

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JIMMY BIYALA VELASQUEZ, ACCUSED-APPELLANT.

G.R. No. 177224. April 11, 2012

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

On appeal before Us is the Decision[1] dated October 13, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01064 which affirmed the Decision[2] dated September 17, 2002 of the Regional Trial Court (RTC), Branch 61, of Baguio City, in Criminal Case Nos. 17945-R and 17946-R, finding accused-appellant Jimmy Biyala Velasquez guilty beyond reasonable doubt of violations of Section 8, Article II and Section 16, Article III of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended.

Accused-appellant was charged before the RTC under the following informations:

Criminal Case No. 17945-R

That on or about the 11[th] day of June 2000 in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously have in his possession, custody, and control, one (1) brick of dried marijuana leaves having a weight of 826.4 grams wrapped with newspaper pages, knowing fully well that said leaves are marijuana leaves, a prohibited drug, in violation of the abovementioned provision of law.

Criminal Case No. 17946-R

That on or about the 11[th] day of July 2000 in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously have in his possession and control 4.12 grams of methamphetamine hydrochloride (shabu), contained in a heat sealed plastic bag, a regulated drug(s), without the corresponding license or prescription, in violation of the aforecited provision of law.[3]

When arraigned on September 26, 2000, accused-appellant pleaded not guilty to the charges against him.[4] After the pre-trial conference conducted on October 23, 2000, trial ensued.[5]

The following witnesses testified before the RTC for the prosecution: Forensic Analyst Emilia G. Montes,[6] the chemist who examined the dangerous drugs and related paraphernalia confiscated from accused-appellant; Senior Police Officer 1 (SPO1) Modesto Carrera (Carrera),[7] Police Officer 1 (PO1) Rolando Amangao (Amangao),[8] and SPO1 Warren Lacangan (Lacangan),[9] members of the 14[th] Regional Criminal Investigation and Detection Group (RCIDG) of the Philippine National Police (PNP) in Baguio City who searched accused-appellant's house and apprehended him for illegal possession of dangerous drugs and paraphernalia; and Barangay Kagawad Jaime Udani,[10] who witnessed the said search and seizure.

The collective testimonies of the prosecution witnesses painted the following version of events:

On July 9, 2000, at about 9:00 in the morning, a certain Manuel De Vera reported to the office of the 14[th]

Regional Criminal Investigation and Detection Group that accused-appellant Velasquez is engaged in selling shabu and marijuana dried leaves in his residence at No. 144 Paraan St., Victoria Village, Quezon Hill, Baguio City. De Vera allegedly came to know of the said activities of accused-appellant Velasquez when his co-driver, a certain Arnold, whom he claimed as a shabu user, told him about it.

On the same day, SPO1 Modesto Carrera instructed De Vera to buy shabu and gave him P600.00 to verify the truthfulness of the allegations against accused-appellant Velasquez. De Vera and Arnold were able to buy shabu and marijuana which they gave later to SPO1 Carrera.

Thereafter, SPO1 Carrera filed with the RTC of Baguio City, Branch 59, an application for the issuance of a search warrant against accused-appellant Velasquez, which was eventually granted.

On July 13, 2000, a team composed of P/Sr. Insp. Castil, PO1 Sawad, PO2 Cejas, PO1 Labiasto, SPO1 Carrera, SPO1 Lacangan and PO1 Amangao was formed to implement the search warrant. They sought the assistance of Barangay Kagawad Jaime Udani and Barangay Kagawad Lilian Somera of Barangay Victoria Village to witness the search. The police officers together with Udani and Somera proceeded to the residence of accused-appellant Velasquez, introduced themselves and presented the search warrant.

