

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANG CHUN KIT ALSO KNOWN AS “ROMY ANG,” ACCUSED-APPELLANT.*G.R. No. 109232. December 29, 1995*

Ponente: BELLOSILLO, J.

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ANG CHUN KIT, a Chinese national and reputed to be a member of a Hong Kong-based drug syndicate operating in Metro Manila, was collared by NARCOM operatives in a buy-bust operation after he sold to an undercover agent for P400,000.00 a kilo of methamphetamine hydrochloride known as shabu. His car also yielded more of the regulated drug neatly tucked in a Kleenex box.

On 8 November 1991, at three o'clock in the afternoon, a Confidential Informer (CI) reported to Chief Investigator Avelino I. Razon that he (CI) had arranged a transaction with a drug dealer interested in selling a kilo of shabu for P400,000.00 and agreed to consummate the sale at seven o'clock that evening at the lobby of the Cardinal Santos Medical Center. Chief Investigator Razon immediately organized a buy-bust team composed of Chief Inspector Rolando Magno as team leader, SPO3 Lolita Bugarin, SPO2 Cesar Jacobo as poseur-buyer, SPO2 Albert San Jose, and SPO2 Domingo Rubi. Forty (40) bundles of genuine and counterfeit P100-bills were prepared with each bundle supposed to contain P10,000.00. To camouflage the counterfeit bills genuine P100-bills were placed on the top and bottom of ten (10) bundles.

At five o'clock in the afternoon the team went to the Cardinal Santos Medical Center. The CI and SPO2 Jacobo who was carrying the plastic bag of money proceeded to the lobby of the hospital while the others moved around to avoid detection. At fifteen minutes past seven the accused arrived in a gray Toyota Corolla with Plate No. TBC-958. He was met at the lobby by the CI who introduced SPO2 Jacobo to him as the person interested to buy shabu. After allowing the accused a quick look at the bundles of money, SPO2 Jacobo and the CI followed him to the parking lot where the latter took out from the trunk of his car a blue SM Shoemart plastic bag and handed it to SPO2 Jacobo. After ascertaining that the bag contained approximately one (1) kilo of shabu, SPO2 Jacobo handed the boodle money to the accused. Then SPO2 Jacobo casually lit a cigarette to signal to the other NARCOM operatives to move in and effect the arrest. The other members of the team closed in, placed the accused under arrest and seized the money from him. They also searched his vehicle and found on the dashboard of his car three (3) packets more of crystalline substance in a Kleenex box.

SPO3 San Jose brought the regulated drug recovered from the accused to the PC Crime Laboratory where after a qualitative examination the forensic chemist confirmed the substance found in the SM Shoemart bag and in the Kleenex box to be shabu and weighing 983.27 grams and 293.70 grams, respectively.

The accused refuted the charges. He tried to explain his presence at the Cardinal Santos Medical Center thus: In the early evening of 8 November 1991 as he was preparing to have dinner with some friends in Greenhills, San Juan, he received a telephone call from his friend Johnny Sy asking if he could ride with him to Greenhills to visit a sick friend at the Cardinal Santos Medical Center. Since he (accused) was able to borrow the car and the driver

of his cousin Roman Ong, he acceded to Johnny. He passed for him and his friend Anthony Co and brought them to the medical center. Johnny and Anthony alighted in front of the lobby. He proceeded to the parking lot with the driver and answered the call of nature. Then he lit a stick of cigarette. However some twenty (20) to thirty (30) minutes later, plainclothesmen with guns drawn, Johnny and Anthony in tow, suddenly appeared from nowhere and arrested him and Uy without informing them the reason for their arrest. He together with Uy, Sy and Co was then brought to Camp Crame where he was mauled, detained and interrogated without the assistance of counsel. His repeated requests to make a telephone call to his relatives and counsel were denied.

Loreto Jacobo, the security guard on 12-hour duty at the hospital starting seven o'clock that evening, testified that from the time he took his post that night until he left there was no untoward incident at the hospital lobby or in its vicinity as reflected in the logbook. His statements were corroborated by his supervisor Vicente Praga. The accused concludes that if there was indeed an unusual incident at the lobby, e.g., sale of regulated drugs, then the security guards on duty would have noted it in their logbook.

On 14 August 1992 the Regional Trial Court of Pasig, Br. 155,[1] giving credence to the testimonies of the prosecution witnesses, found appellant Ang Chun Kit also known as "Romy Ang" guilty of selling shabu in violation of Sec. 15, Art. III, R.A. No. 6425, as amended, sentenced him to life imprisonment and ordered him to pay a fine of P30,000.00. Hence this appeal.

