PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALFREDO REQUIZ ALIAS “FRED,” ACCUSED-APPELLANT.

G.R. No. 130922. November 19, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

ALFREDO REQUIZ appeals from the Decision of the Regional Trial Court of Pasay City finding him guilty of violating Sec. 15 of RA 6425, The Dangerous Drugs Act of 1972, as amended by RA 7659,[1] and sentencing him to reclusion perpetua and to pay a fine of P5,000,000.00. The object of the crime consisting of one (1) pack of methamphetamine hydrochloride (commonly known as shabu) weighing 248.66 grams was ordered forfeited by the trial court in favor of the Government, to be turned over to the Dangerous Drugs Board for proper disposition.[2]

The facts: In the early morning of 2 July 1996 a police informant by the name of "Boy Mata" reported at the PARAC II headquarters in Quezon City that he met accused-appellant Alfredo Requiz who lived along Estrella Street in Pasay City and who could sell large quantities of shabu. Police Inspector Ferdinand Marticio, Deputy Intelligence Officer of PARAC II, immediately dispatched SPO4 Junvoy Yacat and "Boy Mata" to meet accused-appellant and conduct a "test-buy." They were further instructed, if the "test-buy" was successful, to close a deal for the purchase of about 250 grams of shabu. Marticio gave Yacat P200.00 and some expensive pieces of jewelry to convince accused-appellant of his capacity to buy large quantities of drugs.

Yacat and "Boy Mata" then proceeded to the house of accused-appellant Alfredo Requiz on Estrella St., Pasay City. Requiz was not at home, but one Conrado de la Cruz invited them in. "Boy Mata" immediately left the house to look for accused-appellant and returned after ten (10) minutes with someone who introduced himself as "Fred" (accused-appellant Alfredo Requiz). Yacat gave "Boy Mata" the P200.00 to buy shabu from Requiz for the group's consumption. Requiz immediately produced the stuff from his pocket and prepared the sniffing paraphernalia.

The group had a "jamming" session during which Yacat negotiated with Requiz for the sale of 250 grams of shabu, 50 grams of which, he explained, would be for his consumption and 200 grams would be sent to his cousins in Samar. Requiz agreed to deliver the drugs in the same place at 5:00 o'clock that afternoon.

Thereafter, Yacat and "Boy Mata" returned to the headquarters of PARAC II in Quezon City and reported to Marticio that the projected sale would be at 5:00 o'clock in the afternoon. Marticio immediately prepared the "buy-bust" money in the amount of P43,000.00 in paper bills which were laced with ultra-violet fluorescent powder on top and at the bottom of the bundle. Then he organized his "buy-bust" team composed of Yacat, Police Officer Abelardo Ramos and himself as Team Leader.

At 1:30 in the afternoon the team proceeded to Harrison Plaza for the final briefing. Shortly before 5:00 o'clock, Yacat drove his car towards Estrella Street followed by Marticio and Ramos in another car. Upon reaching the place, Yacat parked his vehicle facing Harrison Street where Marticio and Ramos could see and observe him from

a distance.

Yacat waited for about ten (10) minutes. Then accused-appellant Requiz appeared and asked Yacat if he had the money. Yacat showed him the bundle of money. Requiz then left and returned with something wrapped in a newspaper. He went into the car through the right front door and handed the illegal merchandise to Yacat who unwrapped the package and, after being satisfied that it was indeed shabu, handed the marked money to accused-appellant. Simultaneously, Yacat switched on the "hazard" lights of his car, a pre-arranged signal to Marticio and Ramos that the sale had been consummated.

Marticio and Ramos inched their way towards the car of Yacat. Marticio then entered through the right front door and arrested Requiz, while Ramos entered through the rear door. Stunned, Requiz timidly submitted himself to the arresting officers. He was handcuffed. He was then ordered by Marticio to accompany him to the house where they had the "jamming" session earlier in the morning, and there he found Conrado de la Cruz whom he invited for questioning at the PARAC II headquarters in Quezon City.[3]

Acting on the request of PARAC II for laboratory examination,[4] Forensic Analyst Ophelia Sotelo of the PNP Crime Laboratory conducted examinations on both hands of Requiz and the specimen submitted by the arresting officers consisting of a white crystalline substance packed in cellophane. The examinations yielded positive results, i.e., ultraviolet fluorescent powder was found on both hands of Requiz and the white crystalline substance was identified as methamphetamine hydrochloride weighing 248.99 grams.[5]