In the course of the search, PO1 Amangao and SPO1 Lacangan found in the bedroom of accused-appellant Velasquez a plastic bag containing a brick of dried leaves suspected to be marijuana, which was wrapped in an old newspaper. After informing accused-appellant Velasquez that they found illegal drugs inside his bedroom, SPO1 Lacangan arrested him and apprised him of his constitutional rights. When accused-appellant Velasquez was frisked, one transparent heat-sealed plastic sachet containing a white crystalline substance suspected to be shabu was found in his pocket. The search on accused-appellant Velasquez's residence also yielded 36 pieces of rolling papers, aluminum foil and tooter, among others.[11]

The prosecution likewise submitted object and documentary evidence to support its charges against accused-appellant, which consisted of: (1) the Search and Seizure Warrant for dangerous drugs and paraphernalia at accused-appellant's house, issued on July 10, 2000, by Judge Abraham B. Borreta of RTC-Branch 59 of Baguio City;[12] (2) the Joint Affidavit of Search dated July 14, 2000 executed by SPO1 Carrera, [SPO1] Lacangan, and PO1 Amangao;[13] (3) the Receipt of Items Confiscated and a Certification dated July 13, 2000, executed by Barangay Kagawads Lillian M. Somera and Jaime D. Udani, attesting to the orderly execution of the Search and Seizure Warrant;[14] (4) the Request for Laboratory Examination of the items confiscated, made by P/SINSP Rodolfo D. Castil, Jr. and dated July 13, 2000;[15] (5) one brick of marijuana fruiting tops with a weight of 826.4 grams and five plastic sachets of methamphetamine hydrochloride or shabu with a total weight of 4.12 grams; (6) four pieces of cut aluminum foils, one small vial, and three small used plastic sachets, all with shabu residues; (7) Initial Laboratory Examination Report[16] dated July 13, 2000 and Chemistry Report No. D-081-2000[17] dated July 14, 2000, issued by Forensic Analyst Montes, indicating that the brick and sachet contents tested positive for marijuana and shabu, respectively; and (8) Chemistry Report No. BCDT-266-2000 dated July 13, 2000 issued by Forensic Analyst Montes stating that accused-appellant's urine sample tested positive for shabu.[18]

Accused-appellant,[19] for his part, presented his lone testimony and submitted the defenses of denial and frame-up. Accused-appellant narrated that:

In the morning of June 11, 2000, accused-appellant Velasquez was in his house at 143 Quezon Hill when his fellow drivers, Rolando and Nelson, went to see him to redeem a cell phone the latter had pawned to accused-appellant Velasquez. Then, someone repeatedly knocked at his door and when accused-appellant Velasquez asked who it was, no one answered. Suddenly, said persons who refused to identify themselves barged into the house of accused-appellant Velasquez by kicking the door open and once inside, they drew their firearms and pointed the same to the accused. The intruders turned out to be Police Officers Carrera,

Lacangan, and Amangao, who were there to serve a search warrant on accused-appellant Velasquez.

Accused-appellant Velasquez was bodily searched but nothing was found on him. Nevertheless, the police operatives continued their operations inside the bedroom of accused-appellant Velasquez. When SPO1 Lacangan was inside the bedroom, he summoned accused-appellant Velasquez and presented to him something wrapped in a bag. They proceeded to the living room and accused-appellant Velasquez was shown what was found inside his room, a kilo of marijuana. SPO1 Lacangan was allegedly holding the marijuana when he entered the room of accused-appellant Velasquez.

Accused-appellant Velasquez claimed that when the conduct of the search started, barangay officials Udani and Somera were not yet present. They appeared only later, about 5 minutes after the search had started.[20]

Accused-appellant offered no other object or documentary evidence except for Forensic Analyst Montes's Chemistry Report No. BCDT-266-2000 dated July 13, 2000, which was previously submitted by the prosecution[21] and which accused-appellant requested to be also marked as his evidence.

