

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO SALINAS Y HERNANDEZ, ACCUSED-APELLANT.

G.R. No. 107192. November 18, 1993

Ponente: PADILLA, J.

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PADILLA, J.:

Accused-appellant Rodolfo Salinas y Hernandez was accused by the Assistant City Prosecutor of Pasay City of violation of Section 15, Article III of Republic Act No. 6425, as amended, otherwise known as "The Dangerous Drugs Act of 1972" committed as follows:

"That on or about the 27th day of January, 1992, in Pasay, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, Rodolfo Salinas y Hernandez, without authority of law, did then and there wilfully, unlawfully and feloniously sell and deliver to another Methamphetamine Hydrochloride (shabu), a regulated drug.

Contrary to law."[1]

Rodolfo Salinas pleaded not guilty and after trial the Regional Trial Court, Branch 116 of Pasay City rendered a decision* dated 31 July 1992, the dispositive part of which reads:

"WHEREFORE, accused Rodolfo Salinas y Hernandez is found guilty beyond reasonable doubt of selling and delivering methamphetamine hydrochloride or 'shabu', a regulated drug, in violation of Section 15 of Republic Act No. 6425, The Dangerous Drugs Act of 1972, as charged in the aforequoted Information; and he is sentenced to suffer the penalty of life imprisonment and to pay a fine of P20,000.00."[2]

On appeal to this Court, the accused-appellant assigns the following errors to the trial court:

"X X X IN HOLDING THAT THE TOO MANY DISCREPANCIES AND CONFLICTING TESTIMONIES OF PROSECUTION WITNESSES REFER ONLY TO MINOR DETAILS WHICH THEREFORE CANNOT AFFECT THEIR CREDIBILITY.

X X X IN NOT HOLDING THAT THE PROSECUTION MISERABLY FAILED TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT, ANCHORING ITS VERDICT NOT ON ESTABLISHED FACTS BUT RATHER ON CIRCUMSTANTIAL EVIDENCE NOT DULY PROVEN.

X X X IN APPLYING AGAINST THE ACCUSED THE DISPUTABLE PRESUMPTION THAT OFFICIAL DUTY HAD BEEN REGULARLY PERFORMED."[3]

The evidence for the prosecution is contained in the testimonies of PO2 Benito Basilio, Jr., SPO3 Ely Ramos both policemen assigned to the Southern Police District and Leslie B. Chambers, a Forensic Chemist of the Philippine National Police Crime Laboratory Service.

Briefly stated, the circumstances which led to the arrest of the accused-appellant are as follows:

1. At about 10:00 a.m. on 27 January 1992, a civilian informant reported to the office of the Intelligence

Operations Group of the Southern Police District Command the rampant "shabu" peddling along Vergel St., Pasay City. Accused-appellant Rodolfo Salinas was identified as one of those engaged in the illegal trade.

2. Commanding Officer Danilo Caseres then formed a team composed of SPO3 Ely Ramos, SPO1 Manolito Tobias, PO2 Benito Basilio, Jr., PO2 Richard Palomata and PO2 Rolando Losaria to verify the report and conduct a buy-bust operation.

3. After confirming the information given by the civilian informant, a buy-bust operation was planned with PO2 Basilio acting as the poseur-buyer. Four (4) P100-bills were then marked with the letters "IOG", meaning Intelli-gence Operations Group, and xerox copies thereof were made.

4. At around 9:30 p.m. on the same day (27 January 1992), the buy-bust team proceeded to Vergel St. together with their informant who introduced Basilio to Rodolfo Salinas as a buyer of "shabu". Rodolfo Salinas asked Basilio how much "shabu" he was buying. PO2 Basilio said he wanted P400 worth and handed the four (4) marked P100-bills to Salinas who then handed him (Basilio) a small plastic packet containing a white crystalline substance. Basilio then made the pre-arranged signal by scratching his head, whereupon the other members of the team who were positioned at strategic places and who were observing the transaction, arrested the accused-appellant, Rodolfo Salinas.

5. The four (4) marked P100-bills were recovered from Salinas and the white crystalline substance was verified to be Methamphetamine Hydrochloride (shabu) by Forensic Chemist Leslie B. Chambers.

For his defense, accused-appellant Rodolfo Salinas asserts that he was "framed". He claims that at about 8:00 in the evening of 27 January 1992, he was on his way home when he passed by Clarita's store and some friends invited him to have a few rounds of beer with them. After having a bottle of beer, he excused himself so he could buy bread at a nearby bakery for his breakfast the next morning.

