

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROGER VILLANUEVA, APPELLANT.

G.R. NO. 172116. October 30, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

For review is the Decision[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 00975, dated December 20, 2005, affirming in toto the Decision[2] of the Regional Trial Court of Malabon City, Branch 72, in Crim. Case No. 27159-MN finding appellant Roger Villanueva y Huelva guilty of violation of Section 5, Article II of Republic Act (R.A.) No. 9165 (2002), otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00 and costs.

The Information dated July 11, 2002 against the appellant alleges:

That on or about the 9th day of July, 2002 in the Municipality of Navotas, Metro Manila Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being a private person and without authority of law, did, then and there, willfully, unlawfully and feloniously sell and deliver in consideration of the amount of P100.00 to poseur buyer One (1) heat-sealed transparent plastic sachet containing white crystalline substance with net weight 0.21 gram, which substance when subjected to chemistry examination gave positive result for Methamphetamine Hydrochloride otherwise known "shabu", a regulated drug.

CONTRARY TO LAW. [3]

Appellant pleaded not guilty upon arraignment.[4]

PO1 Ariosto Rana of the Dangerous Drugs Enforcement Group (DDEG), Northern Police District, testified that at 8:00 p.m. of July 9, 2002, a confidential informant informed them that appellant was selling shabu at Block 8, lot 2, Phase 2, Area 1, Dagat-dagatan, Navotas.[5] He immediately composed a team of police operatives to entrap the appellant,[6] with him posing as the poseur-buyer. After marking the P100.00 bill and recording in the blotter its serial number, the team proceeded to the place and arrived thereat around 9:30 p.m. He and the informant approached the appellant while the rest strategically positioned themselves. The informant introduced him to the appellant, who asked them if they wanted to buy shabu. Appellant got one plastic sachet from his pocket containing a white crystalline substance. After appellant received the marked money, Rana executed the prearranged signal and the team arrested the appellant. The confiscated substance was submitted to the Northern Police District-Crime Laboratory for examination,[7] which yielded the following results:

SPECIMEN SUBMITTED:

A - one (1) heat-sealed transparent plastic sachet with markings "RVH BB" containing 0.21 gram of white crystalline substance. xxx.

x x x x

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the tests for Methylamphetamine hydrochloride, a regulated drug. x x x[8]

Denying the accusations against him, appellant testified that on the night of the alleged commission of the crime, he was at home watching television. Thereafter, two policemen knocked at the door looking for a certain person named Roger. When he identified himself as Roger, he was immediately handcuffed and brought to the headquarters without explanation. It was only later that he found out that he was being charged for selling shabu.[9]

After hearing, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Roger Villanueva y Huelva guilty beyond reasonable doubt for drug pushing, penalized under Section 5, Art. II, RA 9165 and he is hereby sentenced, in view of the small quantity of shabu involved, to Life Imprisonment and to pay a fine of P500,000.00, and to pay the costs.

The decks of shabu subjects of this case are forfeited in favor of the government to be disposed of under the rules governing the same. OIC-Branch Clerk of Court Enriqueta A. Marquez is hereby enjoined to immediately turn over the deck of shabu to the proper authority for final disposition.

Costs de oficio.

SO ORDERED.[10]

Considering the penalty imposed, the case was directly appealed to this Court for automatic review. However, pursuant to our decision in *People v. Mateo*[11] modifying the pertinent provisions of the Rules of Court insofar as direct appeals from the Regional Trial Court to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment, this case was referred to the Court of Appeals, which affirmed in toto the decision of the trial court, thus:

IN VIEW OF ALL THE FOREGOING, the instant appeal is hereby DISMISSED and the challenged decision AFFIRMED in toto. Costs de oficio.

SO ORDERED.[12]

Hence, this petition.

The core issue for resolution is whether error attended the trial court's findings, as affirmed by the Court of Appeals, that appellant was guilty beyond reasonable doubt of violation of Section 5, Article II, of R.A. No. 9165.

Appellant maintains that there was no entrapment and that he was arrested in his house on the night of the alleged commission of the crime. While he admits that the resolution of the case would boil down to the determination of who between the parties is more credible, he insists that the presumption of regularity in the performance of official duty alone could not sustain a conviction; and that the self-serving and uncorroborated testimony of PO1 Rana could not prevail over his constitutionally guaranteed presumption of innocence.[13]

In essence, what appellant puts at issue is the trial court's appreciation of factual details of the buy-bust operation or the entrapment. Suffice it to say that settled is the policy of this Court, founded on reason and experience, to sustain the factual findings of the trial court in criminal cases, on the rational assumption that it is in a better position to assess the evidence before it, having had the opportunity to make an honest determination of the witnesses' deportment during the trial.[14] In the instant case, we find no basis to disregard the trial court's factual findings.