Accused-appellant gave a different version. He denied having sold shabu to the police officers claiming that when he came to the house of Conrado de la Cruz at around 5:00 o'clock in the afternoon of 28 June 1996 he saw de la Cruz seated in a sofa with a short, stout man in civilian clothes who suddenly pulled a gun and arrested him together with de la Cruz allegedly for drug pushing. He claimed that during intense interrogation at the PARAC II headquarters in Quezon City he was forced to admit that he was a pusher. He was likewise brought to a crime laboratory at around 2:00 o'clock in the morning of 29 June 1996 where a forensic chemist placed two (2) P100.00 bills dusted with ultraviolet fluorescent powder on his hands to transfer the powder to his palms. He further alleged that after four (4) days from the date of his arrest the police decided to file the instant complaint, making it appear that he was apprehended on 2 July 1996 and not 28 June 1996 to escape criminal liability for detaining him for more than three (3) days without filing any charges against him. He contends in this appeal that the trial court erred in: (a) not finding that the Information was defective; (b) believing that the alleged "buy-bust" operation really took place; and, (c) finding that he was guilty beyond reasonable doubt of the crime charged.

The errors raised hinge on the credibility of witnesses. As we have consistently stressed in the majority of appeals in criminal cases, appellate courts give weight, and at times even finality, to the findings of the trial judge who is in a better position to determine the credibility of witnesses as he can observe firsthand their demeanor and deportment while testifying. Appellate courts do not have the vantage position of the trial judge. They only rely on the cold records of the case and on the judge's perception of the evidence before him.

There is no doubt from the records that accused-appellant was caught in flagrante delicto, i.e., in the act of selling shabu. The evidence for the prosecution is both substantial and convincing. At its core is the testimony of SPO4 Junvoy Yacat, the poseur-buyer in the "buy-bust" operation conducted by a team of police officers from PARAC II. He categorically pinpointed accused-appellant as the person who sold to him approximately 250 grams of shabu, thus -

> Q:
>
> What happened after Alfredo Requiz arrived? x x x x

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A:

He asked me: "dala mo ba ang pera?" and I replied "Oo naandito."

Q:

When you told him that you have (sic) the money, what was his reaction?

A:

Alfredo Requiz told me: "hintayin mo ako sandali, babalik ako." x x x x

Q:

What happened when he returned?

A:

He went inside my car bringing with him the suspected shabu wrapped in a newspaper x x x x

Q:

How did you know that it was methamphetamine hydrochloride or shabu?

A:

After I unwrapped the same, your Honor.

Q:

After unwrapping the same, what did you see?

A:

Alfredo Requiz held (sic) to me the newspaper which I unwrapped and saw the physical appearance of the shabu.

Q:

Please describe to us the shabu after unwrapping the same?

A:

It was placed inside the sealed cellophane x x x x

Q:

After this thing was handed to you by Alfredo Requiz, what else transpired next?

A:

Alfredo Requiz demanded the money.

Q:

After demanding the money from you, what did you do?

A:

I handed to him the marked money and he received it with his bare hands.

Q:

How thick is the wad of money which you handed to him?

A:

Approximately 5 inches thick, sir.

COURT: You said mark money, why do you say it is mark money?

A:

Because the same was dusted with ultraviolet powder, sir.[6]

Such testimony of SPO4 Yacat was strongly reinforced by the individual testimonies of Police Inspector Marticio, team leader of the "buy-bust" operation who himself arrested accused-appellant, and Forensic Analyst Ophelia Sotelo who concluded on examination that what was taken from accused-appellant was shabu and that the latter was tested positive of ultraviolet fluorescent powder on both hands. As can be gleaned from the assailed decision of the trial court, the narration of events by the police officers was positive, credible, probable and entirely in accord with human experience. It bears all the earmarks of truth that it is extremely difficult for a rational mind not to give credence to it. The police officers testified in a clear, precise and straightforward manner, and even the rigid cross-examination by the defense and searching questions by the court failed to disturb the essence of their testimonies.

The allegation of accused-appellant that he was just a victim of a police frame-up - arrested for no apparent reason, forced to admit ownership of the subject shabu, and directly incriminated for drug trafficking - is simply too hollow and obviously self-serving. Stronger proof is needed to overcome the findings of the trial court.

