

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO DE GUZMAN Y MIRANDA, ACCUSED-APPELLANT.

G.R. NO. 177569. November 28, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Assailed before Us is the Decision[1] of the Court of Appeals, dated 16 June 2006, in CA-G.R. CR H.C. No. 01312 which affirmed the Decision[2] of the Regional Trial Court (RTC) of Pasay City, Branch 231, in Criminal Case No. 02-1981, convicting accused-appellant Renato de Guzman y Miranda of Violation of Section 5,[3] Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

For allegedly selling 0.89 gram of shabu, appellant was charged before the RTC of Pasay City under the following information:

That on or about the 22[nd] day of October, 2002, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell approximately 0.89 gram of Methylamphetamine Hydrochloride (shabu), a regulated drug.[4]

When arraigned on 6 November 2002, appellant, with the assistance of counsel de oficio, pleaded not guilty to the crime charged.[5]

On 4 February 2003, the pre-trial conference was terminated.[6]

The prosecution presented two witnesses: PO3 Rodolfo Laxamana and PO2 Edwin Arellano, both assigned at the Philippine Drug Enforcement Agency (PDEA), Metro Manila Regional Office (MMRO), Special Enforcement Unit (SEU), Camp Crame, Quezon City.

The evidence for the prosecution showed that at around 5:00 p.m. of 22 August 2002, a confidential informant arrived at the office of the PDEA, MMRO, SEU and reported to P/S. Insp. Crisostomo P. Mendoza, Chief of SEU, that a certain “Rene Tulo,” later identified as appellant, was selling illegal drugs in Pasay City near Cartimar. With this information, P/S. Insp. Mendoza formed a team to conduct a buy-bust operation. During the briefing, PO3 Laxamana was tasked to act as poseur buyer, P/S. Insp. Loreiman Manrique was designated as team leader, while the other team members were assigned to provide perimeter security. PO3 Laxamana was given two one hundred peso bills[7] to be used as marked money wherein he placed his initials “RL” at the upper right hand corner thereof. It was agreed that the confidential informant would introduce PO3 Laxamana to appellant, and that the pre-arranged signal to indicate the consummation of the sale was the lifting by PO3 Laxamana of his shirt.

Two hours before the buy-bust operation, the confidential informant went ahead to the target place. The buy-bust team proceeded to the same location. With the confidential informant giving the go signal, PO2 Arellano positioned himself 15 meters away, while PO3 Laxamana and the confidential informant approached appellant who was standing by himself in front of his house located at No. 63A Proprietarius Street, Pasay City.

PO3 Laxamana was introduced by the confidential informant to appellant as a buyer of shabu and the latter asked the former, “Magkano ba ang bibilin mo?” To this question he replied, “Dalawang piso lang, panggamit.” After PO3 Laxamana handed over to appellant two one hundred peso bills, the latter pulled out from his front pocket a plastic sachet[8] containing a white crystalline substance which he gave to the former. After receiving the plastic sachet, PO3 Laxamana made the pre-arranged signal. He thereafter arrested and handcuffed appellant and introduced himself as a PDEA agent. PO3 Laxamana frisked appellant and recovered the two one hundred peso bills from appellant’s right front pocket. With the arrival of the other members of the buy-bust team, he informed appellant of his constitutional rights.

PO3 Laxamana and PO2 Arellano affirmed and confirmed the statements contained in their Joint Affidavit.[9]

The plastic sachet containing 0.89 gram of white crystalline substance which was bought from appellant for two hundred pesos was sent to the Philippine National Police Crime Laboratory for laboratory examination.[10] The findings as contained in Chemistry Report No. D-590-02 showed that the substance sold by appellant was positive for Methylamphetamine Hydrochloride (shabu).[11]

For the defense, the appellant took the witness stand.

