

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LI YU XUAN A.K.A. VIVIAN LEE, ACCUSED-APPELLANT.

Ponente: TOLENTINO, A.G., J.

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TOLENTINO, A.G., J.:

On appeal is the decision[1] dated March 14, 2011 of the Regional Trial Court of Pasay City, Branch 116, in Criminal Case No. R-PSY-10-02507 CR, which found the accused-appellant guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and sentencing her to suffer the penalty of life imprisonment and ordering her to pay a fine of P500,000.00. The dispositive portion of the said decision reads:

"WHEREFORE, the prosecution having successfully established its bounden duty to prove the guilt of the accused beyond reasonable doubt, the accused LI YU XUAN aka VIVIAN LEE is hereby found GUILTY of Violation of Section 11, Article II, of RA 9165 and is hereby sentenced to suffer a penalty of life imprisonment and a fine of P500,000.00.

The full period of preventive detention shall be credited to her sentence.

The Branch Officer-in-Charge is hereby directed to coordinate with, and transit to the PDEA the aggregate amount of 560.2984 grams of shabu subject of this case for its proper disposition.

SO ORDERED."

On August 31, 2010, an information was filed against accused-appellant Li Yu Xuan aka Vivian Lee and a John Doe indicting them for violation of Section 11, Article II of RA 9165 with the RTC of Pasay City. The said Information[2] states:

"The undersigned Assistant City Prosecutor accuses LI YU XUAN a.k.a. 'Vivian Lee' and JOHN DOE, the true name, real identity and present whereabouts of the last accused is still unknown, of VIOLATION OF SECTION 11, ART. II of REPUBLIC ACT 9165, committed as follows:

That on or about the 24th day of August, 2010, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously have in their possession, custody and control a total of 560.2984 grams of Methamphetamine Hydrochloride (shabu), a dangerous drug.

Contrary to law."

When arraigned on October 29, 2010, the accused-appellant pleaded not guilty to the charge against her. After the pre-trial conference, trial on the merits ensued.

THE PROSECUTION'S VERSION OF THE FACTS.

On August 24, 2010, at about 12:00 noon, agents of the Philippine Drug Enforcement Agency served a search warrant on the accused-appellant in her residence at Unit 306 Lancaster Condominium, Pasay City. At that time, the accused-appellant and her housemaid were in the premises. But before proceeding to implement the search warrant, the PDEA agents first waited for the arrival of a prosecutor from the Department of Justice, barangay officials, and a member of the media to act as witnesses for the intended search. When they began conducting a search of the master bedroom, they discovered two transparent packs containing white crystalline substances, with a combined weight of 590.2984 grams, in one of the built-in cabinets found therein. Using a test kit, PDEA Forensic Chemist Shiela Esguerra declared the said substances as methamphetamine hydrochloride or more commonly known as shabu. The confiscated substances were then marked, weighed, and inventoried in the presence of the witnesses. The Inventory Report and Receipt of the Property Seized were also signed by the witnesses. Thereafter, the specimen was brought by the PDEA Forensic Chemist to the PDEA Office in Quezon City for a final laboratory examination.

THE DEFENSE'S VERSION OF THE CASE.

On the other hand, the defense alleged that the subject condominium unit is not owned by the accused-appellant and her husband Alex Li, but by the latter's uncle, Jacson Li, who is currently detained in Bicutan, Taguig. They were just offered to stay thereat for free. On August 23, 2010, Alex Li's friends, Jason Chua and Hang A, spent the night at the spouses' house. The next day, August 24, 2010, at about 8:00 in the morning, PDEA agents entered the unit, handcuffed Alex Li, Jason Chua, and Hang A, and were brought together to BF Homes, Las Piñas. Meanwhile, PDEA agents who were left with the accused-appellant in Lancaster Condominium began searching the rooms, where they found shabu in the master's bedroom. The accused-appellant alleged that the PDEA agents, who carried backpacks, brought in several boxes to their unit insinuating the possibility that the shabu found therein could have just been planted.

