

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO SIBUG Y DEL CASTILLO, ACCUSED-APPELLANT.*G.R. No. 108520. January 24, 1994*

Ponente: DAVIDE, JR., J.

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In an information filed on 12 July 1991 with the Regional Trial Court of Kalookan City (Branch 126), the accused-appellant was charged with the violation of Section 15, Article III of R.A. No. 6425, as amended. It states that he, "without having been authorized by law, did then and there wilfully, unlawfully and feloniously deliver, sell and give away to one P/Sgt. Martin de Guzman Methamphetamine Hydrochloride (Shabu), knowing the same to be a regulated drug and without the corresponding license or prescription therefore [sic], knowing the same to be such." [1]

He entered a plea of not guilty at his arraignment. [2] Thereafter, trial on the merits ensued.

The prosecution's version of the incidents leading to the filing of the information against the accused was established by the testimonies of some of the members of the police team that arrested him. They tell of a typical buy-bust operation.

In the afternoon of 10 July 1991, the District Anti-Narcotics Unit (DANU) at the Kalookan City Police Headquarters received a call from an informant notifying the police authorities that someone was selling "shabu" on Katarungan Street in Bagong Barrio, Kalookan City. Thereafter, a plan for a buy-bust operation was devised. P/Sgt. Martin De Guzman was designated as the poseur-buyer with P/Sgt. Jose Sapin Jr., P/Sgt. Antonio Advincula, P/Cpl. Antonio Cortez, and Pat. Renato Dizon as the other members of the team. Lt. Asuncion Santos, the head of the DANU involved in the operation, gave Sgt. De Guzman two P100.00 bills which the latter marked by shading the two consecutive A's in the word "sandaang piso" on the faces of both bills. The serial numbers of the two bills were recorded in the Unit's blotter.

At around 3:30 in the afternoon of the same day, the team went to the area of operation. Sgt. De Guzman walked towards the corner of Katarungan Street and an alley. He approached Sibug and informed the latter that he wanted to buy shabu worth P200.00. Sibug then gave him a small packet of aluminum foil and he gave Sibug the two marked P100.00 bills. After ascertaining that the substance inside the packet was shabu, Sgt. De Guzman gave the prearranged signal to his companions and the latter closed in on Sibug and arrested him. Sibug was frisked and the marked bills were recovered from him. He was then brought to the police headquarters. The members of the buy-bust team then executed a joint affidavit attesting to the fact of the buy-bust operation and the subsequent arrest of the accused. The substance sold to Sgt. De Guzman was later sent to the Forensic Chemistry Division of the National Bureau of Investigation (NBI) for examination and was confirmed to be methamphetamine hydrochloride or shabu. [3]

The defense, on the other hand, presented the accused, his wife, and his daughter to prove a radically different version of the events. According to these witnesses, the accused, who was a shoemaker, together with his wife, his

eldest son, the latter's wife, and another son were sleeping inside their house between 3:00 and 3:30 in the afternoon of 10 July 1991. The accused's youngest daughter, Judith, was on her way home at around 3:15 of that afternoon when she noticed four men going around their house. Upon reaching their house, these men told Judith to call her father. She called her eldest brother, but it was her mother who opened the door. Suddenly, the men barged into their house and went to the second floor where the occupants were sleeping. Without a search warrant, they searched the premises, but all they found was P7.50 in the accused's pocket. Nevertheless, they brought him together with his wife to the police headquarters. Lt. Santos then told the accused's wife to give P45,000.00 within two days for her husband's release. She was able to come up with only P2,500.00 which Lt. Santos refused to accept. Thereafter, criminal charges were filed against the accused. The latter was also told by the four men who apprehended him and by the fiscal to give P45,000.00 in exchange for his release and for the dropping of the charge against him, but he was unable to produce the money. He identified two of the four men as Sgt. De Guzman and Pat. Dizon.

The trial court[4] promulgated on 22 June 1992 its decision[5] finding the accused guilty beyond reasonable doubt of the crime charged and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P20,000.00. The court gave full faith and credit to the version of the prosecution. It ruled:

