

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REYNALDO REMERATA Y REMOQUILLO @ “REY”, AND GLORIA OCHOA Y REMERATA @ “OYETH” (AT LARGE), ACCUSED.

G.R. No. 147230. April 29, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

The Philippine National Police, Narcotics Command, based at Camp Gen. Pantaleon Garcia, Imus, Cavite received a tip from a confidential informer that appellant Reynaldo Remerata and his sister Gloria Ochoa were engaged in the sale of shabu or methamphetamine hydrochloride. The informant had reportedly told Remerata and Ochoa that a prospective buyer from Manila was interested in purchasing 200 grams of shabu. Acting on this lead, Police Senior Inspector Nolasco Cortez formed a team composed of PO1 Aldrin Agravante, PO3 Alberto Colaler, SPO1 Male, SPO1 Yatco, PO3 Luna, PO3 Padernal and PO3 Almojeda for the purpose of conducting a buy-bust operation. Agravante was designated as the poseur-buyer. The team prepared a briefcase containing bills of P Normal 0 false false false EN-PH X-NONE X-NONE /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-priority:99; mso-style-parent:""; mso-padding-alt:0cm 5.4pt 0cm 5.4pt; mso-para-margin-top:0cm; mso-para-margin-right:0cm; mso-para-margin-bottom:10.0pt; mso-para-margin-left:0cm; line-height:115%; mso-pagination:widow-orphan; font-size:11.0pt; font-family:"Calibri","sans-serif"; mso-ascii-font-family:Calibri; mso-ascii-theme-font:minor-latin; mso-hansi-font-family:Calibri; mso-hansi-theme-font:minor-latin; mso-bidi-font-family:"Times New Roman"; mso-bidi-theme-font:minor-bidi; mso-fareast-language:EN-US;} 1,000.00, P Normal 0 false false false EN-PH X-NONE X-NONE /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-priority:99; mso-style-parent:""; mso-padding-alt:0cm 5.4pt 0cm 5.4pt; mso-para-margin-top:0cm; mso-para-margin-right:0cm; mso-para-margin-bottom:10.0pt; mso-para-margin-left:0cm; line-height:115%; mso-pagination:widow-orphan; font-size:11.0pt; font-family:"Calibri","sans-serif"; mso-ascii-font-family:Calibri; mso-ascii-theme-font:minor-latin; mso-hansi-font-family:Calibri; mso-hansi-theme-font:minor-latin; mso-bidi-font-family:"Times New Roman"; mso-bidi-theme-font:minor-bidi; mso-fareast-language:EN-US;} 20.00 and P Normal 0 false false false EN-PH X-NONE X-NONE /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-priority:99; mso-style-parent:""; mso-padding-alt:0cm 5.4pt 0cm 5.4pt; mso-para-margin-top:0cm; mso-para-margin-right:0cm; mso-para-margin-bottom:10.0pt; mso-para-margin-left:0cm; line-height:115%; mso-pagination:widow-orphan; font-size:11.0pt; font-family:"Calibri","sans-serif"; mso-ascii-font-family:Calibri; mso-ascii-theme-font:minor-latin; mso-hansi-font-family:Calibri; mso-hansi-theme-font:minor-latin; mso-bidi-font-family:"Times New Roman"; mso-bidi-theme-font:minor-bidi; mso-fareast-language:EN-US;} 10.00 denominations, and bogus money.

At 8:30 in the evening of April 10, 1999, some members of the team coordinated with the San Pedro Police, while

the rest proceeded to the target area on San Vicente Street, San Pedro, Laguna. PO3 Colaler drove the lead car with PO1 Agravante and the confidential informant on board. The other members of the team rode in two back-up vehicles. When they reached the designated area, Agravante and the confidential informer alighted from the car in front of a vacant house. Moments later, a man and a woman approached them. The confidential informant introduced them to Agravante as Reynaldo Remerata and Gloria Ochoa; and Agravante was introduced as the prospective buyer of shabu. Appellant and Ochoa asked Agravante if he brought the money, and the latter opened the briefcase he was carrying. Ochoa left to get the merchandise.

