

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BUTCH BUCAO LEE, ACCUSED-APPELLANT.

G.R. No. 140919. March 20, 2001

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

The accused, BUTCH BUCAO LEE alias "BOTONG", appeals the Decision of the Regional Trial Court, National Capital Judicial Region, Branch 95 - Quezon City in Criminal Case No. Q-99-81336 finding him guilty beyond reasonable doubt of selling or delivering four hundred ninety point sixty (490.60) grams of Methylamphetamine Hydrochloride, otherwise known as "shabu", a regulated drug punished under Section 15, Republic Act No. 6425, as amended by Republic Act No. 7659.

Lee was charged in an information that reads as follows:

"The undersigned accuses BUTCH BUCAO LEE alias "BOTONG" for Violation of Sec. 15 Art. III in rel. to Sec. 2 (e), (f), (m), (o), Art. I of R.A. 6425 as amended by R.A. 7659, committed as follows:

That on or about the 20[th] day of February 1999 in Quezon City, Philippines, the said accused, not having been authorized by law to sell, dispense, deliver, transport or distribute any regulated drug, did then and there willfully and unlawfully sell or offer for sale Four Hundred Ninety point sixty grams (490.60) of white crystalline substance containing Methylamphetamine Hydrochloride (shabu) which is a regulated drug."[1]

On April 6, 1999, the accused was arraigned and with the assistance of counsel did not enter a plea upon the reading of the information since he filed an Omnibus Motion questioning the validity of his arrest. In view of his refusal to plead, the lower court entered a plea of not guilty to the crime charged in accordance with §1 (c), Rule 116[2] of the Rules on Criminal Procedure.[3]

The RTC summarized the evidence presented by the prosecution and the defense as follows:

"EVIDENCE FOR THE PROSECUTION

"To establish its case, the prosecution presented Engr. Ma. Luisa David, the forensic chemist; PO2 Tyrone Torrano and SPO1 Ildefonso Wico, Jr., both police officers, whose testimonies may be summarized as follows:

"PO2 Tyrone Torrano and SPO1 Ildefonso Wico, Jr. testified that both are police officers from the PNP Criminal Investigation and Detection Group, Detection and Special Operations Office, Camp Crame, Quezon City. On February 19, 1999, at 8:00 in the evening, SPO1 Wico, being an investigator, received an information from their confidential agent regarding a drug operation somewhere in Quezon City. Thus, their office formed a team to entrap the alleged suspect, Butch Bucao Lee. The team was composed of Chief Insp. Roger James Brillantes, PO2 Tyrone Torrano, PO3 Ernesto Baybay and PO3 Remigio Buenaflor. SOP1 Wico was tasked by Chief Insp. Brillantes to prepare a (sic) boodle money for their operation. Their office furnished him a maroon attaché case with a brand name of President (Exh. "E") wherein four (4) genuine P1,000.00 peso bills (Exhs. "F-1" to "F-4") with serial numbers BM053949, BM053950, BM050961 and BM051985 were all placed on

top of the boodle money (Exhs. "G" to "G-4") wrapped individually in paper. Thereafter, he gave the attaché case to PO2 Torrano to use the same for their buy-bust operation. Thus, on February 20, 1999 at 1:30 in the morning, PO2 Torrano, who was assigned to be the poseur-buyer of their drug entrapment operation, was stationed in front of 7-11 Supermart along Roosevelt Avenue, EDSA, Quezon City. PO2 Torrano was with the confidential informant who called them up the other night to inform them that somebody wanted to sell shabu located at the 7-11 Supermart along Roosevelt Avenue, Quezon City. Upon arrival at the place, they already saw accused Butch Bucao Lee or "Botong" standing in front of the supermart. Then PO2 Torrano was introduced to "Botong" as an interested buyer. Hence, "Botong" asked for the money. To avoid suspicion, PO2 Torrano slightly opened the attaché case to show the money inside. Satisfied, "Botong" told them to wait for twenty (20) minutes so that he could get the one half (1/2) kilo of shabu. After several minutes, a taxi arrived and "Botong" alighted from it. There and then, "Botong" handed over a National Bookstore plastic bag to PO2 Torrano for inspection. After examining the contents of the plastic bag which yielded a brown envelope containing ten (10) sachets of shabu, PO2 Torrano immediately touched a portion of his head as a pre-arranged signal to his teammates. Thereupon, PO3 Buenaflor and PO1 Baybay immediately went out from hiding and immediately placed "Botong" under arrest. After informing "Botong" of his constitutional rights, they immediately transported him to their office at Camp Crame, Quezon City, for investigation and medical examination. The evidence seized from "Botong" were (sic) all subjected to laboratory examination. After the operation, PO2 Torrano returned to SOP1 Wico the attaché case to be used for other buy-bust operation. A Joint Affidavit (Exh. "H") was executed by PO2 Torrano, PO1 Baybay and PO3 Buenaflor. Consequently, SPO1 Wico went to the City Prosecutor's Office of Quezon City for inquest on the basis of the Letter-Referral (Exh. "J").

