

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. EUTQUIO REYES YARRA, JR., ALIAS “JUN YARRA”, ACCUSED-APPELLANT.

Ponente: COSICO, J.

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COSICO, J.:

This Decision resolves accused-appellant Eutiquio Yarra, Jr.’s appeal from the judgment dated November 9, 2004 of the Regional Trial Court, Branch 274 of Parañaque City in Criminal Cases Nos. 99-1139 and 99-1140, insofar as it held the accused-appellant guilty beyond reasonable doubt of violating Section 15, Article III of Republic Act No. 6425, as amended, in Criminal Case No. 99-1139.

The Facts

Herein accused-appellant Eutiquio Yarra, Jr. alias “Jun Yarra”, together with one Daniel Mapos Bravo alias “Danny Paa”, was charged with violation of Section 15, Article III of Republic Act No. 6425, otherwise known as “The Dangerous Drugs Act of 1972,” as amended, via an Information[1] filed with the Regional Trial Court of Parañaque City and docketed as Criminal Case No. 99-1139. The accusatory portion of the said information reads—

“That on or about the 19[th] day of October 1999 in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them mutually helping and aiding one another, without having been authorized by law, did then and there willfully, unlawfully and feloniously give away, distribute and sell to a customer for P100.00 worth of white crystalline substance known as ‘shabu’ weighing 0.06 gram, a regulated drug, in violation of the above-cited law.

CONTRARY TO LAW.”

Yarra pleaded “not guilty” upon arraignment. After pre-trial, trial on the merits ensued. Criminal Case No. 99-1139 was jointly tried with Criminal Case No. 99-1140, an action charging herein accused-appellant with a violation of Section 16, Article III of R.A. No. 6425.

The version of the prosecution is as follows:

SPO2 Leonito de Guzman of the Intelligence Unit of the Parañaque Police Station testified that on October 18, 1999, at about 11:30 o'clock in the evening, he was at the Parañaque Police Station when the office received a call from an asset. The Chief of Police then instructed them to arrest a drug pusher named Jun Yarra, and the latter’s follower, one alias Danny Paa, at Lower Barangay, Barangay San Antonio, Sucat, Parañaque City. Thus, SPO2 de Guzman, together with SPO1 Romeo Ramos and Civilian Agents Sulla and Napoleon Velasco, conducted a buy-bust operation against Jun Yarra and Danny Paa on October 19, 1999, at about 1:00 o'clock in the morning. SPO1 Ramos served as the poseur-buyer, while the other members of the team acted as lookouts. SPO2 de Guzman positioned himself at about fifty (50) meters from SPO1 Ramos, who was supposed to buy P100.00 worth of shabu from accused-appellant Yarra. With the aid of the police asset, SPO1 Ramos was able to buy the drugs through Danny Paa, who in turn, obtained the shabu and delivered the money to Yarra.

After SPO2 de Guzman witnessed the sale of shabu, SPO1 Ramos signaled that the buy-bust operation had been consummated. The team then arrested Danny Paa and accused-appellant Yarra, and brought them to the Intelligence Unit Office at the Coastal Road. The investigations later revealed that the true name of Jun Yarra is Eutiquio Yarra, Jr., while the true name of Danny Paa is Daniel Bravo. For the sale that ensued, both were charged under Criminal Case No. 99-1139 with violation of Section 15, Article III of R.A. No. 6425, as amended.

The shabu obtained by the police during the buy-bust operation was taken to the PNP Crime Laboratory Service at Fort Bonifacio, Taguig for laboratory examination. Forensic Chemist and Police Chief Inspector Julita T. Villa found the specimen positive for methamphetamine hydrochloride or “shabu”.^[2]