Appellant testified that at around 5:00 p.m. of 22 October 2002, he went home to take a bath after playing billiards. At home, he saw his wife playing tong-its with two others beside the Iglesia ni Cristo church. He asked his wife to fetch him some water from the artesian well, so he could take a bath. His wife obliged but asked him to play her hand. They were able to finish only one round when two policemen arrived. One of the policemen looked inside the compound behind the Iglesia ni Cristo church, while the other stood behind and watched him. The policeman who checked the compound approached the policeman behind appellant, and they talked. Suddenly, the policeman behind him handcuffed him, causing his two playmates to flee.

Appellant was shocked and asked the policemen, “Why?” The policemen accused him of being a drug pusher which accusation he denied. One of the police officers pointed to E. Santos Street and said: “Palitan na ang ulo, di ka namin dadalhin.” After answering “I don’t know anything,” he was led to a car wrapped only in towel and was brought to Camp Crame.

Appellant said that of the two policemen who testified in court, he only remembered PO3 Laxamana as the one who had handcuffed him. He added that he did not know who the other policeman was and that it was not PO2 Arellano. Prior to his arrest, he had not met either PO3 Laxamana or PO2 Arellano. When he was arrested, the policemen were trying to force him to point to any drug pusher he knew.

On 24 February 2004, the trial court promulgated its decision finding appellant guilty as charged, the dispositive portion reading:

WHEREFORE, in consideration of all the foregoing facts and conclusions, accused RENATO DE GUZMAN y MIRANDA is hereby found GUILTY of violating Section 5, Article II of Republic Act No. 9165 in the manner stated in the Information and is sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00 without subsidiary imprisonment in case of insolvency. With costs.[12]

The trial court found that appellant was caught in flagrante delicto selling shabu to a police officer acting as poseur-buyer in a buy-bust operation. It found the testimonies of the two police officers who testified on the buy-bust operation to be worthy of belief.

On the other hand, the trial court found appellant’s version of frame-up to be incredible. It said appellant did not provide a plausible reason for his arrest which would have at least challenged the presumption juris tantum of regularity in favor of the policemen. It added that appellant’s admission that he hadn’t met the two police officers

before the buy-bust operation only shows that there was no ill-will on the part of the latter. It explained that appellant's arrest was not based on mistaken identity because even before the buy-bust operation, he was already identified by the confidential informant to be the subject thereof. Finally, the trial court ruled that the constitutional presumption of innocence has been overturned by the clear, convincing and conclusive proof that appellant committed the crime charged beyond the shadow of doubt.

With the appellant filing a Notice of Appeal,[13] the trial court elevated the records of the case to this Court.[14]

On 20 June 2005, pursuant to our ruling in *People v. Mateo*,[15] the case was transferred to the Court of Appeals for appropriate action and disposition.[16]

On 16 June 2006, the Court of Appeals rendered a decision affirming the decision of the trial court. It disposed of the case as follows:

WHEREFORE, premises considered, the assailed Decision dated February 23, 2004 of the Regional Trial Court, Branch 231, Pasay City in Criminal Case No. 02-1981 is hereby AFFIRMED.[17]

On 29 June 2006, appellant filed a Notice of Appeal appealing his conviction to this Court.[18] With the elevation of the records of the case to the Supreme Court, the parties were required to submit supplemental briefs, if they so desire, within 30 days from notice.[19] The parties manifested they will not file supplemental briefs on the ground that they have fully argued their positions in their respective briefs.[20]

In his brief, appellant makes a lone assignment of error, to wit:

THE LOWER COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTION 5, ARTICLE II OF REPUBLIC ACT NO. 9165.

We sustain appellant's conviction.

From the testimony of appellant, it is clear that he assails the credibility of PO3 Laxamana and PO2 Arellano and claims that no buy-bust operation took place. He insists that he was merely framed-up.

