PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON QUIAOIT, JR., ACCUSED-APPELLANT.

G.R. No. 175222. July 27, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] of the Court of Appeals promulgated on 12 July 2006 in CA-G.R. CR-H.C. No. 00803 entitled, "People of the Philippines v. Ramon Quiaoit, Jr. y De Castro," affirming the Decision[2] dated 1 December 2004 of the Regional Trial Court of Tarlac City, Branch 65, in Criminal Case No. 13229, finding appellant guilty beyond reasonable doubt of violation of Article II, Section 5 of Republic Act No. 9165, otherwise known as "The Comprehensive Dangerous Drugs Act of 2002."

The information against appellant reads as follows:

> That at around 3:45 o'clock in the morning of April 13, 2004, at Tarlac City, Philippines, and within the jurisdiction of this Honorable Court, accused, did then and there, willfully, unlawfully and criminally sell, dispense and deliver 0.851 gram of Methamphetamine Hydrochloride, known as Shabu, a dangerous drug, to poseur buyer PO1 Mark Anthony Baquiran for P500.00, without being authorized by law.[3]

Appellant pleaded not guilty when arraigned on 5 May 2004.[4]

During the trial, the prosecution presented the following witnesses: P/Sr. Insp. Ma. Luisa G. David, a Forensic Chemical Officer of the Philippine National Police (PNP) Crime Laboratory assigned at the Tarlac Provincial Crime Laboratory; PO2 Ronnie Dueña, a member of the buy-bust operation team and the one who arrested appellant; and PO1 Mark Anthony Baquiran, a member of the PNP and the designated poseur-buyer.

The prosecution's version of the case is as follows:

At around 11:00 o'clock in the evening of 12 April 2004, the Tarlac PNP received a report from a confidential informant that someone was selling shabu at the Golden Miles,[5] a videoke bar located in Barangay San Roque, Tarlac City. Acting on said information, a team was immediately organized by PNP Provincial Director Rudy Gamido Lacadin to conduct a surveillance in order to verify the information and perform a buy-bust operation.

Shortly thereafter, the team went to Golden Miles where they initially observed the movements of appellant who was with the confidential informant at that time. Later, the informant introduced PO1 Baquiran to appellant and the two negotiated the sale of shabu. According to PO1 Baquiran's testimony, appellant handed to him a plastic sachet containing white crystalline substance in front of The Golden Miles' comfort room which was located at the back of said establishment.[6] In return, he gave appellant a marked P500.00 bill. As soon as the exchange between appellant and PO1 Baquiran took place, the latter gave his companions the pre-arranged signal by scratching his head. PO2 Dueñas and PO1 Cabradilla moved in to arrest appellant. The plastic sachet containing white crystalline substance was later marked RID 1 by PO2 Dueñas.

On their way back to Camp Makabulos, the informant allegedly told the buy-bust team, through a text message,

that appellant still had in his possession illegal drugs other than that which he had sold to PO1 Baquiran. Thus, upon reaching the camp, they frisked appellant and this yielded six more plastic sachets, the contents of which were similar to those earlier bought by PO1 Baquiran.

All seven pieces of the plastic sachets were then forwarded to the Provincial Crime Laboratory for examination. The test was conducted by P/Sr. Insp. David, and her report[7] contained the following pertinent information:

> SPECIMEN SUBMITTED:
>
> Seven (7) heat-sealed transparent plastic sachets with markings "RID-1" through "RID-7" and marked as specimen "A" through "G," respectively, each containing white crystalline substance having a total weight of 0.851 gram. x x x.
>
> PURPOSE OF LABORATORY EXAMINATION:
>
> To determine the presence of dangerous drugs xxx
>
> FINDINGS:
>
> Qualitative examination conducted on the above-stated specimen gave POSITIVE results to the tests for the presence of Methylamphetamine Hydrochloride, a dangerous drug. x x x.
>
> CONCLUSION:
>
> Specimen "A" through "G" contain Methylamphetamine Hydrochloride, a dangerous drug. x x x.[8]

Expectedly, appellant presented a disparate narration of the incident:

