

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SANNY CABACABA Y GAYOSO, APPELLANT.

G.R. No. 171310. July 09, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is an appeal from the Decision[1] dated December 15, 2005 of the Court of Appeals in CA-G.R. CR-H.C. No. 00302. The appellate court affirmed the Decision[2] dated October 12, 2004 of the Regional Trial Court (RTC) of Quezon City, Branch 103 in Criminal Case No. Q-02-112846 finding appellant Sanny Cabacaba guilty for violation of Section 5,[3] Article II, Republic Act No. 9165, the Comprehensive Dangerous Drugs Act of 2002.

The antecedent facts in this case are as follows.

On October 18, 2002, according to PO2 Jaime Ocampo's testimony, his superior formed a team to conduct a buy-bust operation at No. 138 Ermin Garcia Street, Barangay Rodriguez, Cubao, Quezon City after an informant had reported that appellant Sanny Cabacaba had been selling drugs at said address. PO2 Ocampo was designated as poseur buyer, with PO2 Jerry Sanchez and PO1 Glyn Fallorin as back-up. As poseur buyer, he was given one P200 bill with Serial Number D977936 and a P100 bill with Serial Number DF747795.[4] Both bills were recorded in their pre-operation logbook. He marked said bills with his initials "JO." [5]

The police team and the informant left the police station and arrived at Ermin Garcia Street at 7:00 p.m. According to PO2 Ocampo, he and the informant proceeded to a house at 138 Ermin Garcia Street. They asked the appellant to sell to them shabu worth P300. Appellant then handed over two sachets of shabu to PO2 Ocampo who then gave appellant the marked money. PO2 Ocampo examined the contents of the two sachets. After determining that they contained shabu, he tapped the shoulder of appellant. This was a signal to his two companions on the look-out that the sale of shabu had just been consummated.[6]

As his men rushed to the place of the transaction, PO2 Ocampo got hold of appellant. The latter was able to break free from him and run into the house in front of which the sale took place.

The police ran after appellant who was then collared by PO2 Ocampo inside the house. Two persons sitting on a sofa were searched like appellant. The search on one of them, who was identified as Elena Blanca, yielded a sachet of shabu. The other male person yielded no contraband. In the body search conducted on appellant, the police recovered both the P200 and P100 bills earlier received by him from PO2 Ocampo. PO2 Ocampo testified that the accused and Elena were live-in partners.

In his defense, appellant testified that on October 18, 2002 at 7:00 p.m. he was attending the birthday party of the daughter of his neighbor, Elena Blanca. At around 9:30 p.m., five armed men entered Elena's house and searched four persons including appellant and Elena. Nothing was found in their possession. After a while, however, a police officer waived a plastic sachet he said he found on top of a TV set. The armed persons then brought all four

of them to the Araneta Center Police Block 5 in handcuffs.[7]

According to appellant, the police asked each of them to give P10,000 in exchange for their release. Afterwards, only appellant was detained. Appellant testified that he believed that his companions had given the police some cash.

Another witness for the defense, Conrado de Guzman,[8] testified that on October 18, 2002 at around 6:00 p.m., he was walking along an alley of Ermin Garcia Street, when he met four policemen armed with armalites walking toward him. He stepped aside to give way to them. After two had passed him, however, the two others returned and grabbed him. Those persons brought him to the house of his neighbor, Elena Blanca. He saw the police officers searching the house. He also saw four persons inside that house, including Elena Blanca and the appellant, both of whom were residents of the house. He did not know the identity of the other two. Later on, a police officer cried, "Ito na ang hinahanap natin!" All five of them were brought afterwards to the police station where each one of them was interrogated inside an investigation room. After an hour, according to de Guzman, he was released.[9]

On cross-examination, de Guzman stated that the arresting officers told him that arresting bystanders was part of their operations. De Guzman further testified that he was a neighbor and acquaintance of the appellant.[10]

On October 12, 2004, the trial court convicted the appellant. Its decision reads as follows:

After a review of the evidence, the court inclines towards the moral guilt of the accused. Police Officer Ocampo testified positively and unwaveringly that he purchased P300.00 worth of shabu from the accused. The accused, whose shoulder was tapped by Police Officer Ocampo as a pre-arranged signal to his companions, suddenly ran away towards a house when someone shouted, as Police Officer Ocampo and his companions were rushing in, that "Mga parak yan!"

Against this strong testimonial evidence, the defense evidence is lacking in coherence, naturalness and consistency.

For example, Sanny said a children's birthday party was going on at the time of his arrest inside Elena's house. If this is true, the court finds it impossible that defense witness Arnel did not see any child or children attending the party; did not see any birthday balloon that Sanny said festooned the occasion; and did not see any neighbor of theirs accompanying their kids and partaking of food and holding a program. Arnel only saw inside Elena's house two men, whom he does not know, together with Sanny and Elena. He could not have failed to mention the balloons, the children and the food and drinks, if indeed there was a party there.