After ten minutes, Ochoa returned carrying two transparent plastic bags and told PO1 Agravante, “ito na ang bato,[1] akin na ang pera.” PO1 Agravante took the plastic bags and slightly opened the briefcase to show them the money inside. Then he took out his white handkerchief and wiped his face, which was the pre-arranged signal that the deal had been consummated. He drew his gun and introduced himself as a police officer. Appellant responded, “Ah, police Ka? Walang pulis-pulis dito sa San Pedro.” A commotion ensued and Ochoa was able to flee. PO3 Colaler, who was running towards the scene, fired a warning shot in the air. Together, they chased Ochoa but failed to catch her. Appellant was brought to Camp Gen. Pantaleon Garcia in Imus, Cavite.

Police Inspector Lorna Tria, the Forensic Chemical Officer of the PNP Crime Laboratory, Regional Office IV, Camp Vicente Lim, conducted a laboratory examination of the representative sample of the white crystalline substance contained in two heat-sealed transparent plastic bags recovered from Ochoa. She concluded that the specimen yielded positive result for the presence of methamphetamine hydrochloride or shabu.[2]

On July 30, 1999, an Information was filed against appellant Reynaldo Remerata y Remoquillo @ “Rey” and Gloria Ochoa y Remerata @ “Oyeth” for Violation of Section 15, Article III of Republic Act No. 6425, also known as the Dangerous Drugs Act of 1972, as amended, committed as follows:

That on or about April 10, 1999, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, said accused, without authority of the law, conspiring, confederating and mutually helping one another, did then and there, wilfully, unlawfully and feloniously, sell and pass-on to a poseur-buyer for TWO HUNDRED THOUSAND PESOS, genuine and boodle money, methamphetamine hydrochloride (shabu) weighing 205.55 grams.

CONTRARY TO LAW.[3]

The Information was filed with the Regional Trial Court of San Pedro, Laguna, Branch 31, as Criminal Case No. 1226-SPL. Considering that Ochoa was at large, the case proceeded against appellant only. After he pleaded not guilty at his arraignment, trial on the merits followed.

In his defense, appellant denied the charges against him and alleged that on April 10, 1999 at 8:30 in the evening, he bought cigarettes at a store two houses away from his house. While he stood in front of the store with Chief Barangay Tanod Nesty Filipinia and Carlito Partoza, an unmarked car stopped in front of them. Two men, who turned out to be PO1 Agravante and PO3 Colaler, alighted and asked him if he is the brother of Oyeth Ochoa. He answered in the affirmative but told them that she was residing in Caloocan City. The police officers pointed their guns at Filipinia and Partoza and said, “Wala kayong pakialam dito.” Then they handcuffed appellant, blindfolded him and boarded him in the car. Appellant was brought to Camp Gen. Pantaleon Garcia where he was forced to sign a document. Thereafter, he was detained at the municipal jail of San Pedro, Laguna, and was told that he will not be released until they get hold of his sister.

Nesty Filipinia and Carlito Partoza corroborated appellant’s testimony. Filipinia claimed that appellant used shabu but only occasionally and out of peer pressure. He tried to stop after being told of its harmful effects.

On January 11, 2001, the trial court rendered a decision the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered sentencing accused Reynaldo Remerata y Remoquillo @ Rey to suffer the penalty of reclusion perpetua, to pay a fine of P Normal 0 false false false EN-PH X-NONE X-NONE /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-priority:99; mso-style-parent:""; mso-padding-alt:0cm 5.4pt 0cm 5.4pt; mso-para-margin-top:0cm; mso-para-margin-right:0cm; mso-para-margin-bottom:10.0pt; mso-para-margin-left:0cm; line-height:115%; mso-pagination:widow-orphan; font-size:11.0pt; font-family:"Calibri", "sans-serif"; mso-ascii-font-family:Calibri; mso-ascii-theme-font:minor-latin; mso-hansi-font-family:Calibri; mso-hansi-theme-font:minor-latin; mso-bidi-font-family:"Times New Roman"; mso-bidi-theme-font:minor-bidi; mso-fareast-language:EN-US;} 500,000.00 and to pay the costs of suit.

The officer-in-charge of this Court is hereby directed to turn-over the evidence consisting of 2 plastic bags containing 205.55 grams of shabu to the Dangerous Drugs Board for its proper disposition.

Considering that accused Gloria Ochoa y Remerata @ Oyeth has remained at-large to date, let the record of this case be sent to the files so as not to clog the criminal docket of this Court and let an alias warrant be issued for her immediate arrest.