It is a fundamental rule that findings of the trial courts which are factual in nature and which involve the credibility of witnesses are accorded respect when no glaring errors, gross misapprehension of facts and speculative, arbitrary and unsupported conclusions can be gathered from such findings. The reason for this being that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds an even more stringent application where said findings are sustained by the Court of Appeals as in this case.[21] After a review of the records, we find no compelling reason to reverse the findings of the trial court, as affirmed by the Court of Appeals.

Appellant contends that the lower court solely relied on the testimony of PO3 Laxamana in convicting him.

Such contention is untenable. The decision of the trial court belies such contention. In convicting appellant, the trial court said:

This Court has scrutinized the testimony of both police officers and has observed them at close range. Their testimonies proceed from the mouth of credible witness and are found to be credible in itself because of the prompt, straight forward manner of delivery showing consistency and spontaneity. x x x.[22]

From this quoted portion of the decision, it is obvious that the trial court considered the testimonies of both PO3 Laxamana and PO2 Arellano in reaching its decision. Aside from these, the trial court took into account the marked money used in the transaction and the illicit drug bought from appellant.

Appellant's argument that the testimony of PO3 Laxamana on the alleged buy-bust operation should not be believed because it is highly unbelievable for him to peddle drugs in front of his house and to someone who is a total stranger to him deserves scant consideration.

We have ruled that peddlers of illicit drugs have been known, with ever increasing casualness and recklessness, to offer and sell their wares for the right price to anybody, be they strangers or not, what matters being not the existing familiarity between the buyer and the seller, or the time and venue of the sale, but the fact of agreement as well as the act constituting the sale and delivery of the prohibited drugs.[23] Drug peddlers have become exceedingly daring and openly defiant of the law.[24] Drug pushing when done on a small-scale belongs to those types of crimes that may be committed any time and at any place.[25]

Appellant further maintains that it is also highly incredible for an alleged drug pusher to sell 0.89 gram of shabu for only P200.00 when the street value per gram is P700.00.

We do not think so. The fact that PO3 Laxamana received 0.89 gram of shabu, which is more than what he expected to receive, for P200.00 will not negate the consummation of the drug sale. What is crucial is the fact that the shabu was sold to, and received by, the poseur buyer. From the testimony of PO3 Laxamana, he merely gave appellant the P200.00 and waited for the shabu that would be given to him because appellant did not tell him the cost of the shabu. Notwithstanding the testimony of PO3 Laxamana that the street value of a gram of shabu, as he knows it, is P700.00, it does not mean that same is the price by which all drug pushers sell their wares. Some may sell the drug at a cheaper price, others for a higher price. In this light, and considering that appellant never mentioned to PO3 Laxamana the price of the shabu he was selling, it is not highly incredible that he sold 0.89 gram of shabu to PO3 Laxamana for P200.00.

What determines if there was, indeed, sale of dangerous drugs is proof of the concurrence of all the elements of the offense. 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. The elements necessary for the prosecution of illegal sale of drugs are (1) the identity of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti.[26]

In the case before us, all these elements have been established. The witnesses for the prosecution clearly showed that the sale of the drugs actually happened and that the shabu subject of the sale was brought and identified in court. The poseur buyer (PO3 Laxamana) positively identified appellant as the seller of the shabu. His testimony was corroborated by PO2 Arellano. Per Chemistry Report No. D-590-02 of Police Inspector Bernardino M. Banac, Jr., the substance, weighing 0.89 gram, which was bought by PO3 Laxamana from appellant in consideration of P200.00, was examined and found to be methamphetamine hydrochloride (shabu).

Appellant faults the trial court in applying the disputable presumption that an official duty has been regularly performed by PO3 Laxamana because of the failure of the defense to assail the motive of the public officer in implicating him in the commission of the crime charged.

The trial court correctly appreciated the presumption of regularity of performance of duty in favor of PO3 Laxamana. It is settled rule that 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 suggesting ill motive on the part of the police officers or deviation from the regular performance of their duties.[27] In the instant case, appellant failed to adduce evidence showing that the police officers were maliciously motivated. His admission that he had not met or encountered any of the

police officers involved in the buy-bust operation prior to his arrest further bolsters the absence of such ill motive. Neither did appellant present evidence showing that the policemen diverged from the regular performance of their duty.