"The Court, after painstaking study and evaluation of the testimonies of the prosecution witnesses and that of the defense has finally arrived at the conclusion and so holds that testimonies of the members of the buy-bust operation team, organized for this purpose headed by Sgt. Martin de Guzman as convincing and quite adequate. P/Sgt. de Guzman categorically and positively declared that it was accused who delivered to him the item wrapped with aluminum foil which then contained 1/4 gram of Shabu. His detailed narration of how the operation was conducted was logical and reasonable. Regarding the accused'[s] allegation that there was no buy-bust operation conducted in their place appears not impressive to the mind of the Court on the ground that he was caught in the actual selling of the prohibited drugs along the alley at the corner of Katarungan St., outside their house, as convincingly narrated by the prosecution witnesses. Moreover, the defense witnesses, particularly the wife and the daughter of the accused, their testimonies do not in any manner strengthen [sic] the accused's case because they are not entirely free from being biased and interested in the successful outcome of the case in favor of the head of the family. Besides, as was clearly pointed out by the prosecution, considering the proximity of the place where the buy-bust operation was conducted to the place where the members of the team were then strategically positioned themselves [sic], the defense of denial would not prosper. Stated differently, the accused, having been caught in the actual selling of this prohibited drug and positively [sic] identified by the prosecution witnesses as the perpetrator of the crime, the positive identification must prevail over the simple denial of the accused.

x x x

Regarding the claim of the accused that he was charged of [sic] unlawful selling of Shabu in the instant case is because he was not able to produce the sum of Forty-Five Thousand (P45,000) Pesos, being allegedly demanded by the apprehending members of the buy-bust operation team, is not only flimsy but self-serving because when the accused was asked whether he filed the corresponding complaint for illegal exaction against the police officers, he said categorically that he did not because nothing would happen by filing his complaint before the police authorities. Nonetheless, the police officers being implicated by the accused denied the charge of extortion thru P/Sgt. de Guzman who declared that he and his companions are duty-bound to perform their duty as such peace officers without any string attached much less the intention of extorting money from anybody else. Besides, as declared by the wife of the accused that the P45,000.00 being asked by Lt. Santos may probably be intended for the bail of her husband who was then detained.

Based on the foregoing, the Court finds the testimonies of the officers of the Anti-Narcotics Unit as to the circumstances surrounding the entrapment and arrest of the accused are in a clear and categorical manner.

Likewise, it has been established that there was no showing that the arresting officers knew the accused before his arrest nor was there any evidence of ill-motive which would have impelled these officers to charge the accuse [sic] as perpetrator of the crime. In fact, accused admitted that the peace officers who arrested him in his case of unlawful possession of Shabu were different from the peace officers who arrested him in the instant case. Moreover, the failure of the accused to present anyone to bolster his defense, other than his wife and daughter cannot claim that the charge against him is fabricated. Along this issue, the Supreme Court held: That in the absence of any controverting evidence, the testimonies of these peace officers are given full faith and credence as they are shown to be in the regular performance of their official duties (People vs. Antonio Enrique, Jr. [204 SCRA 674]; underscoring supplied). Besides, it cannot be argued that the arresting officers have not exerted efforts to inform the accused of his rights under custodial investigation, precisely, because the accused did not give any written statement before the police investigator. The claim of the accused and his witnesses that there was no Shabu confiscated from the accused in their house but the same was only presented to him while they were already in the police station deserves scant consideration. This is so because no substantial and strong evidence to convince the Court that there is possibility of foul play in the planting of Shabu wrapped in aluminum foil.

In the light of the foregoing circumstances, the defense of denial and alibi presented by the accused cannot be given weight considering that the accused has been caught in *flagrante* [sic] delicto and he has been positively identified by clear and explicit evidence on account of his immediate apprehension after delivering the unlawful item to P/Sgt. de Guzman and recovering the marked money from his possession." [6]

The accused's motion to reconsider the said decision [7] was denied by the trial court in its Order of 27 July 1992. [8] Hence, this appeal.

In the Brief for the Appellant [9] submitted by the Office of the Legal Aid of the College of Law of the University of the Philippines, the accused claims that the trial court erred:

"I.

X X X IN NOT HOLDING THAT ACCUSED-APPELLANT'S CONSTITUTIONAL RIGHT AGAINST UNREASONABLE SEARCHES AND SEIZURES WAS NOT [sic] VIOLATED BECAUSE THERE WAS IN FACT NO BUY-BUST OPERATION.

II.

X X X IN GIVING WEIGHT AND CREDENCE TO THE CONTRADICTORY AND IMPROBABLE TESTIMONIES OF THE PROSECUTION WITNESSES, AND IN DISMISSING THE DEFENSE OF THE ACCUSED.

III.

X X X IN NOT HOLDING THAT THE PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT." [10]

In essence, the appeal raises a factual issue: the credibility of the witnesses for the prosecution and defense. Time and again, we have said that when the issue of credibility of witnesses is concerned, appellate courts will generally not disturb the findings of facts of the trial court considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless certain facts of substance and value have been plainly overlooked which, if considered, might affect the result of the case. [11] We do not find that the trial court is guilty of such oversight and thus uphold its finding that there was indeed a buy-bust operation during which the accused sold the prohibited drug, was caught, and was arrested.