Sanny testified that Elena's husband was out buying liquor at that time. He said that Elena is his neighbor. As it turned out, when Arnel testified, Sanny is living-in with Elena in the same house. Indeed, if Sanny's defense theory is true, the "husband" of Elena would have testified here. Any husband would naturally feel great indignation that during a peaceful, festive gathering of children on the occasion of his 4-year old daughter's birthday, the police would suddenly barge in, rifle through everything in the house, arrest his wife, and charge her "falsely" of possession of shabu which carries a 12 to 20 years' penalty.

It is in fact surprising that according to Sanny, not a neighbor of Elena went to the party. This is most unusual because even among squatters, when there is a party, particularly a children's party, there will be a lot of women in attendance, accompanying their little kids, acting as helpers in the preparations, etc.

ACCORDINGLY, judgment is hereby rendered finding the accused Sanny Cabacaba y Gayoso GUILTY beyond reasonable doubt of Violation of Section 5 of R.A. 9165 for selling methylamphetamine hydrochloride weighing 0.04 gram and he is hereby sentenced to suffer a jail term of LIFE IMPRISONMENT and to pay a fine of P500,000.00.

The drugs involved in this case are ordered transmitted to the Philippine Drug Enforcement Agency (PDEA) thru the Dangerous Drugs Board (DDB) for proper legal disposition.

SO ORDERED.

October 12, 2004.

(SGD.)

JAIME N. SALAZAR, JR.

Judge[11]

On appeal, the issues presented for determination were:

I.

THE COURT A QUO GRAVELY ERRED IN NOT FINDING THAT THE ACCUSED-APPELLANT WAS ILLEGALLY ARRESTED.

II.

THE LOWER COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT.[12]

The Court of Appeals held:

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the decision appealed from must be, as it is hereby AFFIRMED, in toto. With the costs of this instance to be taxed against the accused-appellant.

SO ORDERED.[13]

On February 20, 2006, in view of the penalty of life imprisonment imposed on appellant, the records of the case were elevated to this Court for review.[14]

Both parties manifested that they waived their rights to file supplemental briefs, as their arguments had been already discussed in their previous briefs.[15]

Briefly stated, the issues for our resolution now are: (1) Was there a valid arrest on the accused? and (2) Was the accused's guilt proven beyond reasonable doubt?

Appellant argues that at the time of his arrest, he had not committed, was not committing, and was not about to commit any crime. Hence, he contends that none of the circumstances justifying an arrest without a warrant under Section 5[16] of Rule 113 of the Rules of Court was present.[17]

Appellee for its part, points out that time and again, a buy-bust operation has been held as a legitimate mode of apprehending drug pushers. Although appellant was previously under surveillance, no search warrant was needed in this case since the buy-bust operation conducted was an entrapment and not a search.[18]

We agree with the appellee. This Court has already ruled repeatedly that a buy-bust operation is a form of entrapment which has repeatedly been accepted to be a valid means of arresting violators of the Dangerous Drugs

Law.[19] An arrest made after entrapment does not require a warrant inasmuch as it is considered a valid warrantless arrest pursuant to Rule 113, Section 5(a), of the Rules of Court.[20]

On the second issue, appellant argues that the evidence relied upon by the prosecution falls short of the quantum of proof required for a conviction. Although the testimony of a police officer should ordinarily be accorded full faith and credence, still it cannot prevail over the constitutional presumption of innocence that an accused enjoys.[21] Appellee for its part, maintains that the elements of violation of Section 5, Article II of Rep. Act No. 9165 has been proven.[22]

Again we cannot agree with the appellant. Important in a prosecution for the illegal sale of prohibited drugs is proof that the transaction or sale actually took place and the presentation in court of the corpus delicti,[23] which has two elements: (1) proof of the occurrence of a certain event and (2) a person's criminal responsibility for the act.[24] Here, the prosecution has adequately shown that an illegal sale of drugs took place between the police and the appellant in a valid entrapment scheme. The prosecution actually presented during the trial of the case, the illegal substance and the payment seized from the appellant's possession.

In a prosecution for violation of the Comprehensive Dangerous Drugs Act of 2002, usually a case becomes a contest of credibility between the accused and the police, the witnesses and their testimonies. Generally this Court relies upon the assessment by the trial court, which had the distinct advantage of observing the conduct or demeanor of the witnesses while they were testifying.[25] The factual findings by the trial court are accorded respect, even finality, absent any showing that certain facts of weight and substance bearing on the elements of the crime have been overlooked, misapprehended or misapplied.[26] We find no justifiable reason to deviate from this rule in the case before us.[27]

The reasoning of the decision by the Court of Appeals, penned by Justice Dacudao, deserves full consideration, as we quote it as follows:

Case law teaches that the defense of frame-up is frowned upon as it can easily be concocted, even as it is commonly employed by the accused as a standard line of defense in most prosecutions arising from violations of the Dangerous Drugs Act. Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by some improper motive, or were not properly performing their duty, their testimonies with respect to the buy-bust operation deserve full faith and credit. Without proof of motive to falsely impute such a serious crime against appellant, as in this case, the presumption of regularity in the performance of official duty and the findings of the trial court on the credibility of witnesses shall prevail over his claim of having been framed. This teaching equally applies to the accused-appellant's allegation on extortion.