For his defense, accused-appellant Jun Yarra testified that on the midnight of October 19, 1999, he was at a store about 100 meters from his residence in Lower Barangay, Barangay San Antonio, Parañaque City, buying a mosquito coil, when he noticed three men approaching him. Since nobody was attending the store, accused-appellant got on his bicycle and ran it at a normal speed. However, the three men pursued him, held him back, and made him admit that he was Jun Yarra. When he admitted that he was Jun Yarra, the three men handcuffed and dragged him towards an owner jeepney. He was brought to the headquarters at Coastal Road. There he saw Danny Paa in one of the rooms. He saw Danny being frisked by one of the police officers. SPO1 Ramos obtained from Danny Paa a sachet of a substance that looked like “tawas” so he asked Danny, “O, kanino galing yan?” Danny replied, “Kay Jun Yarra. Jun, aminin mo na, talagang huhulihin naman nila tayo.” Accused-appellant reacted, “Danny, anong nangyari, ano bang problema mo dyan? Bakit, ano bang nangyari sa iyo. Kung may gagawin ka, kung anuman ang gusto mong gawin, huwag mo akong isali, wala akong alam sa ginagawa mong iyan.” Danny answered, “Aminin mo na iyo ito, kasi huhulihin naman nila talaga tayo eh.”

Accused-appellant denied having knowledge that Danny Paa was arrested while in the act of selling shabu. He insisted that he did not have anything to do with the sale, and that he met Danny only at the detachment. He had known Danny since 1979, but opined that the latter implicated him to the crime because of a prior fight between his son and Danny Paa’s son. Two days prior to the arrest, he and Danny also had an altercation.

The Ruling of the RTC

Prior to the trial, Daniel Bravo changed his plea from “not guilty” to “guilty.” Thus, the trial court rendered a Decision^[3] on March 16, 2000 already finding Bravo guilty beyond reasonable doubt of the crime charged, and thereby sentencing him to suffer the penalty of imprisonment of six (6) months and one (1) day.

On November 10, 2004, the RTC promulgated its judgment^[4] finding herein accused-appellant Yarra guilty beyond reasonable doubt in Criminal Case No. 99-1139. Thus, the dispositive portion of the said judgment reads—

“WHEREFORE, the foregoing premises considered, the Court finds the accused Eutiquio Reyes Yarra, Jr. alias Jun Yarra GUILTY beyond reasonable doubt of the crime of Violation of Sec. 15, Art. III of RA 6425 as amended as charged in the Information under Criminal Case No. 99-1139, and hereby penalizes him to suffer an indeterminate sentence of six (6) months of arresto mayor as minimum, to four (4) years and two (2) months of prision correccional as maximum.

The seized item of shabu weighing 0.06 gram is hereby ordered to be disposed of immediately in accordance with law.

As to Criminal Case No. 99-1140, for insufficient evidence, the Court finds the accused Eutiquio Reyes Yarra, Jr. alias Jun Yarra NOT GUILTY of the crime of Violation of Sec. 16, Art. III of RA 6425 as amended and hereby acquits the accused therefrom.

The seized items of shabu, however, weighing 0.02 gram and 0.06 gram respectively are hereby ordered

confiscated and to be disposed of immediately in accordance with law.

SO ORDERED.”

The Instant Appeal

Accused-appellant, through the instant appeal, makes the following assignment of errors:

- The trial court gravely erred in convicting the accused-appellant of the crime charged despite the failure of the prosecution to establish the identity of the corpus delicti of the offense;
- The trial court gravely erred in convicting the accused-appellant of the crime charged despite the failure of the prosecution to prove his guilt beyond reasonable doubt; and
- The trial court gravely erred in giving full faith and credence to the highly inconsistent and incredible testimony of prosecution witness SPO2 Leonito de Guzman, who was not the actual poseur-buyer.

This Court’s Ruling

After due study, this Court finds the instant appeal meritorious.

The assigned errors, being interrelated, shall be discussed jointly.

Article III, Section 15 of R.A. No. 6425, as amended, the law under which accused-appellant was indicted, reads—

“SEC. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs.-- The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug.

x x x.

Existing jurisprudence has set the requisites for the prosecution of a dangerous drugs case. The elements necessary in every prosecution for the illegal sale of shabu are: (1) identity of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor.[5]

In the instant case, herein accused-appellant was alleged to have been caught in flagrante delicto selling shabu during a buy-bust operation conducted by police officers to apprehend drug pushers in Barangay San Antonio, Sucat, Parañaque City. A perusal of the records of the case, however, discloses that the prosecution failed to establish beyond reasonable doubt the participation of the accused-appellant during the said sale.