The RTC rendered a Decision[22] on September 17, 2002. The RTC noted at the outset the variance in the dates stated in the informations in Criminal Case Nos. 17945-R and 17946-R. The information in Criminal Case No. 17945-R alleged that the incident happened "on or about the 11[th] day of June 2000," while the information in Criminal Case No. 17946-R alleged that the incident occurred "on or about the 11[th] day of July 2000." The RTC declared that the discrepancy was merely typographical as the records and the testimonies of the witnesses established that the incident occurred on or about July 11, 2000, or more precisely, on July 13, 2000 when the Search and Seizure Warrant was actually served and implemented.

The RTC further ruled that after weighing the evidence presented by the parties, accused-appellant was guilty beyond reasonable doubt of the crimes charged, thus:

WHEREFORE, judgment is rendered finding the accused Jimmy Velasquez y Biyala GUILTY beyond reasonable doubt in both cases. In Criminal Case No. 17945-R, the accused is sentenced to Reclusion Perpetua and to pay a fine of P500,000.00; in Criminal Case No. 17946-R, the accused is sentenced to a prison term of six (6) months of arresto mayor to two (2) years, four (4) months of prision correccional, and to pay the costs.[23]

Accused-appellant assailed the foregoing RTC judgment directly before us. However, pursuant to our pronouncement in *People v. Mateo*,[24] we referred accused-appellant's appeal to the Court of Appeals for appropriate action and disposition.[25]

In its Decision dated October 13, 2006, the Court of Appeals sustained the accused-appellant's convictions. The appellate court decreed thus:

WHEREFORE, premises considered, the September 17, 2002 Decision of the Regional Trial Court of Baguio City, Branch 61, in Criminal Case Nos. 17945-R and 17946-R, is hereby AFFIRMED.

Pursuant to Section 13 (c), Rule 124 of the 2000 Rules of Criminal Procedure as amended by A.M. No. 00-5-03-SC dated September 28, 2004, which became effective on October 15, 2004, this judgment of the Court of Appeals may be appealed to the Supreme Court by notice of appeal, filed with the Clerk of Court of the Court of Appeals.[26]

Hence, the instant appeal.

Accused-appellant asserts in his appeal that:

- 1) There are irregularities in the performance of the duties of the officers;[27]

2) There are numerous discrepancies in testimonies of the [prosecution] witnesses;[28] and

3) The court a quo erred in finding accused guilty beyond reasonable doubt.[29]

Plaintiff-appellee counters that:

I

The search was conducted by the police officers in the presence of appellant and his wife as well as the two barangay kagawad.

II

Appellant waived whatever objection he had to the implementation of the search warrant.

III

The court a quo correctly convicted appellant for violation of the dangerous drugs act, as amended.[30]

The appeal is devoid of merit.

Illegal possession of prohibited or regulated drugs is committed when the following elements concur: “(1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.”[31]

All these elements were established beyond reasonable doubt in the cases against accused-appellant. The prosecution witnesses consistently and categorically testified that pursuant to a search warrant duly issued by a judge, they found and seized from accused-appellant’s house and actual possession a brick of marijuana leaves and heat-sealed sachets of methamphetamine hydrochloride or shabu.

SPO1 Carrera related before the RTC how they secured a Search and Seizure Warrant for accused-appellant’s house, how the Search and Seizure Warrant was implemented, who inventoried the dangerous drugs and paraphernalia confiscated from accused-appellant, and to whom said confiscated items were submitted for forensic examination.

Corroborating SPO1 Carrera’s testimony was Kagawad Udani who personally witnessed the execution of the Search and Seizure Warrant at accused-appellant’s house. Kagawad Udani recounted:

Q

Was the door of the house open when Mody Carrera knocked at the door?

A

No, sir, the door was forced open because there were three (3) persons inside the house and they do not like to open the door, sir.

x x x x

Q

And how was the door forced open?

A

Mody Carrera kicked the door, sir.

Q

And the door was opened?

A

Yes, sir.

Q

After the door was opened, what happen next?

A

They frisked the 3 male persons inside the house, sir.

Q

Who searched or frisked the 3 male persons inside the house?