Both the prosecution and the defense entered into a stipulation regarding the testimony of the forensic chemist, Engr. Ma. Luisa G. David, who conducted the chemical examination of the specimens submitted. The parties stipulated that on February 20, 1999, a certain P/Chief Insp. Wenceslao Sombrero, Jr. sent a letter-request to the Chemistry Laboratory Section of the Philippine National Police (PNP) for the examination of one transparent grocery bag with a marking of National Bookstore allegedly containing white crystalline substance sealed in ten (10) transparent plastic bags, which letter-request (Exh. "A") was duly received by the PNP Crime Laboratory as shown on the rubber stamp of the said office; that on the same date, the said chemist prepared the Initial Laboratory Report (Exh. "B") containing her findings on one National Bookstore plastic bag which contained white crystalline substance and which yielded positive to the tests for Methylamphetamine Hydrochloride, a regulated drug; that the forensic chemist likewise prepared a Final Physical Science Report No. D-948-99 (Exh. "C") pertaining to the result of the examination on one (1) National Bookstore plastic bag which contained one (1) brown envelope marked as A-1 with ten (10) self-sealing transparent plastic bags with markings of "BL-10A to "BL-10J" and marked as A-1a to A-1j, each containing white crystalline substance found to be positive to the test of Methylamphetamine Hydrochloride, a regulated drug; and that the police officers from the PNP Crime Laboratory turned the subject evidence, a transparent plastic bag (Exh. "D") containing a cardboard brown envelope (Exh. "D-1") which had ten (10) transparent plastic bags (Exhs. "D-1-A" to "D-1-J") with blue markings on each side of the bags, to the public prosecutor and later on to this court. Finally, the forensic chemist took the witness stand and testified that she attached a thin layer of chromatography plate (TLC) to her Initial Laboratory Report merely for confirmation purposes that indeed the specimen is positive for Methylamphetamine Hydrochloride or shabu in layman's term.

EVIDENCE FOR THE ACCUSED

To rebut the allegations of the prosecution, the accused presented himself and his wife, Carlita Bucao, whose testimonies may be summarized as follows:

The accused, Butch Bucao Lee, testified that his true name is Eleuterio Bucao and that he once worked with a certain Richard Lim as a helper in his restaurant; that on or about February 20, 1999, he went to No. 720 Maceda Street to see Mr. Lim hoping he could borrow money for the expenses (Exhs. "1" to "1-B") of his wife who was about to deliver a baby. However, Lim instructed him to come back at around 8:00 or 9:00 that same

evening at Dunkin' Donuts at Roosevelt, EDSA, Quezon City. That evening, he met Mr. Lim at the said place and they proceeded to Road 20 corner McDonalds, Quezon City via a Starex van. Reaching the place, Mr. Lim pointed to him a pink car and instructed him to give a white plastic bag to the owner of the said pink car. Thus, they went back to Dunkin' Donuts and the accused himself took a taxicab and went back to McDonalds bringing along a white plastic bag. However, the accused never asked Mr. Lim about the contents of the white plastic bag. After delivering the bag to a couple with a child inside the car, the accused boarded the said vehicle and they proceeded to the couple's place somewhere in Quezon City. Upon arrival, the accused was told to wait for thirty (30) minutes outside the gate. After several minutes of waiting, four (4) men suddenly entered the car and poked their guns on accused and the accused was ordered to lie down on the ground. After frisking the accused, the accused was forced to board a Toyota Corolla and the accused was brought to Dunkin' Donuts. At the said place, the four (4) men alighted and poked their guns at Mr. Lim who was inside the Starex van which was parked outside the Dunkin' Donuts. Thereafter, they were brought to Camp Crame for interrogation.

On the other hand, Carlita Bucao testified that she is the legal wife of the accused Butch Bucao Lee and that they got married on March 3, 1994; that she knew Richard Lim (Exh. "2") since the latter was her former boss in one of his restaurants before his business flopped; that upon learning of the arrest of her husband, she immediately went to Camp Crame where he was detained. Her husband told her that he did not know why he was arrested. Thus, she went to see Major James Brillantes at his office, however, she saw Richard Lim talking to the Major while her husband was at the other room near the kitchen. The accused Butch Bucao Lee told her that Mr. Lim ordered him to pinpoint somebody and not him and that Mr. Lim went out of the office after signing several documents."^[4]

On October 28, 1999, the RTC rendered its Decision convicting the accused of the crime charged. The dispositive portion of the decision reads:

"WHEREFORE, judgment is hereby rendered finding the accused, Butch Bucao Lee, GUILTY beyond reasonable doubt of the offense of violation of Section 15 of Republic Act 6425, as amended by Republic Act 7659, or for the sale or delivery of 490.60 grams of Methylamphetamine Hydrochloride, otherwise known as "shabu", a regulated drug, and is hereby sentenced to suffer the penalty of Reclusion Perpetua and to pay a FINE of Five Hundred Thousand (P500,000.00) Pesos.