Rodolfo Salinas testified that it was while he was on his way to the bakery that two (2) men confronted him. One of them pointed a gun at him while the other showed him a white plastic packet and told him, "This is yours; you are a pusher." [4] He was then brought to Fort Bonifacio and questioned by the police and asked to name the drug pushers in Vergel St. One of the policemen allegedly asked him for P20,000.00 in exchange for his liberty. It was when he told them he had no money that he was brought to the Pasay City Prosecutor's Office for further investigation. [5] Marlyn Salazar corroborated Salinas' version of the events which led to the arrest. [6]

In this appeal Rodolfo Salinas enumerates the following alleged contradictions and inconsistencies in the prosecution's evidence, which support his acquittal:

1. It was not clear whether a surveillance operation was conducted prior to the alleged buy-bust operation; and assuming that a surveillance operation was conducted, the exact time was not established as the testimonies of the police officers mention a surveillance operation at 11:30 a.m. on 27 January 1992 and another, after the team was formed at around 6:00 p.m. on the same day.

2. It was not clear who designated PO2 Benito Basilio to act as the poseur-buyer. PO2 Basilio had testified that it was his commanding officer Lt. Caseres who designated him to be the poseur-buyer while SPO3 Ely Ramos testified that it was he who assigned Basilio to be the poseur-buyer.

3. It was not clear what time the buy-bust team was formed. PO2 Basilio testified that the team was formed after a civilian informant came and reported to Lt. Danilo Caseres the rampant selling of shabu along Vergel St., Pasay City. SPO3 Ely Ramos, on the other hand, testified that the team was formed at around 6:00 p.m. of 27 January 1992.

4. It is not clear how many vehicles the buy-bust team used in going to Vergel St. PO2 Basilio testified that they hired three (3) tricycles while SO3 Ely Ramos said they used only two (2).

5. It is not clear whether or not the members of the buy-bust team arrived simultaneously at Vergel St. PO2 Basilio testified that they arrived simultaneously while SPO3 Ely Ramos testified that the other members arrived five (5) minutes later.

6. It is not clear how the sale of the "shabu" took place. PO2 Basilio testified that the accused, Rodolfo Salinas asked him how much "shabu" he was buying and he answered P400.00 and he handed the four (4) P100 marked bills to the accused who after counting the money handed the small plastic packet to him (Basilio). On the other hand, SPO3 Ely Ramos testified that after Basilio was introduced to the accused, he asked for P400.00 worth of "shabu" and after some conversation the accused handed the "shabu" to Basilio who then gave the pre-arranged signal for the buy-bust team to arrest the accused Rodolfo Salinas.[7]

It is a long settled rule that the commission of the crime of illegal sale of prohibited or regulated drugs is considered consummated once the sale transaction is established.[8]

In the case before us, the sale of "shabu" by the accused Rodolfo Salinas to the poseur-buyer PO2 Benito Basilio, Jr. was established by the latter's testimony. The trial court gave credence to the testimony of Basilio over the testimonies of the defense witnesses. A close and careful scrutiny of the records of this case shows no reason to disturb the findings of the trial court regarding the credibility of the witnesses for the prosecution, specially since they are police officers who are presumed to have regularly performed their official duties, the contrary not having been proven.[9]

The alleged contradictions and inconsistencies are, in the main, minor and immaterial since the sale of the regulated drug was clearly and categorically established by the testimony of the poseur-buyer, PO2 Benito Basilio, Jr. The testimony of SPO3 Ely Ramos regarding the sale of "shabu" by the accused Rodolfo Salinas to PO2 Basilio cannot be expected to be as detailed and as accurate as the latter's account because it was only Basilio who actually approached and transacted with Salinas while SPO3 Ely Ramos stayed some distance away and strategically positioned himself so he could see Basilio make the pre-arranged signal for the arrest of Salinas. The minor inconsistencies as to the details of the sale of "shabu" may be considered as badges of truth rather than of falsehood.

WHEREFORE, it having been clearly established that the accused-appellant Rodolfo Salinas did indeed sell and deliver "shabu", a regulated drug, to PO2 Benito Basilio, Jr., the constitutional presumption of innocence has been overcome by proof beyond reasonable doubt. The appealed decision is hereby **AFFIRMED** with costs against the appellant.

SO ORDERED.

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

[1] Rollo, p. 12

* Penned by Judge Alfredo J. Gustilo

[2] Rollo, p. 17

[3] Ibid., p. 32

[4] Rollo, p. 39

[5] TSN, 2 June 1992, pp. 10-15

[6] TSN, 27 May 1992, pp. 3-7

[7] Rollo, pp. 43-47

[8] People vs. Santiago, G.R. No. 94472, 3 March 1992, 206 SCRA 733

[9] People vs. Collantes, G.R. No. 97146, 8 May 1992, 208 SCRA 853

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