SO ORDERED.[4]

Hence this appeal, raising the following errors:

- THE TRIAL COURT ERRED IN RELYING ON THE PRESUMPTION OF REGULARITY DESPITE OVERWHELMING INDICIA MILITATING AGAINST ITS INVOCATION.
- THE TRIAL COURT ERRED IN NOT LENDING CREDENCE TO THE TESTIMONY OF DEFENSE WITNESSES, CARLITO PARTOZA AND ERNESTO FILIPINIA, CHIEF BARANGAY TANOD, WHO ALSO ENJOY PRESUMPTION OF REGULARITY.
- THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED ON GROUND OF REASONABLE DOUBT.[5]

The appeal is without merit.

It has been held that the testimonies of police officers involved in a buy-bust operation deserve full faith and credit, given the presumption that they have performed their duties regularly. This presumption can be overturned if clear and convincing evidence is presented to prove either of two things: (1) that they were not properly performing their duty, or (2) that they were inspired by any improper motive.[6] Appellant failed to show that these two conditions were present. He merely enumerated seven “badges of improbability” as to whether the buy-bust indeed took place, saying that these should have militated against the presumption of regularity.

First, appellant claims that Ochoa’s escape from the scene is inexplicable because, with the exception of PO1 Agravante and the confidential informant, the rest of the seven-man team supposedly served as perimeter security to ensure that she and appellant do not escape. Thus, the version of the prosecution is inconsistent with the defense’s theory that Ochoa was not present during the confrontation between appellant and the NARCOM operatives.

We do not agree. The perimeter security provided by the police operatives was not a guarantee for the capture of Ochoa. It must be remembered that the members of the buy-bust team were not from San Pedro and, as such, could not have known every means of egress from the crime scene. On the other hand, Ochoa was presumably more familiar with the vicinity and its streets and alleys, having lived there since childhood.

Second, appellant points out that while PO1 Agravante initially testified that the operation was entered in the police blotter as a standard operating procedure, he admitted at a subsequent hearing that there was no such entry in the blotter. This, according to appellant, showed the police officer's penchant for lying. Furthermore, appellant assails as incredible PO1 Agravante's claim that he knew the substance recovered from appellant was shabu and not tawas just by looking at it.

Appellant's argument is misleading. In PO1 Agravante's cross-examination, he made the following explanation:

Q.

But in this case you do not know if it was entered in the blotter, is that what you are telling the court?

A.

Yes, sir but if it was entered in the blotter, I can show it to you, sir.

Q.

Are we made to understand that when you return to your camp you will look into this and the next time you will come you will bring the entry to the blotter?

A.

Yes, sir. (emphasis ours)[7]

It is plainly evident that PO1 Agravante was not categorical in his statement that the operation was entered in the blotter. On the contrary, he made clear that he was unsure whether the same was indeed logged. Appellant cannot, therefore, say that PO1 Agravante was lying as to impair his credibility. On the other hand, the veracity of PO1 Agravante's claim that he knew the substance was shabu just by looking at it is an immaterial issue which was rendered moot by the fact that the specimen was later found positive for methamphetamine hydrochloride by the forensic chemist.

Third, appellant alleges that PO1 Agravante's failure to mention the firing of a warning shot by PO3 Colaler "throws a cloud of doubt, if not suspicion, to the veracity of the prosecution claim." [8] This argument is specious. A witness's omission to mention a certain fact is immaterial, since he is only expected to testify on matters which he personally perceived. He may not have heard the warning shot during the commotion as his mind may have been preoccupied with the apprehension of appellant. In any case, the trial court, by and large, found that the police officers were credible witnesses and their testimony were positive and credible.

Fourth, appellant argues that it was improbable for him to adamantly blurt out, "Ah, police ka, walang pulis-pulis dito sa San Pedro," while PO1 Agravante was holding a gun. Further, he could not have acted belligerently towards the police officers because he was suffering from a physical disability, i.e., a fractured thigh.

While appellant claims that he fractured his thigh in an accident, there was no showing that this rendered him unable to walk or run. There was no showing that he was incapable of exhibiting a fighting stance. In fact, in his direct examination, he admitted that he tried to resist the police officers trying to arrest him. [9] Moreover, there was no proof that as a result of a fractured thigh from a hit-and-run accident two years prior to the incident, he became physically disabled. Whether or not appellant had a fractured thigh, his belligerence towards police officers is a natural defense reaction especially in the face of impending arrest.