Appellant claimed that at around 1:00 o'clock in the morning of 13 April 2004, he went to the Golden Miles in order to meet a friend of his. While he was having drinks, PO1 Baquiran saw him and asked if he had company and he replied that he was by himself. He alleged that he knew PO1 Baquiran as he used to be a police asset. PO1 Baquiran then inquired if he was familiar with a certain August Medrano who was a drug pusher in their place. When he answered in the affirmative, PO1 Baquiran supposedly instructed him to buy P500.00 worth of shabu from Medrano. He was also allegedly ordered by PO1 Baquiran to bring Medrano with him to Golden Miles. He initially declined to follow PO1 Baquiran's instructions since he no longer worked with the police. PO1 Baquiran, however, represented that he was the one who would buy shabu from Medrano and not appellant. Despite this, appellant alleged that he was "forced"[9] to buy shabu himself after PO1 Baquiran told him that "(they) need August Medrano."[10]

And so, from Golden Miles, appellant proceeded to Medrano's house. He informed Medrano that someone was interested in buying shabu but the prospective buyer wanted to talk to him in person. Medrano refused appellant's invitation claiming that he had to go somewhere else; instead, he gave the plastic sachet containing shabu to appellant and the latter gave him the P500.00 earlier given by PO1 Baquiran. After this, appellant went back to Golden Miles to inform PO1 Baquiran of what had just transpired between him and Medrano including the latter's refusal to go with him. He also handed over to said police officer the plastic sachet containing shabu which he bought from Medrano. All of a sudden, PO1 Baquiran placed his hand over appellant's shoulder and the latter was then taken to Camp Makabulos.

At the camp, PO2 Dueñas called for a certain PO4 Donato for whom appellant used to act as a police asset. PO4 Donato allegedly asked appellant if it was possible for him to buy some more shabu from Medrano. Appellant purportedly replied in the negative claiming that the personnel at Golden Miles already knew about his arrest. To this, PO4 Donato reportedly retorted, "How could we release you when this August Medrano is not yet

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arrested."[11] Appellant claimed that he was surprised by PO4 Donato's statement since he was only doing the police force a favor.

Appellant also denied having possessed the other six plastic sachets of shabu, insisting that he bought only one heat-sealed plastic sachet from Medrano which he turned over to PO1 Baquiran.

After trial, the court a quo found appellant guilty as charged. The dispositive portion of the trial court's Decision reads:

> Wherefore, the prosecution having established the guilt of the [appellant] beyond reasonable doubt of the crime of Violation of Sec. 5, Art. II of RA 9165, the accused RAMON QUIAOIT JR. y DE CASTRO is sentenced to undergo a prison term of life imprisonment, to pay a fine of Php500,000.00 and to pay the cost.[12]

On 8 February 2005, appellant filed a Notice of Appeal.[13] The Court of Appeals, in its Decision dated 12 July 2006, affirmed the findings and conclusion of the trial court, thus:

> WHEREFORE, the present appeal is DENIED. The December 1, 2004 Decision of the Regional Trial Court of Tarlac City, Branch 65, in Criminal Case No. 13229, is hereby AFFIRMED in toto.[14]

Aggrieved, appellant is now before us assailing the above-mentioned Decision of the Court of Appeals. In our Resolution of 21 January 2007, we required the parties to file their respective supplemental briefs if they so desired. Appellant manifested that he was adopting the Appellant's Brief dated 7 September 2005 which he previously filed before the Court of Appeals in order to avoid the repetition of substantially the same arguments.[15] Similarly, the Office of the Solicitor General manifested that it was no longer filing a supplemental brief.[16]

In his brief, appellant impugns the trial court's decision on the following grounds:

> I
>
> THE TRIAL COURT GRAVELY ERRED IN NOT TAKING INTO CONSIDERATION THE ABSOLUTORY CIRCUMSTANCE OF INSTIGATION.
>
> II
>
> THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE OF FRAME-UP.
>
> III
>
> THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO IDENTIFY THE CORPUS DELICTI.
>
> IV
>
> THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF VIOLATION OF SECTION 5, ARTICLE II, OF REPUBLIC ACT 9165, WHEN THE LATTER'S GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.[17]

In essence, appellant contends that the trial court erred in not finding that the buy-bust team instigated him into buying shabu from Medrano and that the prosecution failed to prove his guilt by its failure to properly identify the sachet of shabu allegedly bought from him by PO1 Baquiran.