Indeed, we cannot discern any improper motive, and no such motive was ever imputed to them by accused-appellant, as to why the police would fabricate evidence and falsely implicate him in such a serious offense. From all the attendant circumstances, it appears that these police officers were simply carrying out their mission to curb drug abuse. The absence of evidence as to the improper motive actuating the principal witnesses for the prosecution strongly sustains the conclusion that no such improper motive existed, and that their testimony is worthy of full faith and credit.

It would not be amiss to point out that the prosecution witnesses are not just ordinary witnesses but law enforcers. As compared to the baseless disclaimers of accused-appellant, the narration of the incident by the prosecution witnesses is far more worthy of belief coming as it does from law enforcers who are presumed to have regularly performed their duty in the absence of proof to the contrary.[7] We find no reason from the evidence at hand to discredit their declarations.

As to his claim that he was framed, the exact term should have been "entrapped." A "buy-bust" operation is a form of entrapment whereby narcotics agents employ a poseur-buyer to trap or capture drug traffickers. Oftentimes it is the only effective way of apprehending drug pushers in the act of peddling their prohibited wares. In the instant case, records show that accused-appellant had a ready supply of shabu for sale and disposition to anyone willing to pay the price. When police officer Yacat met accused-appellant for the first time, he readily quoted his price and set the actual delivery the very same day. The acts of the police officers from PARAC II clearly constitute entrapment which is not prohibited by law.

Accused-appellant insists that the Information is fatally defective since it alleged that the crime was committed on 2 July 1996 when the truth is he was actually arrested on 28 June 1996 or four (4) days before 2 July 1996. He relies, albeit erroneously, on the testimony of SPO2 Antonio Canoy who purportedly testified that on 29 June 1996 the mother of accused-appellant, Corazon Requiz, went to him at the Pasay City Police Station looking for

her son.

The argument is specious. Primarily, there is nothing in the testimony of SPO4 Canoy which shows that it was Corazon Requiz who approached him on 29 June 1996 looking for her son, herein accused-appellant. SPO4 Canoy's testimony reads -

> Q:
>
> On that said date, 29 June 1996, at around 7:00 in the morning, do you recall a woman by the name of Corazon Requiz approaching you, while you were on duty?
>
> A:
>
> I saw a woman approaching me and looking for her son, but I do not recall the name of the woman, Ma'am.
>
> Q:
>
> Do you recall the reason why this woman who approached you was looking for her son?
>
> A:
>
> According to her, her son was arrested together with another man by an unidentified law enforcer, Ma'am (underscoring supplied).[8]

Moreover, other than the self-serving allegation of accused-appellant, we find no evidence on record that he was actually arrested on 28 June 1996. On the contrary, both testimonial and documentary evidence clearly and unequivocally point to 2 July 1996 as the date of the arrest, and not 28 June 1996.[9]

But even assuming ex-gratia argumenti that the prosecution committed an error in the allegation of the date of the commission of the crime in the Information, such mistake does not impair the validity of the Information. Time is not a material ingredient of drug pushing. Hence it need not be stated with precision, and the criminal act may be alleged to have been committed at any time as near to the actual date on which it was committed as the Information or Complaint will permit.[10] Discrepancy of a few days between the time of the sale of illegal drugs set out in the Information and that established by the evidence does not constitute an error so serious as to warrant reversal of a conviction solely on that score. It does not affect the essential rights of accused-appellant, as the defect is merely formal rather than substantial in character.[11]

The defense likewise strives to establish the innocence of accused-appellant by claiming that no drug pusher in his right mind would sell to a stranger 250 grams of shabu on a busy street like Estrella Street, and certainly not in broad daylight, inasmuch as activities such as this are done clandestinely.