After due proceedings, the RTC issued its judgment convicting the accused-appellant of illegal possession of shabu and sentenced her to suffer the penalty of life imprisonment and to pay a fine of P500,000.00. In ruling against the plaintiff-appellant, the RTC did not lend credence to the allegation of irregularities in the implementation of the search warrant and there being no finding of clear and direct evidence to support the same, it held that the presumption of regularity in the performance of official function must prevail. The RTC also found to its satisfaction that the requirements of the law on the custody, handling, preservation, and disposition of the seized items had been sufficiently complied with.

Dissatisfied, the accused-appellant filed the instant appeal ascribing error to the RTC in giving full credence to the version of the prosecution and relying heavily on the presumption created in favor of the regularity in the performance of official duties of a public officer, and in finding that the prosecution was able to establish every link in the chain of custody of the illegal substance.

THE APPEAL HAS NO MERIT.

The accused-appellant maintains that the warrant of arrest is replete with irregularities from its issuance up to its implementation. Foremost, she states that the search warrant was illegally obtained because the one who applied for its issuance, as well as his witness, had no personal knowledge of the alleged illegal activities being undertaken by her. She likewise asserts that the search warrant was served at 8:00 in the morning and not at 12:00 noon as claimed by the prosecution, thus stressing the possibility that shabu seized in her house could have just been planted.

The accused-appellant also points out alleged lapses in the handling of the seized substances, which tend to break the chain of custody rule in the seizure of illegal drug. She avers that the prosecutor missed to state who had the custody of the shabu when it was being transported from the accused-appellant's house until it reached the PDEA Office; or what was done by the chemist to preserve the integrity of the specimen; or where the shabu was kept before it was brought to the court.

The plaintiff-appellee, however, merely dismissed the issue about the irregularity in the issuance of the warrant of arrest, the same having been considered waived when the accused-appellant entered her plea without bothering to raise such issue.

In cases involving violations of the Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.[3] It has been consistently held that in the absence of clear and convincing evidence that the police officers were inspired by any improper motive to implicate a person in a crime, courts actually hesitate to appreciate the defense of denial and instead apply the presumption of regularity in the performance of official duty by law enforcement agents.[4] In this case, the defense failed to show any evidence of ill motive on the part of the PDEA agents. As found by the trial court:

"The testimonies of the accused, and her witnesses, Jason Chua and Alex Li, attempting to show that the search was started by the PDEA agents earlier at around 8:00 to 9:00 o'clock in the morning of August 24, 2010 do not sufficiently establish that the illegal drugs seized from the premises were actually planted by the PDEA agents. The evidence on record is clear: there was NO positive, clear, and direct testimony that illegal drugs were planted and discovered by the authorities at the condominium unit of the accused. Instead, they merely insinuated that the illegal substance must have been planted since the search started much earlier than the time when the PDEA agents said the search was commenced. Such insinuation is not evidence. It is purely conjectural, speculative and a product of guesswork. It cannot counter, much less destroy, the direct, clear and competent evidence presented by the prosecution. More so if one considers that the prosecution evidence, coming as it does from the government agents or officers in the performance of their assigned duties, enjoy the presumption of regularity in the performance of functions. Arrayed against each other, this Court finds it easier believe the prosecution evidence over what the defense is posturing."

Here, the defense of the accused-appellant consists of bare denials, which is considered as an inherently weak defense, for it can easily be concocted and is a common standard line of defense in drug cases. As evidence that is both negative and self-serving, this defense cannot attain more credibility than the testimonies of the prosecution witnesses who testify clearly, providing thereby positive evidence on the various aspects of the crime committed.[5] Indeed, if the charge against her was indeed simply trumped-up, it remains a question why no administrative charges were brought against the police operatives. Moreover, in weighing the testimonies of the prosecution witnesses vis-à-vis those of the defense, it is a well-settled rule that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.[6]

As to the question posed on the chain of custody of the seized items, this Court agrees with the trial court that the prosecution was able to prove, through the testimonies of its witnesses, that the integrity of the seized items were preserved every step of the process.

