

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. IBRAHIM MOLUK Y PINDAO, ACCUSED-APPELLANT.

Ponente: BARRIOS, M. M., J.

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BARRIOS, M. M., J.:

On appeal is the Decision dated 08 September 2011 of the Regional Trial Court, Branch 35, Iriga City, Camarines Sur, in Criminal Case No. IR-6756 which convicted accused-appellant of Illegal Sale of Shabu. The dispositive portion reads:

“x x x

WHEREFORE, finding accused IBRAHIM MOLUK Y PINDAO, guilty beyond reasonable doubt of selling dangerous drugs as penalized under Section 5, Article II of Republic Act No. 9165, said accused is hereby sentenced to a penalty of life imprisonment and to pay a fine of Five hundred thousand (P500,000) pesos. The two sachets of methamphetamine hydrochloride which both came from the accused are confiscated subject for proper disposition and destruction of the Philippine Drug Enforcement Agency (PDEA). Send a copy of this judgment to the PDEA and the Dangerous Drugs Board.

SO ORDERED.”

THE ANTECEDENT FACTS

The Information reads:

“ x x x

That on or about 12:45 o'clock in the afternoon, January 12, 2004 at Barangay Sagrada, Municipality of Baao, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, said accused without authority, did then and there willfully, unlawfully and feloniously sell, made, deliver and give away to a poseour buyer one (1) transparent sachet containing methamphetamine hydrochloride a dangerous drug, locally known as shabu with a net weight of 1.8225 grams, and subsequently recovered one plastic sachet, containing shabu with a net weight of 3.8165 to the damage and prejudice of the government.

Acts contrary to law.”

When arraigned, accused-appellant pleaded “Not Guilty”.

During the pre-trial, the parties stipulated on the identity of the accused-appellant, marked the evidences for the prosecution, and named the witnesses to be presented by both sides as reflected in the minutes of the preliminary conference. Thereafter, trial on the merits ensued.

The witnesses for the prosecution were police officers of the Baao Municipal Police Station, Camarines Sur, namely: Severino Buffe Jr., Allan Abendante, Andrew Alcomendas, Eulogio Barbonio, the informant Antonio Biag Jr., and the forensic chemist Police Inspector Josephine M. Clemen. It is gathered that on 12 January 2004, at around 12:45 in the afternoon, the policemen received a report that a certain Muslim was selling drugs in front of

the Videoke Bar located at Zone 1, Barangay Sagrada, Baao, Camarines Sur. As Chief Intelligence Officer of the Baao PNP, Police Officer Buffe immediately devised an entrapment operation where Abendante was designated to act as poseur-buyer. The buy-bust money was a Five Hundred (P500) Peso bill that was marked with a dot on the forehead of the picture of Ninoy Aquino. At the target area, Buffe and Barrameda positioned themselves behind an owner type jeep while poseur-buyer Abendante and the informant approached accused-appellant who, at the time, was seated on a long wooden bench in front of the videoke bar.

When introduced as a buyer of “shabu”, Abendante took the P500.00 marked money from his pocket and handed it to accused-appellant who took it and placed it in his own pocket. In turn, accused-appellant reached something from his pocket and told Abendante that what he had therein was worth more than P500.00 and thus, needed to reduce its quantity. At that point, without waiting for accused-appellant to trim down the contents, Abendante introduced himself as a police officer and immediately arrested accused-appellant. Officers Buffe and Barrameda rushed to the scene and frisked accused-appellant. They were able to retrieve from accused-appellant another sachet of “shabu” and the P500.00 marked money from his right pocket. The sachets seized from accused-appellant was marked by Abendante with the initials “A” and “L” and “2” in the presence of the other police officers. After apprising accused-appellant of his constitutional rights, they brought accused-appellant to the precinct and the seized items were turned over to the Duty Investigator Andrew Alcomendras. Upon receipt, Alcomendras affixed his signature on the sachets of shabu and prepared a request for laboratory examination of the drugs and request for drug examination of the accused-appellant. Thereafter, he personally delivered the items to the crime laboratory in Legaspi City. After proper examination, Chemistry Report No. D-004-04 was issued by forensic chemist PI Josephine Clemen stating that the tests gave a positive result for the presence of methamphetamine hydrochloride or “shabu”.

In his defense, accused-appellant denied the charges against him. He narrated that on 12 January 2004, he was roaming around Sagrada, Baao, Camarines Sur selling CDs, sunglasses and watches. He was at the side of the road when two (2) men called for him and asked what he was selling and he showed them his goods. Just then, a man arrived and informed the duo that a policeman was coming. With that, the three (3) men scampered away from him. At that point, three (3) policemen in civilian attire arrived. Two (2) of them handcuffed him as the other one poked a gun at him. When he inquired what he had done, they told him that will be explained at the headquarters. He was then boarded on the policemen's owner type jeep and brought to the Municipal Hall where he stayed for about thirty (30) minutes. The police put him in the cell, and was later temporarily brought out to view two (2) transparent plastic sachets containing white substance. He was asked if the sachets came from him, to which he replied in the negative. Just the same, he was made to point at the items and a picture was taken. Then he was brought back inside the cell. Consequently, the instant Information for sale of dangerous drugs was filed against accused-appellant.

