

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANILO GONZALES Y BARON, ACCUSED-APPELLANT.*G.R. No. 106098. December 07, 1993*

Ponente: PADILLA, J.

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Accused-appellant Danilo Gonzales y Baron was charged with violation of Sec. 15. Art. III of RA 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, before the Regional Trial Court of Makati, Branch 146. The facts as found by the trial court are as follows:

On 6 August 1991, at about three o'clock in the afternoon, the Narcotics and Dangerous Drugs Enforcement Unit of the Makati Police Station received confidential information from a certain "Lito" that herein accused-appellant Danilo Gonzales (hereinafter referred to as Gonzales) was selling "shabu" at Ponte St., Tejeros, Makati, Metro Manila. Immediately, Pfc. Francisco Viacrusis, the operation officer of the Narcotics and Dangerous Drugs of Makati, organized a team composed of Policewoman Elizabeth Mendoza, Patrolman Romeo Santos and Pfc. Guillermo Niedo, to entrap the accused. Mendoza was assigned to act as poseur-buyer and was furnished with two (2) one hundred peso bills with serial numbers VJ 630420 and JT 330435 and marked with the initials of the unit NDDEU above the serial number on the right side of the bills.¹

At about six o'clock in the evening of the same day (6 August 1991), the team together with "Lito", the informant, proceeded to Ponte St., Tejeros in Makati to survey the area. From the service car, the informant pointed to the alleged pusher, herein Gonzales, who was standing in front of his house at 4183 Ponte St., Tejeros, Makati.

Thereafter, Viacrusis, Santos and Niedo posted themselves across the street, about twenty (20) meters away from Gonzales. Mendoza who was in civilian clothes then approached Gonzales and asked the latter if he knew a person by the name "Lito". Gonzales acknowledged to knowing "Lito" and asked Mendoza her reason for asking. Mendoza replied that she wanted to buy "P2.00 of bato", a street "lingo" which means two (2) decks of shabu or methamphetamine hydrochloride for P200.00 or P100.00 per deck, and she gave the two (2) marked one hundred peso bills to Gonzales in payment for the "bato" which she was purchasing. Gonzales thereupon gave Mendoza a white crystalline substance contained in a transparent plastic bag. The exchange was seen by Viacrusis and the other members of the team from a distance of about twenty (20) meters away. However, they could not clearly identify the object of the exchange.

Having concluded the purchase, Mendoza scratched her right ear, a pre-arranged signal for her companions to move in. Upon seeing the signal, the other members of the team moved in and arrested Gonzales. Gonzales was frisked and the two (2) marked one hundred peso bills and another plastic bag containing a white crystalline substance was found in his possession.

Gonzales was brought to the police station for investigation. The white crystalline substance placed in a transparent plastic bag found in the possession of Gonzales and the similar substance purchased by Mendoza from

him were referred for examination to the Forensic Chemistry Section of the PNP Crime Laboratory Service. The substance having a total weight of .92 grams was identified as methamphetamine hydrochloride commonly known as "shabu", a regulated drug. [2]

Consequently, Gonzales was charged before the Regional Trial Court of Makati with a violation of the Dangerous Drugs Act, committed, as follows:

"That on or about the 6th day of August, 1991, in the Municipality of Makati, Metro Manila, Philippines within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously deliver and sell Methamphetamine Hydrochloride (Shabu), which is a regulated drug, in consideration of P200.00." [3]

Upon arraignment, Gonzales entered a plea of not guilty. [4] He denied having sold "shabu" to the police officers.

The defense presented a different version of the incident, alleging that the members of the buy-bust team raided Gonzales' residence without a warrant, and that their search of Gonzales' person and residence did not yield any regulated drug or marked money. The witnesses for the defense testified that the buy-bust team took the money of Gina Mariano, the live-in partner of Gonzales and a witness for the defense, amounting to P17,000.00 placed inside a cabinet found on the ground floor living area of Gonzales' residence. They (defense witnesses) further claimed that they were illegally detained by the police authorities.[5]

On 8 January 1992, the trial court found Gonzales guilty beyond reasonable doubt of delivering and selling methamphetamine hydrochloride (shabu) and was sentenced to suffer the penalty of life imprisonment and to pay a fine of P20,000.00.[6]

A motion for reconsideration was filed by Gonzales but the same was denied on 31 January 1992, [7] hence, this appeal.

Gonzales assails the decision of the trial court on the ground that the evidence failed to establish his guilt beyond reasonable doubt. It is Gonzales' contention that the testimonies of the witnesses for the prosecution are not credible because they are contradictory; that there was actually no buy-bust operation conducted by the team of Viacrusis and that the evidence against him was planted; that his arrest was illegal; and that the constitutional presumption of his innocence prevails over the presumption that official duty of the arresting police officers was regularly performed.[8]

After carefully going over the records of the case, we find no merit in Gonzales' claim that the testimonies of the witnesses for the prosecution are not credible. The trial court's findings on the matter of credibility of the witnesses are entitled to the highest degree of respect and will not be disturbed on appeal in the absence of any showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.[9]

It is true that there are contradictions and inconsistencies in the testimonies of the prosecution witnesses. However, these inconsistencies involve minor details which are not sufficient to overcome the evidence against Gonzales and do not affect the veracity of the testimony of said witnesses.