The ten (10) plastic bags of "shabu" (Exhs. "D-1 to "D-1-K") are hereby ordered forfeited in favor of the government and the Branch Clerk of Court is hereby ordered to safely deliver or cause the safe delivery of the said plastic bags of "shabu" to the Dangerous Drugs Board for safekeeping and disposition upon finality of the decision.

The period within which the accused was detained in the City Jail of Quezon City shall be credited to him in full as long as he agrees in writing to abide by and follow strictly the rules and regulations of the said institution.

IT IS SO ORDERED."^[5]

On October 28, 1999, the accused filed his Notice of Appeal with the RTC.^[6] The Decision is now before this Court for review.

In his brief, the accused-appellant assigns the following errors allegedly committed by the trial court:

"THE TRIAL COURT GRAVELY ERRED IN:

I

GIVING FULL FAITH AND CREDIT TO PROSECUTION WITNESSES THAT ACCUSED HAD ACTUALLY SOLD OR KNOWINGLY DELIVERED THE TEN (10) PLASTIC SACHETS OF SHABU TO

PO2 TYRONE TORRANO WHO ALLEGEDLY ACTED AS THE POSEUR-BUYER, OR THAT ACCUSED'S ARREST WAS THE RESULT OF AN ENTRAPMENT OPERATION CONDUCTED ON HIM.

II

FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED."[7]

In support of his appeal, the accused-appellant assails the trial court's evaluation of the credibility of the prosecution and defense witnesses. According to the accused-appellant, the testimonies of the defense witnesses cannot be said to be less credible than that of the prosecution. Accused-appellant claims that he testified in a candid and straightforward manner and responded to questions directly and spontaneously. There were no inconsistencies in his narration in contrast to the testimonies of the prosecution witnesses which are open to suspicion. The accused-appellant argues that the presumption in the regularity in the performance of official duties in favor of the police officers cannot prevail against his constitutional presumption of innocence.

After a careful review of the evidence, which is substantially as summarized by the trial court and quoted above, we resolve to affirm the decision of the trial court.

Accused-appellant's defense consists of denial and rests on the alleged lack of credibility of the prosecution witnesses and denial. Accused-appellant denies that any transaction between him and PO2 Torrano regarding the sale of shabu ever took place. On the contrary, he claims that he simply and innocently delivered a plastic bag to a couple upon the request of his former employer, Mr. Richard Lim, totally unaware and unsuspecting that it contained ten (10) sachets of shabu.

It is well-established in this jurisdiction that the findings of the trial court on the credibility of witnesses and their testimonies are accorded great respect unless the court a quo overlooked substantial facts and circumstances which, if considered, would materially affect the result of the case.[8] We find no reason to depart from this rule in the present case.

Accused-appellant was arrested as a result of a buy-bust operation conducted by the PNP Criminal Investigation and Detection Group, Detection and Special Operations Office, Camp Crame, Quezon City after receiving a call from its confidential informant about somebody who wanted to sell shabu. The entrapment was established by the testimony of prosecution witness PO2 Tyrone Torrano, the poseur-buyer and apprehending officer, who positively identified accused-appellant as the man who sold him the subject shabu. PO2 Torrano recounted in court the details of the entire police operation that led to the arrest of the accused, the confiscation of the shabu and the laboratory examination conducted on the same.

His testimony with respect to the existence and preparation of the "boodle money" used for the entrapment is corroborated by SPO1 Ildefonso Wico, Jr..[9]

We are not impressed by accused-appellant's characterization of the testimony of PO2 Torrano as one suffering from memory lapses inasmuch as PO2 Torrano was not observant of the things and circumstances surrounding the entrapment operation. While accused-appellant's claim that PO2 Torrano did not notice whether there were employees or security guards in the 7-11 convenience store where they conducted the operation may be true, such fact refers to a trivial detail and would not by itself be sufficient to disprove the commission of the crime charged. On the contrary, PO2 Torrano's positive testimony and detailed narration of the buy-bust operation sufficiently establishes all the material facts necessary to support the conviction of accused-appellant. In the prosecution for the sale of illegal drugs, like shabu, what is material is the proof that the transaction or the sale transpired, coupled with the presentation in court of the corpus delicti.[10]

More importantly, accused-appellant does not ascribe any improper motive on the part of the prosecution witnesses as to why they would falsely incriminate him in such a serious crime. There is no evidence to the effect that in testifying against him, these witnesses were motivated by reasons other than their duty to curb the sale of prohibited drugs. In the absence of such ill-motive, it is presumed that none exists.[11] On the other hand, accused-appellant's claim that he merely delivered the plastic bag to an unidentified couple upon orders of his former employer, Richard Lim, not knowing that it contained shabu, is self-serving and uncorroborated.