A

Mody Carrera and his companions, sir.

x x x x

Q

Was there anything found from the possession of the 3 male persons when they were frisked or bodily searched by Officer Carrera and his companions?

A

Yes, sir they were able to find pieces of shabu a white substance in cellophane sachet with money, sir.

Q

Where did Officer Carrera and his companions find the pieces of shabu and money?

A

From the pocket, sir.

Q

Whose pocket in particular?

A

Pocket of Jimmy Velasquez, sir.[32]

Q

After you saw the CIDG Officer found the two (2) plastic sachets from the front left pocket of the pants, what happened next?

A

They went to search the room, sir.

Q

And what happened during the search of the room?

A

We saw the 1 brick of suspected dried marijuana leaves at the back of the door, sir.

Q

You said we saw the brick of the marijuana leaves at the back of the door of Jimmy Velasquez?

A

All of us, sir.

Q

Including accused Jimmy Velasquez?

A

Yes, he was also there, sir.

x x x x

Q

After that what happened next?

A

There was another search and we were able to recover 36 white rolling paper, sir.

Q

What else?

A

1 tooter under the bed, sir.

x x x x

Q

Aside from that what else?

A

We found at the sala beside the dining table hang a 4 plastic bag containing white crystalline substance, sir.

Q

Aside from that what else was found?

A

1 lighter at the center table, sir.

Q

Aside from that what else if any?

A

3 small used plastic sachet, sir.[33]

PO1 Amangao and SPO1 Lacangan further confirmed the testimonies of SPO1 Carrera and Kagawad Udani. They also identified the brick of marijuana leaves found in the bedroom of accused-appellant's house.

In contrast, accused-appellant only proffered the defenses of denial and frame-up, that the dangerous drugs and paraphernalia were planted by the police officers. However, other than accused-appellant's bare allegations, there is no other evidence on record to corroborate his version of the events that transpired at his house on July 13, 2000. "[D]enial as a rule is a weak form of defense, particularly when it is not substantiated by clear and convincing evidence. The defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecutions for violation of the Dangerous Drugs Act." [34]

Moreover, "in cases involving violations of the Dangerous Drugs Act, 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." [35] In the absence of proof of any odious intent to falsely impute a serious crime, the self-serving defenses of denial and unsubstantiated claim of frame-up of an accused can never prevail over the positive testimonies of the prosecution witnesses. [36]

Accused-appellant has made much of what he perceived as inconsistencies in the testimonies of the prosecution witnesses, particularly, as to how the door of the house was opened and who actually witnessed the search conducted in the bedroom of the house. These alleged inconsistencies pertain to minor details and are so inconsequential that they do not in any way affect the credibility of the witnesses nor detract from the established fact of illegal possession of a brick of marijuana leaves, sachets of methamphetamine hydrochloride or shabu, and paraphernalia by accused-appellant, without authorization or prescription. We have previously held that "discrepancies and inconsistencies in the testimonies of witnesses referring to minor details, and not in actuality touching upon the central fact of the crime, do not impair their credibility. Testimonies of witnesses need only corroborate each other on important and relevant details concerning the principal occurrence." In fact, "such minor inconsistencies may even serve to strengthen the witnesses' credibility as they negate any suspicion that the testimonies have been rehearsed." [37]

In a prosecution for violation of the Dangerous Drugs Law, a case becomes "a contest of the credibility of witnesses and their testimonies. When it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly. The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals." [38]

We find no cogent reason herein to differ from the findings and conclusion of the RTC, as affirmed by the Court of Appeals.

