

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. WILLIE RIVERA, APPELLANT.

G.R. No. 177741. August 27, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

By Decision of August 14, 2006,[1] the Court of Appeals affirmed the conviction of Willie Rivera (appellant) by the Regional Trial Court of Pasig City, Branch 154 for violation of Section 5, Article II of Republic Act No. 9165 (R.A. 9165), the "Comprehensive Dangerous Drugs Act of 2002."

The Information against appellant reads:

On or about March 13, 2003, in Pasig City, and within the jurisdiction of this Honorable Court, the accused (appellant), not being authorized by law, did then and there, willfully, unlawfully and feloniously sell, deliver and give away to PO3 Amilassan M. Salisa, a police poseur-buyer, two (2) heat-sealed transparent sachets each containing four centigrams (0.04 gram) of white crystalline substance, which were found positive to the test of methylamphetamine hydrochloride, a dangerous drug, in violation of the said law.

CONTRARY TO LAW.[2]

From the documentary and testimonial evidence for the prosecution, particularly the testimony of its principal witness PO3 Amilassan Salisa (PO3 Salisa), the following version is culled:

On March 13, 2003, upon the request of the Pasig City Mayor's Special Action Team which had received information from a civilian agent that a certain "Kirat" was engaged in open selling of prohibited drugs in Villa Reyes St., Barangay Bambang, Pasig City, P/Insp. Rodrigo E. Villaruel of the Pasig Philippine National Police formed a team to conduct a buy-bust operation in the area. The team which was composed of SPO4 Manuel Buenconsejo as leader, PO2 Arturo San Andres, PO1 Roland Panis, PO1 Janet Sabo, and PO3 Salisa as poseur buyer, was given control number NOC-1303-03-04 by the Philippine Drug Enforcement Agency (PDEA).

P/Insp. Villaruel gave PO3 Salisa two one hundred peso (P100) bills on which the latter wrote his initials "AMS" above the serial numbers ZK801664 and JT972090 printed on the top right portion of the bills. To signal consummation of the sale, it was agreed that PO3 Salisa would remove his cap.

At 12:55 o'clock in the afternoon of March 13, 2003, the buy-bust team proceeded to the place where "Kirat" was reportedly peddling prohibited drugs.

Upon arrival at the target area, the buy-bust team parked the van that carried them to the "other side of the street." PO3 Salisa and the informant thereupon alighted from the van and, from a distance of about five (5) meters, on seeing appellant who was wearing short pants and a cap, the informant pointed to and identified him as "Kirat" to PO3 Salisa.

As the informant approached appellant, he introduced PO3 Salisa as a buyer of shabu worth P200. PO3 Salisa at

once handed the marked bills to appellant who in turn handed him two heat-sealed plastic sachets containing white crystalline substance. At that instant, PO3 Salisa removed his cap.

The members of the buy-bust team thus closed in, and PO3 Salisa held appellant's arm and introduced himself as a police officer and informed him of his violation and his constitutional rights. PO3 Salisa then placed the markings "EXH-1 AMS" and "EXH-B AMS 03/13/03" on the two sachets.

The buy-bust team brought appellant to the Rizal Medical Center for physical check-up, and later to the Pasig City Police Station. In a memorandum, accomplished at 3:00 p.m. also on March 13, 2003, addressed to the Chief of the Physical Science Division of the Eastern Police District-Philippine National Police (EPD-PNP) Laboratory Service, P/Insp. Villaruel requested for the conduct of laboratory examination on the seized items to determine the presence of dangerous drugs and their weight.

Still on the same day, March 13, 2003, at 3:55 P.M., the plastic sachets were delivered to Police Inspector Lourdeliza M. Gural, Forensic Chemist at the EPD-PNP Crime Laboratory Office who examined them and recorded at 5:55 p.m. of even date her findings and conclusion in Chemistry Report No. D-455-03-E, viz:

SPECIMEN SUBMITTED:

Two (2) heat-sealed transparent plastic sachets with markings "EXH-1 AMS and EXH-B AMS 03/13/03" each containing 0.04 gram of white crystalline substance and marked as A and B respectively.

x x x x

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the tests for Methylamphetamine hydrochloride, a dangerous drug.

x x x x

CONCLUSION:

Specimens A and B contain Methylamphetamine Hydrochloride, a dangerous drug.[3] (Emphasis and underscoring supplied)

x x x x

Hence, the filing of the Information against appellant.