The accused maintains his innocence and faults the trial court in not holding that the crime could not have been committed under the circumstances narrated by the arresting officers and that the alleged buy-bust operation was a frame-up and the evidence merely planted. He argues that the prosecution was not able to prove his guilt beyond reasonable doubt since every piece of evidence presented against him is tainted with constitutional infirmities.

We are not impressed. The crux of this appeal hinges on the credibility of witnesses. In *People v. Co*[2] we said that "[i]t is doctrinally entrenched that the evaluation of the testimonies of witnesses by the trial court is received on appeal with the highest respect because such court has the direct opportunity to observe the witnesses on the stand and determine if they are telling the truth or not." Corollarily, in *People v. Ballagan*[3] we ruled that "[i]n a long line of decisions this Court has consistently held that the findings of facts of a trial judge who has seen the witnesses testify and who has observed their demeanor and conduct while on the witness stand should not be disturbed on appeal unless certain facts of substance and value have been overlooked which, if considered, may affect the outcome of the case. When the issue is one of credibility of witnesses the appellate courts will generally not disturb the trial court's findings." In the case before us we do not see any fact of substance and value which may have been overlooked by the trial court. Consequently, we defer to its holding that "x x x indeed the prohibited drugs in question were confiscated from the accused Ang Chun Kit alias "Romy Ang" when he sold the drugs to poseur-buyer SPO2 Cesar Jacobo." [4]

Moreover, we do not believe that Police Officers Jacobo, Rubi and San Jose, all public officials who enjoy the presumption of regularity in the performance of official duty, will enmesh themselves in falsehood and implicate the accused unless they have been impelled by an evil or ulterior motive. But neither the accused nor the record offers any. As correctly observed by the trial court, "[o]f the thousands, nay, millions of people in Metro Manila, why would the police officers single out the accused to be the object of a frame-up." [5] While the accused maintains that he is a victim of a frame-up, which is the usual defense put up by persons accused of being drug pushers,[6] he failed to substantiate his claim. It is settled that where there is no evidence to indicate that a prosecution witness was actuated by improper motive the presumption is that he was not so actuated and that he would not prevaricate and cause damnation to one who brought him no harm or injury; hence his testimony is entitled to full faith and credit.[7]

The accused underscores what he perceived to be a flip-flopping stance of poseur-buyer SPO2 Jacobo. In one instance Jacobo said that he saw the shabu at the hospital lobby contrary to the version of the prosecution witnesses that the prohibited substance was taken from the trunk of the car after the accused, the poseur-buyer and the CI emerged from the hospital lobby. The defense would lay emphasis on the seeming discrepancy between the statements of SPO2 San Jose that they did not apply ultraviolet powder on the marked money as that was being done by the PC Crime Laboratory, and that of SPO2 Jacobo that the marked money was not treated with ultraviolet powder since they ran out of it.

We do not consider the supposed inconsistencies substantial or of such nature as to cast serious doubt on the credibility of the prosecution witnesses. On the contrary they appear to be more of honest lapses which do not impair the intrinsic credibility of their testimonies. Thus when later asked by the trial court with regard to the marked money SPO2 Jacobo clarified that after he showed the boodle to the accused the latter immediately left for his car —

COURT.

Q:

Where did you show the money?

WITNESS.

A:

At the lobby of the Cardinal Santos, sir.

Q:

After showing the boodle money what did the accused do?

A:

He then proceeded to his car, sir.[8]

It is elementary in the rule of evidence that inconsistencies in the testimonies of prosecution witnesses with respect to minor details and collateral matters do not affect the substance of their declaration nor the veracity or weight of their testimony.[9] Such minor inconsistencies even serve to strengthen the credibility of the prosecution witnesses as they erase any suspicion of a rehearsed testimony and thus can be considered a badge of truth rather than of falsehood. Consequently we consider innocuous whatever discrepancies there were in the testimonies of the government agents.

For sure the alleged inconsistencies do not detract from the established fact that the accused was caught in flagrante delicto as a result of a buy-bust operation since the arresting agents were able to give an otherwise clear and convincing account of the circumstances leading to the arrest of the accused. And, in every prosecution for illegal sale of dangerous drugs what is material and indispensable is the submission of proof that the sale of illicit drug took place between the seller and the poseur-buyer.