The chain-of-custody rule is a method of authenticating evidence, by which the corpus delicti presented in court is shown to be one and the same as that which was retrieved from the accused or from the crime scene. This rule, when applied to drug cases, requires a more stringent application, because the corpus delicti – the narcotic substance – is not readily identifiable and must be subjected to scientific analysis to determine its composition and

nature.[7] Section 21, paragraph 1, Article II of RA 9165 provides for the custody and disposition of the confiscated drugs, to wit:

"(1) 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 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."

This rule is elaborated in Section 21 (a), Article II of the Implementing Rules and Regulations of RA 9165, viz.:

"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 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: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizure; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items."

Based on the foregoing, the failure of the prosecution to show compliance with the procedural requirements provided in Section 21, Article II of R.A. No. 9165 and its IRR is not fatal and does not automatically render the accused-appellant's arrest illegal or the items seized/confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused. As long as the chain of custody remains unbroken, the guilt of the accused will not be affected.[8]

Contrary to the claim of the accused-appellant, the prosecution was able to establish that the PDEA agents substantially followed the standards in the handling and custody of the subject items. PDEA agent Marvin Mendoza testified:

"Q - What did you find inside?

A - Self-sealing plastic with white crystalline substance inside, it's wet ma'am.

xxx xxx xxx

Q - After seeing these wet white crystalline substance enclosed in two self-sealing plastic bags as described by you, what did you do next?

A - I informed my companion, Agent Abad, to effect the arrest of Vivian Lee, because we saw the substance already, ma'am.

xxx xxx xxx

Q - And then after locating these things, what happened next?

A - Shortly, thereafter, the chemist arrived. And upon arrival of the chemist, I showed to her [the] white crystalline substance, and she conducted a field test ma'am.

Q - And who was the chemist.

A - Shiela Esquerra, ma'am.

xxx xxx xxx

Q - What happened next?

A - According to her, it is positive ma'am.

Q - What were tested then?

A - The white crystalline substance inside the two (2) plastic bags, ma'am.

Q - And then what did you do next?

A - I gave her [the two plastic bags] for marking, ma'am.

Q - So it was Shiela Esquerra who marked it?

A - Yes, ma'am.

Q - Now, you said that it was the Forensic Chemist of the PDEA who marked the evidence? A - Yes, ma'am.

Q - How about the inventory in compliance with Section 21, with reference to the inventory, who made the inventory?

A - The chemist also, ma'am.

Q - So, it was the chemist?

A - Yes, because we requested the assistance of the chemist, ma'am in order to shorten the handling of the evidence."[9]

The fact that Chemist Shiela Esquerra was the one who marked, and who has the custody of the confiscated shabu from the time it was seized, marked, and brought to the PDEA laboratory, until the same was presented to the trial court, is clear from her testimony, to wit:

"Q - After seeing these items including these, which were found on the table, what did you do?

A - I placed my markings, sealed it and then I placed [it] in a big paper bag, and then after conducting the inventory, we left the place, ma'am.

xxx xxx xxx

Q - Okay. So you made the markings inside the bedroom. After doing the marking, what did you do next?

A - After doing the markings, I secured the specimens in a big paper bag and then we left the site to (go to) the Office of the PDEA, ma'am.

Q - You left the place to go to the PDEA?

A - Yes, ma'am.

Q - What did you do after reaching PDEA?

A - After reaching PDEA, I received another request for laboratory analysis. I conducted the laboratory analysis of the specimens, ma'am.

Q - What is this request?

A - A request coming from the Intelligence and Investigation Service requesting for qualitative and quantitative examinations of the items, ma'am.