Aside from proving the fact of the sale, the prosecution also successfully established the circumstances showing how the packages taken from accused-appellant were confirmed to contain shabu. PO2 Torrano's and Forensic Chemist Maria Luisa David testified to the effect that after arresting accused-appellant, he was brought to their office at CIDG SOO, Camp Crame, Quezon City together with the confiscated substance suspected of being shabu. While thereat, accused-appellant was subjected to a medical examination while the substance suspected of being shabu was sent to the PNP Crime Laboratory for examination. PO2 Torrano personally brought the subject specimens to the crime laboratory[12] with a request for laboratory examination and was duly received thereat as evidenced by the stamp signifying receipt thereof on the request itself.[13] Through the testimonies of PO2 Torrano,[14] and David[15] the prosecution also successfully established the identity of the National Bookstore plastic bag containing the brown envelope and the ten (10) sachets of shabu taken from the accused-appellant in court. PO2 Torrano was able to identify the packages recovered from accused-appellant at the time of his arrest while David was able to identify the packages through her initials which were placed on the National Bookstore bag, the brown envelope as well as the transparent plastic bags.

It was also clearly established that the substance sold by the accused-appellant was approximately four hundred ninety point sixty (490.60) grams of methylamphetamine hydrochloride otherwise known as shabu. On the witness stand, David whose qualification as an expert witness was admitted by the defense,[16] identified and testified on the findings contained in the Initial Laboratory Report that she prepared. According to her, when her office received the substance alleged to be shabu, she conducted a three-step examination on the specimens to determine whether they were indeed shabu. First, the specimens were subjected to a physical examination wherein the specimen's markings were examined and thereafter weighed. Second, the specimens were subjected to a color test. Finally, the specimens were subjected to a thin layer chromatography. In testing the substance, representative samples were taken from each of the ten (10) plastic sachets which resulted in a positive finding that the samples she tested were shabu.[17] Her findings were placed in the Initial Laboratory Report,[18] which states that "Qualitative examination conducted on the above-stated specimen gave POSITIVE results to the tests for the presence of Methylamphetamine Hydrochloride, a regulated drug."

Any person who, unless authorized by law, sells shabu or methylamphetamine hydrochloride, a regulated drug, shall be punished with reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos[19] if two hundred (200) grams or more of shabu or methylamphetamine hydrochloride is sold.[20] In the present case, accused-appellant was correctly meted the penalty of reclusion perpetua and a fine of five hundred thousand pesos (P500,000.00) by the trial court considering that the amount sold weighed 480.60 grams. The RTC also correctly ordered the confiscation and forfeiture of the shabu in favor of the government for proper disposal.

WHEREFORE, the appealed decision of the Regional Trial Court is hereby AFFIRMED. Costs against accused-appellant.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

[1] Rollo, 4.

[2] "(c) If the accused refuses to plead, or makes a conditional plea, a plea of not guilty shall be entered for him."

[3] Record, 30.

[4] Decision, 2-4.

[5] Rollo, 19; Decision, 8.

[6] Rollo, 20.

[7] Rollo, 34-35; Brief for the Accused-appellant, 1-2.

[8] People vs. Barita, G.R. No. 123541, February 8, 2000 at p. 8.

[9] T.S.N., June 14, 1999.

[10] People vs. Requiz, 318 SCRA 635, 647 [1999]; People vs. Barita, Supra, p. 15.

[11] People vs. Barita, Supra, p. 16.

[12] T.S.N., May 27, 1999, p. 21.

[13] See Exhibit "A". Folder of Exhibits for the prosecution, 1.

[14] T.S.N., May 27, 1999, pp. 14-16.

[15] T.S.N., May 27, 1999, p. 33.

[16] T.S.N., May 20, 1999, p. 2.

[17] T.S.N., May 27, 1999, pp. 26-31.

[18] Record, 7.

[19] § 15, Republic Act No. 6425 as amended by Republic Act. No. 7659.

[20] § 20 (3), Republic Act No. 6425 as amended by Republic Act. No. 7659.

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