It bears emphasizing that the “objective test” in buy-bust operations demands that the details of the purported transaction must be clearly and adequately shown. This must start from the initial contact between the poseur-buyer and the pusher, the offer to purchase, the promise or payment of the consideration until the consummation of the sale by the delivery of the illegal drug subject of the sale. Courts must strictly scrutinize the manner by which the initial contact was made, whether or not through an informant, the offer to purchase the drug, the payment of the “buy-bust” money, and the delivery of the illegal drug, whether to the informant alone or the police officer.[6] Applying the foregoing criteria, we hold that the acquittal of the accused-appellant is proper.

The identities of the seller and the buyer in the buy-bust operation were sufficiently established. SPO1 Ramos of the Parañaque police served as the poseur-buyer; and he was able to purchase from Daniel Bravo a sachet of shabu worth P100.00. SPO2 de Guzman, the lone prosecution witness who testified before the trial court,

however, failed to sufficiently establish the participation of accused-appellant Yarra in the consummated sale of shabu. His testimony on accused-appellant's presence at the scene of the crime and his actual participation in the sale of shabu was not sufficiently established in a manner that passes the test of moral certainty. It is worthy to note that the principle that findings of facts of the trial court, its calibration of the collective testimonies of witnesses and probative weight thereof and its conclusions culled from said findings are accorded by the appellate courts great respect if not conclusive effect does not apply if the trial court ignored, misunderstood or misconstrued cogent facts and circumstances of substance which if considered would alter the outcome of the case.[7]

This Court notes that the prosecution did not present during the trial SPO1 Ramos, the poseur-buyer in the buy-bust operation. While such failure to present the poseur-buyer should ordinarily not be fatal to the charge of the prosecution, in view of the conflicting accounts of witness SPO2 de Guzman as to the presence of the accused-appellant at the scene of the crime in the morning of October 19, 1999, and the adamant denial of the accused-appellant that he had anything to do with the sale, this Court finds the necessity of such testimony to support the guilty verdict against the accused-appellant. As can be culled from the records of the case, it was SPO1 Ramos and not SPO2 de Guzman who allegedly saw the accused-appellant hand the shabu to, and receive the buy-bust money, from Daniel Bravo. The testimony of SPO2 de Guzman on such material point could hardly be accepted and sufficient to prove these points. To elucidate, we quote the following testimony of prosecution witness SPO2 de Guzman on the supposed participation of the accused-appellant in the commission of the crime—

Prosecutor Quetilio: And how much was Mr. Ramos supposed to buy from Mr. Jun Yarra?

Witness L. De Guzman: Isang-daan piso (Php100.00) po.

Q: Now, was he able to buy that One Hundred Peso (Php100.00) worth of shabu?

A: Opo.

Q: How was he able to buy, if you know?

A: Ang bumili po ay si SPO1 Romeo Ramos.

Q: How?

A: Gumamit po siya ng isang asset, sinamahan po siya at nakabili po siya dito sa isang galamay ni Jun Yarra na si Danny Paa.

Q: And what happened when Mr. Ramos was able to buy certain amount of shabu from Mr. Paa?

A: Noon pong makabili si SPO1 Ramos kay Danny Paa ng halagang isang-daan piso (Php100.00) ng shabu, ito pong si Danny Paa ay iniabot kay Jun Yarra ang nasabing pera at kinuha po ni Danny Paa ang nasabing shabu pagkaabot kay Jun Yarra.⁸

x x x

WITNESS SPO2 LEONITO DE GUZMAN ON CROSS-EXAMINATION BY ATTY. JACOB M. MONTESA II

Atty. Montesa:

I want to clarify, what is the truth now? Were you part of those persons who arrested, together with the civilian agents, who arrested the accused or only the other two of your kasamahan conducted the arrest?