Q - Do you have the request?

A - Here it is, ma'am.

xxx xxx xxx

Q - Upon request, did you conduct the said qualitative and quantitative drug test?

A - I only conducted the qualitative analysis because there was another assigned chemist to conduct quantitative examination, ma'am.

xxx xxx xxx

Q - You mentioned a while ago that there is a qualitative (sic) examination conducted by another chemist?

A - Yes, ma'am.

Q - Who is this chemist?

A - Miss Angela Dimasaka, ma'am.

xxx xxx xxx

Q - So you conducted the testing and you identified the Chemistry Report and after that testing, what did you do?

A - After the testing, I sealed the specimen and then I prepared the Chemistry Report. I reduced my result into writing, ma'am.

Q - A while ago you said that you went to the place as inventory chemist, is that correct?

A - Yes, ma'am.

Q - Where you able to perform that job as inventory chemist?

A - Yes, ma'am.

Q - What is your proof that you made an inventory?

A - I placed the markings on the inventory specimen, and I also prepared the inventory list or inventory report, ma'am.

Q - Okay. You prepared an inventory report?

A - Yes, ma'am.

Q - And showing you this Inventory Report, will you be able to recognize it?

A - Yes, ma'am.

Q - I have here a handwritten Inventory Report submitted to this representation by the agent of the PDEA already marked as Exhibit C for the prosecution. Is this the one you are referring to?

A - Yes, ma'am, this is the same Inventory Report that I prepared on site, ma'am.

Q - How sure are you that this is the same Inventory Report?

A - I placed my name, and also my signature on the said Report, ma'am."[10]

It can be gleaned from the foregoing testimonies of the witnesses for the prosecution that there was substantial compliance with the law and the integrity of the drugs seized from the accused-appellant was preserved. The chain of custody of the drugs subject matter of the case was shown not to have been broken. The records reveal that after the sealed plastic bags of suspected shabu were found, an on-the-spot test was made by PDEA Chemist Esguerra. The specimen, having tested positive for methamphetamine hydrochloride, a dangerous drug, the same was confiscated. Immediately thereafter, Esguerra put the necessary markings on the confiscated substance and prepared her inventory of the same. Esguerra then brought the confiscated substance to the PDEA Laboratory in Quezon City where a qualitative and quantitative testing of the same were undertaken by her and the other Chemist Angela Dimasaka. Later, the plastic bags containing white crystalline substance, which were found positive for shabu, were positively identified by Esguerra in court to be the same item confiscated from the accused-appellant.[11] Therefore, it is evidently clear that there was an unbroken chain in the handling and custody of the illegal drugs from the time they were seized from the accused-appellant until the time they were presented in court, thus removing any doubt or suspicion that the shabu had been altered, substituted, or otherwise tampered.

WHEREFORE, premises considered, the present appeal is DISMISSED. The assailed decision dated March 14,

2011 of the Regional Trial Court of Pasay City, Branch 116 is AFFIRMED.

SO ORDERED.

Sorongon[*] and Corales,**] JJ., concur.

[*] Vice Justice Ricardo R. Rosario, per Raffle conducted on May 20, 2014.

**] Vice Justice Leoncia R. Dimagiba, per Raffle conducted on May 20, 2014.

[1]Rollo, pp. 47-72.

[2] Rollo, pp. 21-22.

[3] People vs. Posing, G. R. No. 196973, July 31, 2013.

[4] People vs. Pagkalinawan, G. R. No. 184805, March 3, 2010.

[5] People vs. Posing, supra.

[6] People vs. Pagkalinawan, supra.

[7] People vs. Abdul, G. R. No. 186137, June 26, 2013.

[8] Sales vs. People, G. R. No. 191023, February 6, 2013.

[9] TSN, November 26, 2010, pp. 10-12.

[10] TSN, November 17, 2010, pp. 10-16.

[11] TSN, November 17, 2010, p. 10.

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