v. Lara*, G.R. No. 199877, August 13, 2012.

[37] Section 2, Article III of the Philippine Constitution.

[38] *People v. Tuazon*, G.R. No. 175783, September 3, 2007; *People v. Gonzales*, 417 Phil. 342, 353 (2001).

[39] *People v. Vinecario, et al.*, G.R. No. 141137, January 20, 2004; *People v. Usana*, 323 SCRA 754, 767 (2000).

[40] *People v. Vinecario, et al.*, *supra*; *People v. Usana*, *supra*.

[41] *People v. Vinecario, et al.*, *supra*; *Valmonte v. De Villa*, 185 SCRA 665, 670 (1990).

[42] *People v. Vinecario, et al.*, *supra*.

[43] 198 SCRA 401, 408 (1991).

[44] See page 12 of Appellee's Brief, rollo, page 12.

[45] *People v. Sitco*, G.R. No. 178202, May 14, 2010.

[46] G.R. No. 181492, December 16, 2008.

[47] G.R. No. 172953, April 30, 2008.

[48] G.R. No. 188905, July 13, 2010.

[49] See page 3 of RTC Judgment, records, page 74.

[50] *People v. Dela Rosa*, G.R. No. 185166, January 26, 2011, 640 SCRA 635, 653 citing *People v. Rosialda*, G.R. No. 188330, August 25, 2010, 629 SCRA 507, 521; *People v. Unisa*, G.R. No. 185721, September 28, 2011, 658 SCRA 305, 334-335.

[51] G.R. No. 185011, December 23, 2009.

[52] G.R. No. 184954, January 10, 2011.

[53] G.R. No. 175928, August 31, 2007.

[54] *Coscolla v. People*, G.R. No. 176566, April 16, 2009.

[55] *People v. Casimiro*, G.R. No. 146277, June 20, 2002.

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