It will be noted that the testimonies of Viacrusis and Mendoza are inconsistent on some points. Thus -

Viacrusis testified that their unit received the information that Gonzales was selling "shabu" at Ponte St., Tejeros, Makati at around six o'clock in the evening of 6 August 1991; that only Santos, Neido and Mendoza went to survey the area while he was left at police station and he merely followed them afterwards; that while Mendoza was negotiating with Gonzales for the purchase of "shabu", the other members of the team positioned themselves

at about twenty (20) meters away from where Gonzales and Mendoza were standing; that after the negotiation, Mendoza scratched her head to signal her companions to move in; and that the marked money was recovered from Gonzales' pocket.[10]

On the other hand, Mendoza testified that they received the information of shabu pushing at Ponte St., Tejeros, Makati at three o'clock in the afternoon of 6 August 1991; that Viacrusis was present during the surveillance; that the other members of the team observed the negotiation between her and Gonzales at about five (5) to ten (10) meters away; that she scratched her right ear to signal her companions to move in on Gonzales after the negotiation; and that the marked money was recovered from Gonzales' right hand.[11]

Despite these inconsistencies, on the whole, the testimony of Viacrusis corroborates that of Mendoza as to the material points that information of shabu pushing at Ponte St., Tejeros, Makati was received by the Narcotics and Dangerous Enforcement Unit of the Makati Police Station in the afternoon of 6 August 1991; that a buy-bust operation was immediately organized composed of Viacrusis, Mendoza, Neido and Ramos; that two (2) one hundred peso bills were marked with the initials of their unit to be used in the operation; that a surveillance of the area was conducted by the team; that Mendoza acted as poseur-buyer and she entered into a negotiation with Gonzales to purchase "shabu" while the other members of the team witnessed the negotiation at a distance; that Mendoza gave the pre-arranged signal to her companions to move in after the negotiation by scratching her ear; and that Gonzales was caught in possession of the marked one hundred peso bills.

The imputed inconsistencies in the testimonies of the prosecution witnesses on minor details, in our view, reinforce rather than weaken their credibility for the reaction of different persons when confronted with a shocking or unusual incident can vary. Testimonial discrepancies could be caused by the natural fickleness of memory, which tend to strengthen, rather than weaken, credibility as they erase any suspicion of rehearsed testimony.[12] The witnesses testifying on the same event do not have to be consistent in every detail as differences in recollections or viewpoints or impressions are inevitable. Total recall or perfect harmony is not required. As long as the witnesses concur on material points, slight differences in their remembrance of the details do not reflect on the essential veracity of their testimony.[13]

Mendoza's failure to officially record in the police blotter or logbook the information they received on 6 August 1991 that shabu was being sold at Ponte St., Tejeros, Makati and the other details of the buy-bust operation, such as the names of the poseur-buyer and the back-up officers, serial numbers of the money marked for use of the operation, does not automatically render the testimonies of the members of the buy-bust team as untrustworthy. Entries in the police blotter are merely prima facie evidence of the facts stated therein and they are not conclusive.[14]

Gonzales' defense consisting of a denial of the act of selling a regulated drug to Mendoza and alleging in the process that he was framed-up by the police officers, is weak and insufficient to overthrow the positive testimonies of the police officers who conducted the buy-bust operation. No ill-motive on the part of the police officers was presented to disprove the veracity of their testimonies.

There is a presumption applied in cases involving violations of the Dangerous Drugs Act of regularity in the performance of duty by police officers conducting buy-bust operations. When police officers have no motive for testifying falsely against the accused, courts are inclined to upholding the presumption of regularity in the performance of duty by police officers, although the presumption by itself cannot prevail over the constitutional presumption of innocence accorded the accused.[15] But the defense that accused was framed-up by the police officers requires stronger proof than bare assertion because of this presumption of regularity in the performance of their official duties by police officers.[16]

The arrest of Gonzales without a warrant by the police officers who conducted the buy-bust operation is lawful. Having caught the accused in flagrante as a result of the buy-bust operation, the police officers were not only authorized but were duty bound to apprehend the accused, even without a warrant of arrest. The immediate search of Gonzales as a consequence of such valid arrest was also legal.[17]

WHEREFORE, the decision appealed from is hereby AFFIRMED, with costs against the appellant.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Nocon and Puno, JJ., concur.

1 Records, p.5.

[2] Initial Laboratory Report dated 7 August 1991, signed by Julita T. de Villa, PNP Forensic Clinic, records, p. 6

[3] Rollo, p. 6

[4] Records, p. 3

[5] Rollo, pp. 45-46

[6] Penned by Salvador S. Tensuan, Rollo, pp. 17-20

[7] Rollo, p. 48

[8] Ibid., pp. 32-33

[9] People vs. Alexander Navaja, G.R. No. 104044, March 30, 1993

[10] TSN of 9 September 1991 hearing

[11] TSN of 10 September 1991 hearing

[12] People vs. Santito, Jr., G.R. No. 91628, 22 August 1991, 201 SCRA 87

[13] People vs. Ramos, G.R. No. 103631, 8 June 1993

[14] People vs. Santito, supra

[15] People vs. Honrado, G.R. No. 91161, 17 December 1991, 204 SCRA 858

[16] People vs. Como, G.R. No. 94312, 30 September 1991, 202 SCRA 200

[17] People vs. Fernandez, G.R. No. 86495, 13 May 1992, 209 SCRA 1

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