The accused submits that "it is beyond human comprehension how such a big transaction, illegal at that, could be perfected x x x in front of the watchful eyes of so many people." [10]

We can comprehend. From the testimony of the prosecution witnesses, which we find credible, the exchange was casual and swift: the accused was introduced to the poseur-buyer by the CI; he was shown the money; he passed on the prohibited drug to the poseur-buyer. There was no verification of the identity of the buyer. Neither was the

money counted nor tests conducted to determine the quality and quantity of the regulated drug. There was no need.

The accused knew the CI who introduced the poseur-buyer to him. There was rapport at once. Thus the transaction which was consummated in the parking lot of the hospital is no different from an ordinary drug — pushing — informal, casual, daring and swift - where the peddlers at times operate in the open and in the presence of other people, e.g., in a billiard hall,[11] in front of a store,[12] along a street at 1:45 p.m.,[13] in front of a house,[14] which does not necessarily discourage them from plying their trade as these may even serve to camouflage their illicit trade.[15] As we have said, there was nothing absurd in such a scenario. The selling of regulated or prohibited drugs to complete strangers, openly and in public places, has become a common occurrence, a sad fact which this Court has taken notice of and attributed to the growing casualness of drug pushers in the pursuit of their clandestine activity, as if it were a perfectly legitimate operation involving no particular caution or qualm of conscience.[16] Drug pushers have become increasingly daring in the operation of their trade and have not hesitated to act openly, almost casually, even in scornful violation of the law, in selling the illegitimate merchandise to any and all buyers.[17]

The accused then harps on the testimonies of his witnesses, the security guards on duty, that "there was nothing untoward that happened at the hospital lobby or premises." [18] If we were to believe these security guards in their version then all the more should we discredit the accused himself who narrated that while he was at the parking lot of the hospital several armed men and women with drawn guns suddenly swooped down on him, pointed their weapons at him, ordered him to raise his hands in the air and then arrested him for no apparent reason. Certainly, if these security guards were conscientious in the performance of their duties, as how the accused would like them to appear, then they should have noticed and noted in their logbook the arrest of the accused in the hospital parking lot which was just a few meters away from the lobby. Accordingly, we cannot give full faith to the testimonies of defense witnesses Jacobo and Praga.

The defense also asks the Court to reject the story of the prosecution that the shabu was contained in one plastic bag instead of several small plastic bags as how drug dealers would normally pack the prohibited drug for easy concealment. We cannot yield. While the swiftness with which the transaction was undertaken is reminiscent of small-time drug-pushing, what is involved in the case at bench is not a measly sum of money and a small quantity of drugs that could be packed in tea bags but a wholesale deal involving P400,000.00 and a kilo of shabu.

The defense then faults the prosecution for its failure to present the marked money and urges the Court to apply *People v. Distrito* [19] where in acquitting the accused we said that "[n]o marked money was seized from (him) as none passed from the alleged buyers to the alleged sellers." But the reliance on *People v. Distrito* is misplaced. We have ruled often enough that the absence of marked money used in buy-bust operations does not create a hiatus in the evidence for the prosecution. [20] Parenthetically, if the defense only read *People v. Distrito* carefully it would have realized that in that case there was really no exchange of money as even the policemen admitted that they arrested the suspect before an actual buy-bust operation could be effected, unlike in the case at bench where there was an actual exchange of illegal merchandise for money.

The accused also takes to task the absence of a blotter report before the buy-bust operation and the supposed failure of the apprehending officers to seal the plastic bag of shabu upon its seizure. These are trivialities which do not abate the fact that the accused was arrested after he unlawfully sold methamphetamine hydrochloride to NARCOM agents. Suffice it to say that a prior blotter report and the sealing of the plastic bag of shabu are not indispensable nor required in buy-bust operations.

The defense argues that the shabu found inside the car is inadmissible in evidence as it was procured through an

illegal search and seizure, the same having been found inside the car and not in the person of the accused who was outside the car. But the search inside the car was an incident of a lawful arrest. It must be remembered that the accused was with a driver who was inside the car. Upon the arrest of the accused, the arresting agents also had to neutralize the driver inside the car who could be presumed at that instance to be acting together and in conspiracy with the accused. For a weapon could have easily been concealed in the dashboard of the vehicle which was very well within the reach of the driver at that time. Corollarily, in *People v. Figueroa* we reiterated that "[t]he warrantless search and seizure, as an incident to a suspect's lawful arrest, may extend beyond the person of the one arrested to include the premises or surroundings under his immediate control." [21] Thus whether the accused gave his consent to the search of the car which the arresting agents say he did, but which he denies, is immaterial.