Moreover, appellant's defense of denial is nothing new. The defense of denial or frame-up, like alibi, has been viewed with disfavor for it can easily be concocted and is a common defense ploy in most prosecutions for violation of the Dangerous Drugs Act. [28] For this claim to prosper, the defense must adduce clear and convincing evidence to overcome the presumption that government officials have performed their duties in a regular and proper manner.[29] This, appellant failed to do. Appellant could have strengthened his case by presenting as witnesses his supposed two playmates in the card game, but he did not. Instead, he relied solely on his bare allegations unsubstantiated by competent and credible evidence.

Indeed, we agree with appellant that the presumption of regularity in the performance of official duty cannot by itself overcome the presumption of innocence. An accused in a criminal case is presumed innocent until proven otherwise and the prosecution has the burden of proving his guilt beyond reasonable doubt. The evidence of the prosecution must stand on its own weight and not rely on the weakness of the defense.[30] In this case, however, we find that the presumption of innocence has been overturned and appellant's guilt proved beyond reasonable doubt when the prosecution established all the elements of the crime charged.

We now go to the penalty. Section 5 of Republic Act No. 9165 provides for the sale of shabu. Said section 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.

For selling 0.89 gram of shabu, the trial court, as affirmed by the Court of Appeals, sentenced appellant to suffer the penalty of life imprisonment and to pay a fine of P500,000.00. We find the same to be proper and in accord with law.

WHEREFORE, premises considered, the instant appeal is DISMISSED. The decision of the Court of Appeals in CA-G.R. CR H.C. No. 01312 which affirmed the decision of the Regional Trial Court (RTC) of Pasay City, Branch 231, in Crim. Case No. 02-1981, convicting accused-appellant Renato De Guzman y Miranda of Violation of Section 5, Article II of Republic Act No. 9165, is hereby AFFIRMED.

SO ORDERED.

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

[1] Penned by Associate Justice Sesinando E. Villon with Associate Justices Jose L. Sabio, Jr. and Rosalinda Asuncion-Vicente, concurring; CA rollo, pp. 74-84.

[2] CA rollo, pp. 44-49.

[3] Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.

[4] Records, p. 1.

- [5] Id. at 12-14.
- [6] Id. at 29.
- [7] Exhibits B and C; Folder of Documentary Exhibits, p. 3.
- [8] Exh. D.
- [9] Exh. A, Folder of Documentary Exhibits, p. 1.
- [10] Exh. F, id. at 5.
- [11] Exh. G, id. at 6.
- [12] CA rollo, p. 49.
- [13] Records, p. 88.
- [14] Id. at 89.
- [15] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [16] CA rollo, p. 72.
- [17] Id. at 83
- [18] Id. at 87.
- [19] Rollo, p. 17.
- [20] Id. at 18-20, 21-24.
- [21] People v. Cabugatan, G.R. No. 172019, 12 February 2007, 515 SCRA 537, 547.
- [22] Records, p. 86.
- [23] People v. Casolocan, G.R. No. 156890, 13 July 2004, 434 SCRA 276, 283.
- [24] People v. Li Yin Chu, 467 Phil. 582, 596 (2004).
- [25] People v. Isnani, G.R. No. 133006, 9 June 2004, 431 SCRA 439, 455.
- [26] People v. Nicolas, G.R. No. 170234, 8 February 2007, 515 SCRA 187, 198.
- [27] People v. Dulay, 468 Phil. 56, 65 (2004).
- [28] People v. Ahmad, 464 Phil. 848, 869 (2004).
- [29] People v. Zheng Bai Hui, 393 Phil. 68, 135 (2000).
- [30] People v. Jubail, G.R. No. 143718, 19 May 2004, 428 SCRA 478, 502.

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