But lest we be accused of merely adopting the findings of the trial court hook, line, and sinker, we shall now elucidate why we are not persuaded by the contentions of the accused.

In the main, the accused seeks to discredit the prosecution witnesses because of alleged inconsistencies in their testimonies. He singled out the differing testimonies of the members of the buy-bust team on what the prearranged signal was. Thus Sgt. De Guzman testified that he was to raise his hand and touch his hair.[12] However, Sgt. Advincula testified that the signal was for Sgt. De Guzman to scratch his hair;[13] while according to Sgt. Sapin, the signal was that Sgt. De Guzman was to hold the hand of the suspect.[14] The accused also found fault with the testimonies of the prosecution witnesses regarding their knowledge of the location of his house. He alleges that they could not have known this except if they had searched his house as he contends. The testimonies on what items were confiscated from or found on him were also labeled by the accused as inconsistent. Sgt. De Guzman initially testified that no other items were found on the accused[15] aside from the shabu and the marked money, and this was corroborated by Sgt. Sapin;[16] but at the continuation of his direct examination, Sgt. De Guzman testified that they also recovered an aluminum foil, an improvised burner, a water pipe, and a tooter,[17] thereby corroborating the earlier testimony of Pat. Mina, the custodian of the evidence.[18]

We find these inconsistencies to be minor and inconsequential. We have previously held that minor discrepancies or inconsistencies do not impair the essential integrity of the prosecution's evidence as a whole or reflect on the witnesses' honesty.[19] The test is whether the testimonies agree on the essential facts and whether the respective versions corroborate and substantially coincide with each other to make a consistent and coherent whole.[20] In the case before us, the essential fact that needs to be established for its proper prosecution is that of the sale of the regulated drug. Sale of a prohibited or regulated drug is consummated the moment the buyer receives the drug from the seller.[21] Here there is no question that the testimonies of the prosecution witnesses are consistent and coherent as to the fact of the consummation of the sale of a regulated drug: the accused received the marked money from the poseur-buyer, Sgt. De Guzman; he handed a packet of a certain substance to the latter; and the substance was confirmed to be methamphetamine hydrochloride, more commonly known as shabu. All these were proven in court and these are all that are needed to prove the commission of the crime of which the accused is charged with. The "inconsistencies" the accused points out do not have anything to do with the essential fact of the sale of shabu.

The other inconsistencies alleged by the accused are not so inconsistent as he would have us believe. One of these refers to the time when he handed the shabu to Sgt. De Guzman -- whether it was immediately after the latter gave him the marked money or only later when he returned to Sgt. De Guzman after he (the accused) first went inside his house.[22] Although there is such an inconsistency as to this point in the decision of the trial court, a reading of the transcripts of the testimonies of the prosecution witnesses reveals none. Sgt. De Guzman did not testify in his direct examination that the accused immediately handed to him the shabu. Nor did he categorically state that the accused never left him before handing over the shabu. In fact, in his cross-examination, he clearly declared that the accused first went inside his house and then returned to him and handed him the shabu. This declaration removes any ambiguity or incompleteness in his earlier testimony. As to the other alleged inconsistency regarding the place where the sale took place, the testimonies of the witnesses do not disclose any. What we find are but general descriptions or variations in phraseology of the descriptions of the location of the sale. "In front of the house,"[23] as testified to by Sgt. De Guzman, is obviously "outside the house," as stated by the trial court.[24] Likewise, the testimonies of Sgt. Sapin and Sgt. Advincula are also not inconsistent with that of Sgt. De Guzman's. "Corner Katarungan St. and the alley going to the house of the suspect"[25] is necessarily "in front of an alley." [26] It is just a difference in description or a variation in phraseology for both could very well mean "at the entrance to the alley." And if the house of the accused is very near the corner spoken of by the other witnesses, then Sgt. De Guzman was just being more accurate in giving the location of the sale as being in front of the

accused's house, which would then be very near or almost at the corner of the alley and Katarungan Street.