We however agree with the accused that his signature on the receipt or lists of items confiscated from him is inadmissible in evidence as there is no showing that he was then assisted by counsel. In *People v. Mauyao* we said that "conformance to these documents are declarations against interest and tacit admissions of the crime charged, since merely unexplained possession of prohibited drugs is punished by law. They have been obtained in violation of his right as a person under custodial investigation for the commission of an offense, there being nothing in the records to show that he was assisted by counsel." [22] With regard to the Booking Sheet and Arrest Report, we already said in *People v. Morico* that "when an arrested person signs a Booking Sheet and Arrest Report at a police station he does not admit the commission of an offense nor confess to any incriminating circumstance. The Booking Sheet is merely a statement of the accused's being booked and of the date which accompanies the fact of an arrest. It is a police report and may be useful in charges of arbitrary detention against the police themselves. It is not an extra-judicial statement and cannot be the basis of a judgment of conviction." [23]

But as in the cases of *Mauyao* and *Morico*, accused Ang Chun Kit's conformity to the questioned documents has not been a factor in his conviction since his guilt has been adequately established by the detailed and unshaken testimonies of the officers who apprehended him. Hence even disregarding the questioned documents we still find the accused guilty beyond reasonable doubt of the crime charged.

Interestingly, we find it difficult to believe the version of the accused. He did not even present Johnny Sy or Anthony Co to substantiate his story, much less did he reveal the name of the patient they were to visit in the hospital. Besides it appears that there was no reason for the accused to wait for Johnny Sy and Anthony Co in the parking lot as they did not have any prior agreement to meet there. On the contrary the accused still had to attend a dinner somewhere and should not have waited any longer.

WHEREFORE, the Decision of the trial court finding accused-appellant Ang Chun Kit also known as "Romy Ang" guilty beyond reasonable doubt of selling methamphetamine hydrochloride in violation of Sec. 15, Art. III, R.A. 6425, as amended, sentencing him to life imprisonment and ordering him to pay a fine of P30,000.00 is AFFIRMED. Costs against accused-appellant.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Judge Fernando L. Gerona, Jr., presiding.

[2] G.R. No. 112046, 11 July 1995.

[3] G.R. No. 88278, 23 August 1995.

[4] Decision, p. 4; Rollo, p. 20.

- [5] Ibid.
- [6] *People v. De los Reyes*, G.R. No. 106874, 21 January 1994, 229 SCRA 439.
- [7] See Note 2.
- [8] TSN, 17 December 1991, p. 36.
- [9] *People v. Flores*, G.R. No. 80914, 6 April 1995.
- [10] Brief for the Accused-Appellant, pp. 13-14; Rollo, pp. 61-62.
- [11] *People v. Sarmiento*, G.R. No. 72141, 12 January 1987, 147 SCRA 252.
- [12] *People v. Khan*, G.R. No. 71863, 23 May 1988, 161 SCRA 406.
- [13] *People v. Toledo*, G.R. No. 67609, 22 November 1985, 140 SCRA 259.
- [14] *People v. Policarpio*, G.R. No. 69844, 23 February 1988, 158 SCRA 85.
- [15] See *People v. Mauyao*, G.R. No. 84525, 6 April 1992, 207 SCRA 732.
- [16] *People v. Dela Cruz*, G.R. No. 101315, 12 May 1993, 221 SCRA 789.
- [17] *People v. Pinto*, G.R. No. 93407, 20 January 1993, 217 SCRA 279.
- [18] Brief for the Accused-Appellant, p. 17; Rollo, p. 65.
- [19] G.R. No. 95540, 18 September 1992, 214 SCRA 121, 126.
- [20] *People v. Lucero*, G.R. No. 84656, 4 January 1994, 229 SCRA 1; *People v. Martinez*, G.R. Nos. 105376-77, 5 August 1994, 235 SCRA 171; *People v. Doroja*, G.R. No. 81002, 11 August 1994, 235 SCRA 238.
- [21] G.R. No. 97143, 2 October 1995.
- [22] G.R. No. 84525, 6 April 1992, 207 SCRA 732.
- [23] G.R. No. 92660, 14 July 1995, citing *People v. Bandin*, G.R. No. 104494, 10 September 1995, 226 SCRA 299.

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