Sections 8 and 16, in relation to Section 20, of Republic Act No. 6425, as amended, provides:

SEC. 8. Possession or Use of Prohibited 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 possess or use any prohibited drug subject to the provisions of Section 20 hereof.

x x x x

SEC. 16. Possession or Use 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 shall possess or use any regulated drug without the corresponding license or prescription, subject to the provisions of Section 20 hereof.

x x x x

Sec. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instruments of the Crime. — The penalties for offenses under Sections 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:

1. 40 grams or more of opium;
2. 40 grams or more of morphine;
3. 200 grams or more of shabu or methylamphetamine hydrochloride;
4. 40 grams or more of heroin;
5. 750 grams or more of Indian hemp or marijuana;
6. 50 grams or more of marijuana resin or marijuana resin oil;
7. 40 grams or more of cocaine or cocaine hydrochloride; or
8. In the case of other dangerous drugs, the quantity of which is far beyond therapeutic requirements, as determined and promulgated by the Dangerous Drugs Board, after public consultations/hearings conducted for the purpose.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalty shall range from prison correccional to reclusion perpetua depending upon the quantity.

Pursuant to the above-quoted provisions of the law, accused-appellant was properly sentenced in Criminal Case No. 17945-R to suffer the penalty of reclusion perpetua for his conviction for illegal possession of a total of 826.4 grams of marijuana leaves; and in Criminal Case No. 17946-R to suffer the penalty of imprisonment of six (6) months of arresto mayor to two (2) years and four (4) months of prison correccional, after applying the Indeterminate Sentence Law, for his conviction for illegal possession of a total of 4.12 grams of methamphetamine hydrochloride or shabu. Similarly in order was the penalty imposed upon accused-appellant to pay the fine of five hundred thousand pesos (P500,000.00).

WHEREFORE, the Decision dated October 13, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01064, which affirmed the Decision dated September 17, 2002 of the RTC, Branch 61 of Baguio City in Criminal Case Nos. 17945-R and 17946-R, is hereby AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 2-15; penned by Associate Justice Vicente Q. Roxas with Associate Justices Josefina Guevara-Salonga and Apolinario D. Bruselas, Jr., concurring.

[2] CA rollo, pp. 23-29; penned by Judge Antonio C. Reyes.

[3] Id. at 23.

[4] Id. at 13.

- [5] Id. at 33-34.
- [6] TSN, December 5, 2000.
- [7] TSN, December 18, 2000 and January 8 and 9, 2001.
- [8] TSN, February 28, 2001 and March 6, 2001.
- [9] TSN, April 17 and 18, 2001. In the records, he is sometimes referred to as “PO1 Lacangan.”
- [10] TSN, March 14, 2001 and August 14, 2001.
- [11] Rollo, pp. 5-6.
- [12] Records, pp. 22-23; Exhibit A.
- [13] Id. at 5-6; Exhibit M.
- [14] Id. at 24-25; Exhibits B and C.
- [15] Id. at 26; Exhibit D.
- [16] Id. at 27; Exhibits K and L.
- [17] Id. at 17-18.
- [18] Id. at 46; Exhibit N.
- [19] TSN, June 17, 2002.
- [20] Rollo, p. 6.
- [21] TSN, January 8, 2001, p. 17.
- [22] Records, pp. 169-175.
- [23] CA rollo, p. 29.
- [24] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.
- [25] CA rollo, p. 103.
- [26] Rollo, p. 14.
- [27] CA rollo, p. 79.
- [28] Id. at 83.
- [29] Id. at 84.
- [30] Id. at 119-120.
- [31] *People v. Lagata*, 452 Phil. 846, 853 (2003).
- [32] TSN, March 14, 2001, pp. 7-9.
- [33] TSN, August 14, 2001, pp. 3-4.
- [34] *People v. Johnson*, 401 Phil. 734, 750 (2000).
- [35] *People v. Bongalon*, 425 Phil. 96, 114 (2002).

[36] *People v. Ambrosio*, 471 Phil. 241, 267 (2004).

[37] *People v. Tuan*, G.R. No. 176066, August 11, 2010, 628 SCRA 226, 242.

[38] *People v. Naquita*, G.R. No. 180511, July 28, 2008, 560 SCRA 430, 444.

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