Denying the charge against him, appellant claimed that he was framed up and gave the following version:

On March 13, 2003, as he was walking towards his mother's house in SPS Compound, Barangay Bambang, Pasig City, two police officers accosted him, in the presence of "kibitzers," for allegedly selling shabu. He was dragged and brought inside a parked van wherein the police officers, under threats, tried to elicit from him information on the whereabouts of a certain "Ebot" and "Beng" whom he did not personally know, however. The police officers tried to extort from him P200,000, which was reduced to P20,000, for his release but he did not come across as he could not afford it, hence, they charged him with violation of Section 5, Article II of R.A. 9165.

Appellant presented Lourdes Sanchez, his mother's neighbor, who declared that at the time of the incident, while she was outside her nipa hut in the field waiting for her son, she saw appellant come out of "the alley" upon which two police officers approached and handcuffed him, and "[w]hen there were many kibitzers around," they dragged him "near the van."

Finding for the prosecution, the trial court, by Decision of January 23, 2004, convicted appellant, disposing as

follows:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused WILLIE RIVERA GUILTY beyond reasonable doubt of the crime of violation of Section 5, Article II, R.A. 9165 for selling of shabu as charged in the information, and he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of P500,000.00.

Considering the penalty imposed by the Court, his immediate commitment to the National Penitentiary is hereby ordered.

SO ORDERED.[4] (Emphasis in the original)

The case was forwarded to the Court after appellant filed a notice of appeal. Per *People v. Mateo*,^[5] however, this Court referred the case to the Court of Appeals by Resolution of August 3, 2005.^[6]

As earlier stated, the Court of Appeals upheld appellant's conviction.

Hence, the present appeal, appellant faulting the appellate court

I. . . . IN NOT FINDING THAT THE ACCUSED-APPELLANT WAS ILLEGALLY ARRESTED.

II. . . . IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF VIOLATION OF SECTION 5, ARTICLE II OF REPUBLIC ACT 9165.^[7] (Underscoring supplied)

Appellant questions his arrest without warrant, not any of the instances when a warrantless arrest - the person to be arrested must have committed, is actually committing, or is attempting to commit an offense^[8] -having been allegedly present when he was arrested.

Buenaventura v. People,^[9] citing *People v. Bagsit*,^[10] teaches, however:

x x x It is long settled that where the accused, by his voluntary submission to the jurisdiction of the court, as shown by the counsel-assisted plea he entered during the arraignment and his active participation in the trial thereafter, voluntarily waives his constitutional protection against illegal arrests and searches. We have consistently ruled that any objection concerning the issuance or service of a warrant or a procedure in the acquisition by the court of jurisdiction over the person of the accused must be made before he enters his plea, otherwise, the objection is deemed waived. (Citations omitted; underscoring supplied)

The records do not show that appellant raised any question on the legality of his arrest before he was arraigned or in his petition for bail. By submitting himself to the jurisdiction of the court and presenting evidence in his defense, appellant voluntarily waived his constitutional protection against illegal arrest.

In any event, appellant forgets that from the evidence for the prosecution, he was arrested while committing a crime - peddling of illegal drugs, a circumstance where warrantless arrest is justified under Rule 113, Section 5(a) of the Rules of Court which reads:

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.

x x x x

Appellant's other assigned error delves on the reliance by the lower courts on the prosecution evidence in finding him guilty beyond reasonable doubt.

The matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge who, unlike appellate magistrates, can weigh such testimony in light of the witness' demeanor, conduct and position to discriminate between truth and falsehood. That is a time-tested doctrine. Thus, appellate courts will not disturb the credence, or lack of it, accorded by the trial court to the testimonies of witnesses. This is especially true when the trial court's findings have been affirmed by the appellate court as in the present case, because they are generally conclusive and binding upon the Court, unless it be manifestly shown, and appellant has not in the present case, that the lower courts had overlooked or disregarded arbitrarily the facts and circumstances of significance in the case.[11]

Given the penalty imposed on appellant, however, the Court just the same assiduously evaluated the evidence for the prosecution but found nothing to warrant a reversal of the lower courts' evaluation.

Appellant has not even proffered any credible motive why the police officers would falsely charge him. His alleged refusal to divulge the whereabouts of those two persons mentioned above fails to impress. Neither does his claim that the police officers wanted him to pay off his liberty. For, inter alia, if he were just a house painter, as he claimed, and not a drug dealer, the police would not expect him to come up with such amount (P20,000). Besides, since, by his and his witness' information, there were "kibitzers" around, including neighbors, when he was arrested, why no timely succor to him, or any form of protest by anyone of them against his arrest was lodged, if he were indeed innocent, does not speak well of his defense.

In consonance with the hornbook precept that an appeal in a criminal case opens the entire case for review on any question including one not raised by the parties, the Court went on to determine whether the requirements of Section 21.1[12] of R.A. 9165 was complied with.

The buy bust operation in the present case was coordinated with the PDEA. After the sachets of shabu were confiscated from appellant and PO3 Salisa marked them, a spot report was submitted to the PDEA detailing the items seized from appellant and the procedure undertaken.[13] P/Sr. Inspector Villaruel[14] soon after issued a memorandum transmitting the sachets to, which were received at 3:55 P.M. by, the EPD-PNP Crime Laboratory for examination.[15]

While PO3 Salisa's testimony did not indicate if he made a list of the sachets as well as the buy-bust money in the presence of appellant or if photographs thereof were taken, the defense did not propound questions suggesting doubt as to the integrity of the sachets.

People v. Pringas teaches that non-compliance with Section 21 is not necessarily fatal as long as there is justifiable ground therefor, what is important being the preservation of the integrity and evidentiary value of the seized items:

Non-compliance by the apprehending/buy-bust team with Section 21 is not fatal as long as there is justifiable ground therefor, and as long as the integrity and the evidentiary value of the confiscated/seized items, are properly preserved by the apprehending officer/team. Its non-compliance will not render an accused's arrest illegal or the items seized/confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.[16] (Citation omitted, emphasis supplied)

Appellant, as in Pringas, has not questioned at any stage of the case the custody and disposition of the items taken from him.

At all events, the Court appreciates no showing that the integrity of the seized items has been compromised.

WHEREFORE, the August 14, 2006 Decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Quisumbing, (Chairperson), Brion, Del Castillo, and Abad, JJ., concur.

[1] Rollo, pp. 3-16, penned by Associate Justice Fernanda Lampas-Peralta with the concurrence of Associate Justices Eliezer R. Delos Santos and Myrna Dimaranan-Vidal.

[2] Records, p. 1

[3] Id. at 12.

[4] Id. at 67- 72, Decision of January 23, 2004 by the Regional Trial Court of Pasig City, Branch 154.

[5] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640. The case modified the pertinent provisions of the Revised Rules on Criminal Procedure, more particularly Section 3 and Section 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125 insofar as they provide for direct appeals from the Regional Trial Courts to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment and allowed intermediate review by the Court of Appeals before such cases are elevated to the Supreme Court.

[6] CA rollo, pp. 83-84.

[7] Id. at 38-51, Brief for the Accused-Appellant filed before the Court of Appeals.

[8] Rules of Court, Rule 113, Section 5 par.(a).

[9] G.R. No. 171578, August 8, 2007, 529 SCRA 500, 513.

[10] G.R. No. 148877, August 19, 2003, 409 SCRA 350, 354.

[11] William Ching v. People of the Philippines, G.R. No. 177237, October 17, 2008.

[12] Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources or dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the persons/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof; x x x

[13] Records, p. 9.

[14] Id. at 11.

[15] Id. at 12.

[16] G.R. No. 175928. August 31, 2007, 531 SCRA 828, 842-843.

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