A: Ako po ang umaresto kay Danny Paa at ang umaresto po kay Jun Yarra, dahil siya po ay nakatunog sa aming operasyon siya po ay umiwas at nagdaan sa isang iskinita, kaya ang umaresto po sa kanya ay dalawang civilian

agents na si CA Sulla...

Q: So, am I correct to say that the negotiation and in fact the sale or the transaction of the shabu was made between accused Paa and the poseur buyer Ramos? And as a matter of fact, accused Yarra was not present in that negotiation, am I right?

A: Kasali po si Jun Yarra.

Q: No, my question is he is not present at that time when the negotiation was conducted, yes or no?

A: Nandon po siya sa lugar na yon dahil nakita po siya ng aming poseur buyer na si SPO1 Romeo Ramos.[9] (Emphasis ours)

It is clear from the foregoing testimony that the participation of the accused-appellant in the sale of shabu was unclear. His presence at the scene of the crime was not even affirmed in court by SPO1 Ramos, the poseur-buyer who, based on the testimony of prosecution witness SPO2 de Guzman, was the one who saw the accused-appellant during the buy-bust operation. Neither did the civilian agents who accosted the accused-appellant testify in court to corroborate the testimony of the lone prosecution witness presented in court. It is settled that a conviction can never be rooted on hearsay evidence because it is not grounded on the personal knowledge of the witness but on the knowledge of some other person who was not cross-examined at the witness stand.[10]

In addition, identification of the corpus delicti in drug cases is necessary. The dangerous drug is the very corpus delicti of the crime.[11] In the instant case, the substance purportedly obtained from the accused-appellant during the sale was not properly identified as methamphetamine hydrochloride or “shabu.” The Office of the Solicitor General (OSG), in its appellee’s brief, relies on Physical Science Report No. D-1326-99[12] prepared by Forensic Chemist and Police Inspector Julita T. Villa. The report states that the substance submitted to her for laboratory examination was found positive for “shabu”, a regulated drug. We note however that subsequent to the issuance of the said physical science report, the trial court ordered the re-examination of the seized substance following the failure of Police Inspector Villa to testify in court, and the refusal of the accused-appellant to stipulate on such report.[13] Exhibit “E”, which is Chemistry Report No. D-1591-00 later submitted by the prosecution with the trial court, however fails to establish that the specimen later examined by Forensic Chemical Officer Joseph M. Perdido was the same substance obtained from the supposed sale on October 19, 1999, considering that the sworn statement[14] submitted with the said chemistry report appears to pertain to a different buy-bust operation, although still involving herein accused-appellant Yarra.

This Court emphasizes that in criminal cases, proof beyond reasonable doubt is necessary to establish the guilt of an accused. The burden of proof lies with the prosecution. The burden must be discharged on the strength of its own evidence, without relying on the weakness of the defense. Proof beyond reasonable doubt, or that quantum of proof sufficient to produce a moral certainty that would convince and satisfy the conscience of those who are to act in judgment, is indispensable to overcome the constitutional presumption of innocence.[15] All told, this Court rules that the prosecution failed to discharge such burden in a manner sufficient to sustain the accused-appellant’s conviction for the crime charged.

WHEREFORE, in view of the foregoing, the appealed Decision of the RTC is REVERSED and SET ASIDE. Accused-appellant Eutiquio Yarra, Jr. is ACQUITTED of the crime charged against him.

SO ORDERED.

Sundiam, and Librea-Leagogo, JJ., concur.

[1] Records, p. 2.

[2] Id. at 12.

[3] Id. at 79.

[4] Id. at 298.

[5] People v. Uy, 338 SCRA 232 (2000).

[6] People v. Doria, 301 SCRA 668 (1999).

[7] People v. Corpuz, 412 SCRA 479 (2003).

[8] TSN., March 15, 2000, pp. 20-21.

[9] Id. at 49-50.

[10] People v. Visperas, Jr., 395 SCRA 128 (2003).

[11] People v. Simbahon, 401 SCRA 94 (2003).

[12] Records, p. 11.

[13] Order dated February 4, 2003; Records, p. 123.

[14] Exhibit “B”; Records, p. 153.

[15] People v. Batoctoy, 401 SCRA 478, 496 (2003).

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