Indeed, in criminal cases, the prosecution bears the onus to prove beyond reasonable doubt not only the commission of the crime but likewise to establish, with the same quantum of proof, the identity of the person or persons responsible therefor. This burden of proof does not shift to the defense but remains in the prosecution throughout the trial. However, when the prosecution has succeeded in discharging the burden of proof by presenting evidence sufficient to convince the court of the truth of the allegations in the information or has established a prima facie case against the accused, the burden of evidence shifts to the accused making it incumbent upon him to adduce evidence in order to meet and nullify, if not to overthrow, that prima facie case.[15]

To sustain a conviction under a single prosecution witness, such testimony needs only to establish sufficiently: 1) the identity of the buyer, seller, object and consideration; and 2) the delivery of the thing sold and the payment thereof. Indeed, what is material is proof that the transaction or sale actually took place, coupled with the presentation in court of the substance seized as evidence.[16] In this case, PO1 Rana, being the poseur-buyer, was the most competent person to testify on the fact of sale and he did so to the satisfaction of both the trial court and the appellate court.

Thus, we agree with the Court of Appeals that:

Contrary to appellant's assertions, the prosecution has established with moral certainty the presence of all the elements necessary for the prosecution for the illegal sale of shabu. In the case at bar, there is no doubt that appellant was caught in the very act of selling "shabu", a prohibited drug. PO1 Ariosto Rana, the prosecution witness who acted as poseur-buyer, narrated in a clear and straightforward manner the facts of sale. x x x

x x x x

What is more, the identities of the seller and the buyer together with the corpus delict[i] of selling shabu have also been duly established. Poseur-buyer PO1 Ariosto Rana positively identified accused-appellant Roger Villanueva as the person who sold to him one plastic sachet containing the white crystalline substance. x x x

x x x x

Then too, the regulated drug of shabu contained in a plastic sachet which the appellant handed over to the buyer, was also duly proven before the trial court. x x x

x x x x

Against these strong positive and substantial evidence, appellant could only say that no buy-bust operation was conducted and, instead, insists that he was just a victim of frame-up; that the policemen carried out an illegal search on the premises of his house, planted evidence, and then charged him as a supplier of drugs.

The contentions are without merit.

A buy-bust operation is a form of entrapment that is resorted to for trapping and capturing felons in the execution of their criminal plan. The operation is sanctioned by law and has consistently proved to be an effective method of apprehending drug peddlers. Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies with respect to the operation deserve full faith and credit. Verily, here, from the evidence adduced, We find no reason to depart from the general rule. We are one with the court a quo's conclusion that the prosecution was able to establish that a buy-bust operation actually took place starting from the time the team composed of nine (9) members proceeded to the target area at 9:00 p.m. for the initial negotiation until the perfection of the sale at 9:30 p.m. the same night.[17]

Moreover, when the police officers involved in the buy-bust operation have no motive to falsely testify against the

accused, the courts shall uphold the presumption that they have performed their duties regularly;^[18] and as held in *People v. Pacis*,^[19] bare denials by the accused cannot overcome this presumption.

All told, the trial court and the Court of Appeals correctly held that the appellant committed the crime charged. What remains to be determined is the correctness of the penalty imposed on the felony committed.

Section 5, Article II of RA 9165 reads:

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.

In finding appellant guilty beyond reasonable doubt of the crime charged, the trial court sentenced him to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand pesos (P500,000.00). While it correctly imposed the said penalties, we find the reason given therefor, that is, in view of the small quantity of shabu involved, inaccurate.

Unlike under the repealed R.A. No. 6425 (1972) or the Dangerous Drugs Act of 1972 where the impossible penalty depends on the quantity of the regulated drug involved, the foregoing provision now imposes 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) for the sale, trade, administration, dispensation, delivery, distribution and transportation of shabu, a dangerous drug, regardless of the quantity involved.^[20]

WHEREFORE, in view of the foregoing, the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00975, dated December 20, 2005, affirming in toto the Decision of the Regional Trial Court of Malabon City, Branch 72, in Crim. Case No. 27159-MN finding appellant Roger Villanueva y Huelva guilty of violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00 and costs, is hereby **AFFIRMED**.

SO ORDERED.

Panganiban, C.J., (Chairperson), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 3-11. Penned by Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justices Juan Q. Enriquez, Jr. and Vicente Q. Roxas.

[2] Id. at 12-16. Penned by Judge Benjamin M. Aquino, Jr.

[3] Records, p. 1.

[4] Id. at 35.

[5] TSN, March 17, 2003, pp. 2-3.

[6] TSN, March 20, 2003, p. 10.

[7] TSN, March 17, 2003, pp. 3-6.

[8] Records, p. 6.

- [9] TSN, March 27, 2003, pp. 3-7.
- [10] Records, p. 71.
- [11] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.
- [12] Rollo, p. 11.
- [13] Id. at 37-38.
- [14] *People v. Chua*, G.R. No. 133789, August 23, 2001, 363 SCRA 562, 581.
- [15] *People v. Kinok*, 420 Phil. 591, 603 (2001).
- [16] *Lapuz v. People*, G.R. No. 150050, June 17, 2004, 432 SCRA 443, 447.
- [17] Rollo, pp. 6-9.
- [18] *People v. Valencia*, 439 Phil. 561, 567 (2002).
- [19] 434 Phil. 148, 151 (2002).
- [20] *Mabutas v. Perello*, A.M. Nos. RTJ-03-1817 & RTJ-04-1820, June 8, 2005, 459 SCRA 368, 393.

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