Moreover, in the prosecution of the offense for illegal sale of prohibited drugs, what is essential is proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence. It suffices to show that the accused is in possession of an item or an object identified to be a prohibited or a regulated drug; that such possession is not authorized by law; and that the accused has freely and consciously possessed the prohibited drug. Possession of dangerous drugs constitutes prima facie evidence of knowledge or animus possidendi sufficient to convict an accused in the absence of a satisfactory explanation of such possession. Hence, the burden of evidence is shifted to the accused to explain away the absence of knowledge or animus possidendi. This, the accused herein, under the circumstances heretofore related, miserably failed to do.

Nor is it necessary to establish how the accused-appellant and the informant met, or how the police officer was introduced to the accused-appellant. Drug dealers are known to sell their goods even to strangers. They ply their wares [wherever] prospective customers are found. They have indeed become increasingly daring and openly defiant of the law.

Indeed, in this case the police officers were able to prove the factuality of the transaction between PO2 Ocampo and the accused-appellant, and they were moreover able to present in court the substance seized from the latter which, after chemical examination, was found to contain methamphetamine hydrochloride or shabu. PO2 Ocampo's testimony was coherent, straightforward and candid even under intense cross-examination by the defense counsel. It bears the badges of truth, such that it is extremely difficult for a rational mind not to find it credible.

The constitutional presumption of innocence can be accorded to the accused only in the absence of evidence to prove his guilt beyond reasonable doubt. In the case at bench, that constitutional presumption cannot be upheld, in the face of the overwhelming and incontrovertible evidence for the prosecution irresistibly pointing to the conclusive culpability of the accused-appellant.[28]

We are in agreement that the facts of this case, as gleaned from the records, fully support the decision of the court a quo. Factual findings of the trial court, when adopted and confirmed by the Court of Appeals, are binding and conclusive and, generally, will not be reviewed on appeal.[29] Thus we see no valid reason to overturn the findings of the courts below that have undergone meticulous scrutiny, and we sustain the judgment both of the trial court and the appellate court that appellant is guilty as charged beyond reasonable doubt, hence his sentence to suffer life imprisonment and to pay a fine of P500,000 must be sustained.

WHEREFORE, the Decision dated December 15, 2005 of the Court of Appeals in CA-G.R. CR-H.C. No. 00302 is AFFIRMED.

SO ORDERED.

Carpio Morales, Tinga, Velasco, Jr., and Brion, JJ.,concur/

[1] Rollo, pp. 2-12. Penned by Associate Justice Renato C. Dacudao, with Associate Justices Lucas P. Bersamin and Celia C. Librea-Leagogo concurring.

[2] CA rollo, pp. 13-16. Penned by Judge Jaime N. Salazar, Jr.

[3] SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.—The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals

trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[4] Records, p. 7.

[5] TSN, March 13, 2003, pp. 2-4, 9.

[6] Id. at 4-6.

[7] TSN, June 28, 2004, pp. 2-10.

[8] TSN, August 17, 2004, p. 3. Also known as Arnel de Guzman in some parts of the record.

[9] Id. at 4-11.

[10] Id. at 13-14.

[11] CA rollo, pp. 15-16.

[12] Rollo, p. 7.

[13] Id. at 12.

[14] Id. at 1.

[15] Id. at 25-28.

[16] SEC. 5. Arrest without warrant; when lawful.-A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with Section 7 of Rule 112.

[17] CA rollo, p. 40.

[18] Id. at 64.

[19] *People v. Juatan*, G.R. No. 104378, August 20, 1996, 260 SCRA 532, 538.

[20] *Teodosio v. Court of Appeals*, G.R. No. 124346, June 8, 2004, 431 SCRA 194, 207.

[21] CA rollo, p. 44.

[22] *Id.* at 66.

[23] *People v. Uy*, G.R. No. 128046, March 7, 2000, 327 SCRA 335, 358.

[24] *People v. Boco*, G.R. No. 129676, June 23, 1999, 309 SCRA 42, 56. Also, *People v. Montano*, G.R. No. 130836, August 11, 2000, 337 SCRA 608, 618, said that the requisites for the prosecution of illegal sale of drugs are as follows: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.

[25] *People v. Sy*, G.R. No. 147348, September 24, 2002, 389 SCRA 594, 605.

[26] *People v. Chen Tiz Chang*, G.R. Nos. 131872-73, February 17, 2000, 325 SCRA 776, 778.

[27] *People v. Yatco*, G.R. No. 138388, March 19, 2002, 379 SCRA 432, 442.

[28] Rollo, pp. 10-11.

[29] *W-Red Construction and Development Corp. v. Court of Appeals*, G.R. No. 122648, August 17, 2000, 338 SCRA 341, 345.

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