In support of the first error, appellant argues that the facts obtaining in this case reveal that he was a victim of instigation perpetrated by PO1 Baquiran. He emphasizes that despite his initial resistance to participate in the

police operation that night, PO1 Baquiran, nevertheless, insisted that he purchase shabu from Medrano with the specific instruction to bring the latter to Golden Miles. Appellant, likewise, points out that the money he used in acquiring shabu was supplied by PO1 Baquiran himself, thus, proving that it was said police officer who initiated the events which led to his eventual arrest.

Appellant further assails the existence of a valid buy-bust operation on the ground that the buy-bust team was composed of untrained and incompetent police officers. He claims that it was "inconceivable"[18] for such a team to be made up of police officers who had insufficient knowledge of how to properly conduct a buy-bust operation as shown by their failure to frisk appellant at the scene of the crime.

The demarcation line distinguishing "instigation" from "entrapment" is clearly drawn. In the case of People v. Quintana,[19] we explained the distinction between the two, to wit –

> There is a wide difference between entrapment and instigation, for while in the latter case the instigator practically induces the will be accused into the commission of the offense and himself becomes a co-principal, in entrapment ways and means are resorted to for the purpose of trapping and capturing the law breaker in the execution of his criminal plan.
>
> Instigation and inducement must be distinguished from entrapment. The general rule is that instigation and inducement to commit a crime, for the purpose of filing criminal charges, is to be condemned as immoral, while entrapment, which is the employment of means and ways for the purpose of trapping and capturing the law breaker, is sanctioned and permissible. And the reason is obvious. Under the first instance, no crime has been committed, and to induce one to commit it makes of the instigator a co-criminal. Under the last instance, the crime has already been committed and all that is done is to entrap and capture the law breaker.[20]

In the case at bar, we find appellant's claim of instigation to be baseless. To recall appellant's version of the story, PO1 Baquiran approached him that night inquiring about Medrano, the alleged object of the buy-bust operation. PO1 Baquiran then gave him a P500.00 bill to be used for purchasing shabu from Medrano; but PO1 Baquiran had an additional instruction for appellant which was to bring along Medrano to Golden Miles. While appellant was able to talk with Medrano, he was unable to convince the latter to accompany him back to Golden Miles. Such being the case, we fail to see anymore reason for him to still buy shabu considering that he knew fully well that he would be unable to fully abide by PO1 Baquiran's instructions. Furthermore, we scrutinized the records of this case and failed to discern any "force" that was exerted upon him by PO1 Baquiran. In fact, nowhere in appellant's testimony did he aver that PO1 Baquiran insisted that he buy shabu from Medrano. We note that after appellant had initially refused to take part in the buy-bust operation that night, PO1 Baquiran merely told him that "(they) needed August Medrano" and nothing more.

> THE COURT:
>
> Q:
>
> What will you buy?
>
> A:
>
> Shabu worth 5 hundred pesos, sir.
>
> Q:
>
> Did he give you the money?
>
> A:
>
> Yes, sir.

ATTY. ABELLERA:

Q:

What again PO1 Baquiran says to buy and what else?

A:

"Take him along with you".

Q:

Where?

A:

At GMA Golden Miles, sir.

Q:

And how much money did he hand to you?

A:

Five hundred, sir.

Q:

And how many items will you buy?

A:

One sachet, sir.

Q:

And how much is one sachet?

A:

Five Hundred, sir.

Q:

Now, you said that he asked you to buy from this Medrano, did you comply?

A:

Yes, sir.

Q:

By the way, what did you tell PO1 Baquiran concerning the task that he is asking you to do?

A:

I told him I was already passed on that matter, I am now working. Then he told me that he will be the one to buy but I was forced to buy, sir.

Q:

How did he force you, Mr. Witness?

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A:

He told me, "We need that August Medrano."

Q:

And how did you find this August Medrano?

A:

I went to his house in Suizo, sir.

Q:

Who told you that he lives in Suizo at that time?

A: My friend, sir.

Q:

What is the name of your friend?

A:

Noel Mallari, sir.

Q:

What did you use in going there?

A:

Single motorcycle, sir.