We are not persuaded. If pushers peddle drugs only to persons known to them, then drug abuse would certainly not be as rampant as it is today and would not pose a serious threat to society. We have found in many cases that drug pushers sell their prohibited articles to any prospective customer, be he a stranger or not, in private as well as in public places, even in the daytime. Indeed, drug pushers have become increasingly daring, dangerous and, worse, openly defiant of the law. Hence, what matters is not the existing familiarity between the buyer and the seller or the time and venue of the sale, but the fact of agreement and the acts constituting sale and delivery of the prohibited drugs.[12]

Finally, accused-appellant points to certain circumstances which supposedly show that the "buy-bust" operation could not have taken place, to wit: (a) Yacat, the arresting officer, participated in the "pot-session" with accused-appellant together with Conrado de la Cruz and "Boy Mata;" (b) The prosecution failed to present as witnesses "Boy Mata," the police informer, and Mr. Gene Palomo, the movie director who lent the money and

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pieces of jewelry used by the police during the "buy-bust" operation; (c) The prosecution failed to explain why Conrado de la Cruz was freed without any charges being filed against him; and, (d) It was highly impossible for the ultraviolet powder to have remained on the hands of accused-appellant after several hours, and after touching so many things prior to his physical examination by Forensic Analyst Ophelia Sotelo.

As correctly observed by the Solicitor General, the foregoing circumstances do not disprove the fact that accused-appellant actually sold 248.66 grams of shabu to a police officer. In the prosecution for the sale of illegal drugs, like shabu, what is material is the proof that the transaction or sale transpired, coupled with the presentation in court of the corpus delicti. The circumstances enumerated above are of no great significance in establishing the guilt or innocence of accused-appellant. What is important is the fact that the poseur-buyer received shabu from accused-appellant and the same was presented as evidence in court.

Moreover, the matter of presentation of witnesses by the prosecution is not for accused-appellant or even the trial court to decide. Discretion belongs to the prosecutor as to how the prosecution should present its case. He has the right to choose whom he would present as witnesses.

Certainly, the non-presentation of "Boy Mata" and Gene Palomo in court is not a crucial debacle for the prosecution. As the prosecutor had other witnesses - police members of the "buy- bust" team - who could sufficiently prove the criminal operation of accused-appellant, he could dispense with the evidence to be provided by "Boy Mata" and Gene Palomo, which would merely be corroborative.

On the presence of ultraviolet fluorescent powder on the hands of accused-appellant even after the lapse of several hours prior to his physical examination, Forensic Analyst Ophelia Sotelo, an expert witness, testified that the ultraviolet fluorescent powder would remain for as long as the subject did not wash his hands.

All told, this Court is satisfied that the evidence against accused-appellant has overcome the constitutional presumption of innocence and established his guilt beyond any scintilla of doubt. We sustain the penalty of reclusion perpetua and fine of P5,000,000.00 imposed by the trial court on accused-appellant, it appearing that it is in accordance with Sec. 15, RA 6425, The Dangerous Drugs Act of 1972, as amended by RA 7659.

Illegal drug trade is the scourge of our society. Drug pushers are merchants of death, "killers without mercy who poison the mind and deaden the body."[13] Their pernicious commodities cause so much physical, mental and moral pain not only to the immediate victims of their greed, but also, and more especially, to the families of their victims. Hence, they deserve no mercy.

WHEREFORE, the assailed Decision of the trial court dated 20 June 1997 convicting accused-appellant ALFREDO REQUIZ of violating Sec. 15 of The Dangerous Drugs Act of 1972, as amended by RA 7659, and sentencing him to reclusion perpetua as well as to pay a fine of Five Million Pesos (P5,000,000.00), is AFFIRMED. Costs against accused-appellant.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Sec. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs. - The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug.

Notwithstanding the provisions of Section 20 of this Act to the contrary, if the victim of the offense is a minor, or

should a regulated drug involved in any offense under this Section be the proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed.

[2] Decision penned by Judge Vicente L. Yap, RTC-Br. 114, Pasay City, in Crim. Case No. 96-8939, promulgated 20 June 1997.

[3] Conrado de la Cruz was later released. It does not appear from the records whether criminal charges were filed against him.

[4] Exh. "A."

[5] See Exhs. "C," "CC" and "D."

[6] TSN, 5 November 1996, pp. 4-9.

[7] See People v. Blas, G.R. No. 97930, 27 May 1992, 209 SCRA 339.

[8] TSN, 1 April 1997, p. 5.

[9] See Exhs. "A" and "F."

[10] Sec. 11, Rule 110, Rules of Court.

[11] See Herrera, Remedial Law, Vol. IV, 1992 Ed., pp. 67-68.

[12] See People v. Nario, G.R. No. 94863, 19 July 1993, 224 SCRA 647; People v. Blas, see Note 7, p. 346.

[13] People v. Abedes, G.R. No. 73399, 28 November 1986, 146 SCRA 132, 137.

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