Fifth, appellant contends that those engaged in the sale of illegal drugs would not readily turn over their

merchandise without counting the money tendered as payment therefor. He points out that “drug fiends are smarter than that.”[10] However, that statement is not always true. In any event, we respect the trial court’s assessment of the credibility not only of the witnesses’ testimony, but most importantly, of the witnesses themselves as manifested by their demeanor while testifying. Well-settled is the rule that appellate courts will not disturb on appeal the trial court’s evaluation of the credibility of witnesses, absent any arbitrariness or oversight in the appreciation of facts or circumstances of weight and substance.[11]

Sixth, appellant challenges the jurisdiction of the Cavite police and states that it could not have validly performed a buy-bust operation in San Pedro, Laguna. During his cross-examination, PO1 Agravante satisfactorily explained that the “Narcotics Group is a national support office of the PNP [which] can operate anywhere.”[12] Significantly, the defense counsel did not pursue this matter.

Seventh, appellant argues that on the whole, the testimony of the two police officers “does not warrant the invocation of the presumption of regularity in their favor.”[13] This contention deserves scant consideration in view of the above disquisitions which completely debunked appellant’s theory that the arresting officers irregularly performed their duties. The presumption of regularity in the performance of duty was not overcome by evidence to the contrary and, therefore, applies.[14]

Last, appellant insists that the testimony of Chief Barangay Tanod Nesty Filipinia should have been given credence, considering that he was a disinterested witness. Suffice it to state that the province of assessing the credibility of witnesses lies in the trial courts, and absent any showing that it committed grave abuse of discretion or that it overlooked some relevant facts which could have materially changed the outcome of the case, we will not disturb its findings. There is no such showing in the case at bar.

All told, we see no reason to disturb the findings of the trial court that appellant is guilty beyond reasonable doubt of sale of a regulated drug, as defined and penalized in Article III, Section 15 of RA 6425 (The Dangerous Drugs Act of 1972), as amended by RA 7659, to wit:

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. x x x. (emphasis ours)

Under Article IV, Section 20 of RA 6425, as amended by RA 7625, the above penalty shall be imposed where the quantity of the methamphetamine hydrochloride or shabu is 200 grams or more. In the case at bar, it was proved that appellant sold 205.55 grams of shabu. Therefore, the trial court was correct in sentencing him to suffer the penalty of reclusion perpetua and a fine of P500,000.00. The lesser of the two indivisible penalties shall be imposed considering that there was neither mitigating nor aggravating circumstance, pursuant to Article 63 (2) of the Revised Penal Code.[15]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of San Pedro, Laguna, Branch 31, in Criminal Case No. 1226-SPL, finding appellant Reynaldo Remerata y Remoquillo @ “Rey” guilty beyond reasonable doubt of Violation of Article III, Section 15 of Republic Act No. 6425, as amended by Republic Act No. 7659, and sentencing him to suffer the penalty of reclusion perpetua and to pay a fine of P Normal 0 false false EN-PH X-NONE X-NONE 500,000.00 and the costs of the suit, is **AFFIRMED** in toto.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Vitug, Carpio, and Azcuna, JJ., concur.

[1] Colloquial term for shabu.

[2] Chemistry Report No. D-1963-99, Records, p. 12.

[3] Records, p. 1.

[4] Rollo, pp. 24-29, at 29; penned by Judge Stella Cabuco Andres.

[5] Rollo, pp. 43-44.

[6] People v. Padasin, G.R. No. 143671, 14 February 2003.

[7] TSN, December 3, 1999, p. 5.

[8] Appellant's Brief, Rollo, p. 46.

[9] TSN, September 20, 2000, p. 7.

[10] Appellant's Brief, Rollo, p. 46.

[11] People v. Eugenio, G.R. No. 146805, 16 January 2003.

[12] TSN, December 3, 1999, p. 4.

[13] Appellant's Brief, Rollo, p. 48.

[14] People v. Padasin, *supra*.

[15] People v. Gonzales, G.R. No. 143805, 11 April 2002; People v. Lacap, G.R. No. 139114, 23 October 2001; People v. Paredes, G.R. No. 136105, 23 October 2001.

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