Q:

And were you able [to] purchase a sachet of shabu from Medrano?

A:

Yes, sir. [21]

To our mind, such innocuous statement on the part of PO1 Baquiran is inadequate to lead to the conclusion that appellant was "forced" by the police to procure shabu. Moreover, appellant himself admitted that he was all alone when he went to see Medrano at the latter's house, far from the prying eyes and the perceived influence of PO1 Baquiran. Clearly, at that point, he could have easily desisted from buying shabu from Medrano and chosen instead to go back to Golden Miles empty handed for he already knew before he bought the illegal drug that Medrano could not accompany him back to the said videoke bar. The fact that he persisted in buying shabu despite the absence of PO1 Baquiran betrays his contention that said police officer "forced" him to purchase shabu.

In challenging the existence of a legitimate buy-bust operation, appellant casts questionable, if not improper, motive on the part of the police officers. Unfortunately for appellant, jurisprudence instructs us that in cases involving the sale of illegal drugs, credence is given to prosecution witnesses who are police officers, for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.[22] Where there is nothing to indicate that the witnesses for the prosecution were moved by improper motives, the presumption is that they were not so moved and their testimony, therefore, is entitled to full faith and credit.[23]

In this case, the records are bereft of any indication which even remotely suggests ill motive on the part of the police officers. The following observation of the Court of Appeals is indeed appropriate, thus:

> In this case, the policemen categorically identified Quiaoit as the one subject of the "buy-bust" operation who agreed to sell to PO1 Baquiran a sachet of "shabu" in front of the restroom of Golden Miles Beerhouse after he was being introduced by the informant. As police officers, PO1 Baquiran and PO2 Dueñas had in their favor the presumption of regularity of performance of duty. Furthermore, the defense failed to present any evidence to show that the police officers were improperly motivated to bear false witness against Quiaoit. While Quiaoit claimed that he was a former asset of the police and he knew the police officers who arrested him, yet, he did not impute any ill-motive as to why the police officers would implicate him to drug pushing. This fact bolsters the police officers' claim that Quiaoit was, indeed, arrested in a buy-bust operation.
>
> Quiaoit's claim that he was just being framed-up by the arresting officers does not inspire belief. Appellant failed to show any motive why the policemen would implicate him in a crime for illegal possession of prohibited drugs. It is the settled rule that where there is nothing to indicate that a witness was actuated by improper motives, his/her positive and categorical declarations on the witness stand made under solemn oath, should be given full faith and credence. (People vs. Dela Torre, 373 SCRA 104).
>
> Moreover, there is nothing in the record that the police officers were trying to extort money from Quiaoit during his apprehension up to the time he was brought to the police station. If Quiaoit was really a victim of frame-up, then he should have filed an administrative or criminal case against these policemen. But he did not. Hence, his defense of frame-up must fail.
>
> Finally, Quiaoit's defense of denial is a weak defense. Unless substantiated by clear and convincing proof, it is self-serving and undeserving of any weight in law (see People v. Hampton, 395 SCRA 156). It cannot prevail over the positive identification by PO1 Baquiran that it was Quiaoit who sold to him a sachet of "shabu" in the early morning of April 13, 2004 at Golden Miles Beerhouse.[24]

Neither can we give credence to appellant's contention that the existence of a valid buy-bust operation was betrayed by the inadequate training of the members of the team for, it must be stated here, there is no textbook method of conducting buy-bust operations. The Court has left to the discretion of police authorities the selection of effective means to apprehend drug dealers.[25]

Anent the second issue, appellant maintains that the prosecution failed to establish his guilt beyond reasonable doubt by its failure to properly identify the sachet of shabu which he sold to PO1 Baquiran. Again, we disagree with appellant's proposition.

In order to successfully prove the existence of the illegal sale of regulated or prohibited drugs, the prosecution must be able to establish the following elements of the crime: (1) the identity of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.[26]

In the case of People v. Mala,[27] we held that what is material is the proof that the transaction actually took place, coupled with the presentation before the court of the corpus delicti. It bears emphasizing that neither the law nor jurisprudence requires the presentation of any of the money used in a buy-bust operation, for the only elements necessary to consummate the crime is proof that the illicit transaction took place, coupled with the presentation in court of the illicit drug as evidence.[28] In the present case, appellant insists that the prosecution failed to properly identify the sachet of shabu sold by appellant to PO1 Baquiran because of the buy-bust team's failure to segregate the said sachet from those confiscated from him at Camp Makabulos.