There is another reason why the testimonies of the prosecution witnesses are worthy of belief. There is no showing whatsoever that the policemen were actuated by any improper motive when they undertook the buy-bust operation and eventually arrested the accused for selling the shabu. Settled is the rule that where there is no evidence and nothing to indicate that the principal witnesses for the prosecution were actuated by improper motives, the presumption is that they were not and their testimony is entitled to full faith and credit.[27] The accused explicitly admitted that he had no previous misunderstanding with any of the policemen.[28] True, he and his wife testified that the apprehending policemen and their officer-in-charge, and even the fiscal, allegedly attempted to extort P45,000.00 from them for his release and for the dropping of the charge against him. This accusation, however, merits the scantest consideration. In the first place, no complaint for extortion was filed; he did not even tell his counsel about it.[29] In the second place, he admitted in open court that it was highly improbable that, being a mere shoemaker, he would be the object of an extortion attempt in the amount of P45,000.00.[30] Even assuming arguendo that his charge of extortion is true, that will not absolve him from liability for his criminal act. He was caught in flagrante selling the regulated drug and that was the basis for the charge against him and for his subsequent conviction. Whatever happened after his arrest cannot extinguish or diminish his culpability for the offense he committed. Finally, the claim is unsubstantiated by any reliable evidence. It is settled that the defense of a frame-up must be strong for, like alibi, it is inherently a weak defense that is easy to concoct and difficult to prove.[31]

Contrary to all the accused's protestations, we have found that in this case, there was an actual buy-bust operation that was conducted in order to trap or capture a lawbreaker. A buy--bust operation or entrapment in a drug case is allowed by law[32] and has long been recognized as an effective means of apprehending drug peddlers.[33] The police officers involved therein were thus acting pursuant to their official duty.[34] The regularity in the performance thereof is presumed[35] and has not been rebutted by the accused.

Considering then that, based on the evidence presented, there was a buy-bust operation wherein the accused sold shabu to a member of the team for a fixed consideration which the latter handed to the former, it is clear to us that the accused was caught in flagrante. Accordingly, the members of the buy-bust team were not only authorized but were also duty bound to apprehend the accused even without a warrant of arrest. And since his arrest was lawful, it follows that the search made incidental thereto was also valid and lawful.[36]

WHEREFORE, the assailed decision of the Regional Trial Court of Kalookan City, Branch 126, in Criminal Case No. C-38012 is hereby AFFIRMED in toto, with costs against the accused-appellant.

SO ORDERED.

Cruz, (Chairman), Bellosillo, Quiason, and Kapunan, JJ., concur.

[1] Original Records (OR), 1.

[2] Id., 11.

[3] Exhibit "B"; Folder of Exhibits, 1.

[4] Per Judge Cornelio W. Wasan, Sr.

[5] OR, 236-252.

[6] OR, 248; 250-251.

[7] Id., 254-261.

[8] Id., 268.

[9] Rollo, 56-91.

[10] Rollo, 60.

[11] People vs. Garcia, 89 SCRA 440 [1979]; People vs. Simon, 209 SCRA 148 [1992]; People vs. Matrimonio, 215 SCRA 613 [1992]; People vs. Marcelo, G.R. No. 105005, 2 June 1993.

[12] TSN, 31 July 1991, 11-12.

[13] TSN, 21 August 1991, 8.

[14] TSN, 2 September 1991, 6.

[15] TSN, 31 July 1991, 18-19.

[16] TSN, 2 September 1991, 8.

[17] TSN, 2 October 1991, 6.

[18] TSN, 14 August 1991, 6.

[19] People vs. Fernandez, 209 SCRA 1 [1992]; People vs. Madriaga, 211 SCRA 698 [1992]; People vs. Quejada, G.R. Nos. 97309-10, 3 June 1993.

[20] People vs. De Guzman, 188 SCRA 407 [1990]; People vs. Gadian, 195 SCRA 211 [1991]; People vs. Caco, G.R. Nos. 94994-95, 14 May 1993.

[21] People vs. Francisco, 213 SCRA 746 [1992].

[22] Appellant's Brief, 10; Rollo, 69.

[23] TSN, 2 October 1991, 15.

[24] Decision, 14; OR, 248.

[25] TSN, 2 September 1991, 13.

[26] TSN, 21 August 1991, 17.

[27] People vs. Simon, *supra*.

[28] TSN, 4 May 1992, 16.

[29] Id., 17.

[30] Id., 18.

[31] People vs. Del Pilar, 188 SCRA 37 [1990].

[32] People vs. Rumeral, 200 SCRA 194 [1991].

[33] People vs. Ramos, 203 SCRA 237 [1991].

[34] People vs. Cruz, 215 SCRA 339 [1992].

[35] Section 3(m), Rule 131, Revised Rules of Court; People vs. Fernandez, supra.; People vs. Dichoso, G.R. Nos. 101216-18, 4 June 1993.

[36] Section 12, Rule 126, Revised Rules of Court; Alvero vs. Dizon, 76 Phil. 637 [1946]; People vs. Fernandez, supra.

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