After trial, the RTC convicted accused-appellant as charged.

On appeal, the accused-appellant raises this lone assignment of error:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FACT THAT HIS GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

OUR RULING

The appeal has no merit.

Accused-appellant argues that the markings placed by the policemen on the sachets of shabu are either blurred, erased or not readable. He avers that the arresting officers Abendante, Alcomendas, Buffe and Police Inspector

Clemen all agreed that the markings were not clear. Hence, there is a great possibility that the identity of the seized drugs has been compromised, and therefore, the corpus delicti was not established.

We have reviewed the records, particularly of the prosecution's evidence, and have found them to be sufficient to support the conviction of accused-appellant. The police officers were able to unequivocally identify the markings which they placed on the sachets of "shabu" that were confiscated from accused-appellant. Officers Abendante and Buffe each marked the sachets at the scene of the arrest. When the specimens were turned over to police investigator Alcomendas, he affixed his own signature thereon, while Police Inspector Clemen also placed a marking thereon at the crime laboratory upon conducting the physical examination. Although they observed the obscurity of the markings, the witnesses never denied placing them. They were able to categorically identify their respective markings. To be specific, Officer Buffe affirmed that the sachet bearing his marking was the exact item that he seized from accused-appellant. Likewise, PI Clemen positively identified her marking stating that she placed the same using the violet ink of her pen.

In our view, there is no doubt that the sachets of "shabu" taken from accused-appellant were the very items taken from him and presented as evidence in court.

Accused-appellant also argues that the chain of custody was broken because the forensic chemist failed to mention to whom she turned over the two (2) plastic sachets after her examination, or the person who had the custody thereof prior to their presentation in court. Accused-appellant further argues that the arresting officers did not make any inventory of the illegal drugs.

The claims are untenable. It is well-settled that a testimony about a perfect chain is not always the standard as it is almost always impossible to obtain an unbroken chain.[1] What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items. In the instant case, the prosecution adequately established the unbroken and continuous possession of the subject "shabu", from the accused-appellant, to the poseur-buyer, to the investigator, to the forensic chemist, and finally to the court.

The chain of custody of the drugs is established in the following links: 1) Police Officers Abendante and Buffe testified that immediately after the arrest, they placed their respective markings on the seized "shabu"; 2) Officers Abendante and Buffe turned over the items to police investigator Alcomendas who placed his own marking thereon, made a request for laboratory examination, and personally delivered the items to the crime laboratory; 3) the request and the marked items were received by forensic chemist Clemen; and after laboratory examination, she brought and presented them to the trial court. These officers who came into custody of the seized "shabu" were all presented as witnesses during the trial and they identified sachets of the "shabu" to be the very same ones seized from accused-appellant. It is, thus, ineluctable that the identity and integrity of the drugs were preserved.

Incidentally, the prosecution's failure to submit an inventory is not a serious flaw that will render void the seizure and custody of the drugs. Jurisprudence holds that failure to comply strictly with Section 21, Article II of R.A. No. 9165[2] does not necessarily render an accused's arrest illegal or the items seized or confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as these are the critical pieces of evidence in the determination of the guilt or innocence of the accused.[3] It seems logical to posit that an inventory is not so essential in this situation where only two (2) sachets are involved, and not numerous pieces.

Finally, We cannot accept accused-appellant's contention that his conviction was without any factual and legal basis. He argues that in the Information, he was charged for selling 5.639 grams of methamphetamine hydrochloride (the total weight of the first sachet of shabu that weigh 1.8225 grams which he sold to the

poseur-buyer and the second sachet weighing 3.8165 grams that was recovered from his possession when he was frisked), but the evidence on record shows that the only one (1) plastic sachet which he sold to poseur buyer Abundante weighed only 1.8826 grams.

Assuming that the prosecution was able to prove the sale of only 1.8226 grams of “shabu”, instead of 3.8165 grams as charged in the Information, the penalty for sale of “shabu” under Section 5 of R.A. No. 9165 is still “life imprisonment to death and fine ranging from Five Hundred Thousand Pesos (P500,000.00) to Ten Million Pesos (P10,000,000.00)”.

In fine, We find that the appealed decision is in accordance with the established facts and the law.

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 08 September 2011 of the Regional Trial Court, Branch 35, Iriga City, Camarines Sur, is hereby AFFIRMED.

SO ORDERED.

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

[1] People v. Quiamanlon, GR No. 191198, 26 January 2011 citing People v. Cortez, G.R. No. 183819, 23 July 2009

[2] Section 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 equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending 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 the 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 a copy thereof.

[3] People v. Sumaya, GR No. 192259, 7 March 2012 citing People v. Teodoro, GR No. 185164, 22 June 2009 citing People v. Naquita, G.R. No. 180511, 28 July 2008; People v. Del Monte, G.R. No. 179940, 23 April 2008; and People v. Pringas, G.R. No. 175928, 31 August 2007

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