The pertinent portions of the testimony of PO1 Baquiran belies appellant's claim:

> ATTY. ABELLERA:

Q Mr. Witness did Dueñas mark these RID before Quiaoit was frisked?

FISCAL

No basis.

ATTY. ABELLERA

Q Mr. Witness, you said that this RID 1, these RID 2 and series where they mark these (sic)?

A RID 2 and series were marked in Camp Makabulos.

Q Did he marked (sic) them simultaneously or one at a time?

A One at a time sir.

Q He was already marking after you handed this to him?

A The RID 1 was marked before Quiaoit was frisked. [29]

It is clear from PO1 Baquiran's declaration that, contrary to appellant's assertion, the packet of shabu sold to PO1 Baquiran by appellant during the buy-bust operation was properly identified and marked as RID 1 by PO2 Dueñas even before the police frisked appellant for more illegal drugs. With PO1 Baquiran's testimony, there can no longer be any basis for vacillation with respect to the identity of the object which he, acting as poseur buyer, obtained from appellant. And, as the laboratory examination would later confirm, the contents of the sachet bearing the mark RID 1 was positive for shabu.

All told, as the illegal sale of drugs had been established beyond reasonable doubt, this Court is constrained to uphold appellant's conviction.

We shall now determine the proper imposable penalty.

The sale of shabu is penalized under Section 5, Article II of Republic Act No. 9165. It 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.

Under the law, the sale of any dangerous drug, regardless of its quantity and purity, is punishable by life

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imprisonment to death and a fine of P500,000.00 to P10,000,000.00. The statute, in prescribing the range of penalties imposable, does not concern itself with the amount of dangerous drug sold by an accused. With the effectivity, however, of Republic Act No. 9346, otherwise known as "An Act Prohibiting the Imposition of Death Penalty in the Philippines," the imposition of the supreme penalty of death has been proscribed. Consequently, the penalty to be meted to appellant shall only be life imprisonment and fine. In this regard, this Court likewise sustains the penalty imposed by the court a quo and which was subsequently affirmed by the Court of Appeals.

WHEREFORE, premises considered, the instant appeal is DISMISSED. The Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00803 dated 12 July 2006 which affirmed in toto the decision of the Regional Trial Court of Tarlac City, Branch 65, in Criminal Case No. 13229, finding appellant Ramon Quiaoit, Jr. y de Castro guilty of violation of Section 5, Article II of Republic Act No. 9165, is AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Nachura, JJ., concur.

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[1] Penned by Associate Justice Elvi John S. Asuncion with Associate Justices Jose C. Mendoza and Arturo G. Tayag, concurring; rollo, pp. 2-8.

[2] Records, pp. 22-27.

[3] Id. at 1.

[4] Id. at 7.

[5] Sometimes referred to in the records as "GM Golden Miles."

[6] TSN, 3 August 2004, p. 4.

[7] Exhibit "C" for the prosecution.

[8] Id.

[9] TSN, 30 September 2004, p. 5.

[10] Id.

[11] Id. at 8.

[12] Records, p. 27.

[13] Id. at 30.

[14] Rollo, p. 8.

[15] Id. at 25.

[16] Id. at 10.

[17] CA rollo, p. 29.

[18] Id. at 36.

[19] G.R. No. 83888, 30 June 1989, 174 SCRA 675.

[20] Id. at 679.

[21] TSN, 30 September 2004, pp. 4-6; emphasis supplied.

[22] People v. Bongalon, 425 Phil. 96, 114 (2002).

[23] People v. Pacis, 434 Phil. 148, 159 (2002).

[24] CA rollo, p. 78.

[25] People v. Nicolas, G.R. No. 170234, 8 February 2007.

[26] Suson v. People of the Philippines, G.R. No. 152848, 12 July 2006, 494 SCRA 691, 699.

[27] 458 Phil. 180, 190 (2003).

[28] People v. Astudillo, 440 Phil. 203, 224 (2002).

[29] TSN, 3 August 2004, p. 12.

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