PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARNEL BABANGGOL Y MACAPIA, CESAR NARANJO Y RIVERA AND EDWIN SAN JOSE Y TABING, ACCUSED. ARNEL BABANGGOL Y MACAPIA AND CESAR NARANJO Y RI...

G.R. No. 181422. September 15, 2010

Ponente: ABAD, J.

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ABAD, J.:

This case is about the sufficiency of the evidence of the prosecution to prove beyond reasonable doubt the guilt of persons accused of selling illegal drugs in conspiracy with one another.

The Facts and the Case

The public prosecutor of Parañaque City charged the accused Acas Sumayan, Arnel Babanggol, Cesar Naranjo, and Edwin San Jose before the Regional Trial Court (RTC) of Parañaque for selling 295.8 grams of prohibited drug commonly known as shabu.[1] At the trial, the prosecution presented three witnesses: PO2 Windel Alfonso, P/Sr. Insp. Marion D. Balonglong, and P/Sr. Insp. Grace Eustaquio.

The evidence for the prosecution shows that in the morning of May 18, 1999 a police informant showed up at the Service Support Office of the Philippine National Police (PNP) Narcotics Group and spoke to PO2 Alfonso and P/Sr. Insp. Romualdo Iglesia. After their meeting, Iglesia ordered several police officers to conduct a buy-bust operation against accused Sumayan and Babanggol. The police informant would make an order for 300 grams of shabu from the two for a price of P300,000.00. The purchase was to take place at the Coastal Mall, Parañaque City, between 6:00 and 8:00 p.m. Alfonso then prepared the boodle money by placing three P1,000 bills on top of strips of ordinary paper and marking the P1,000 bills with his initials "WCA."

The buy-bust team proceeded to Coastal Mall. Alfonso was to serve as poseur-buyer, accompanied by the police informant. Right after 6:00 and before 7:00 p.m., a blue Kia Besta Van came into the parking lot. Two persons got off and walked towards Alfonso and the informant. The informant told Alfonso, "Pare yan na si Arnel" (referring to accused Babanggol).

The informant introduced Alfonso as "Jeffrey," a big-time buyer from Manila. Babanggol then introduced his companion as Cesar (accused Naranjo). Babanggol asked Alfonso if it was he who ordered the "stocks" and if he brought the money. Alfonso replied by asking to see the stuff. Babanggol told them to wait and he and Naranjo returned to their van. When they came back to the buyer, they brought with them two other persons (accused Sumayan and San Jose), one holding a brown paper bag. Alfonso opened the paper bag after it was handed to him and found in it a sealed transparent plastic bag that contained white crystalline substance. He ascertained that it was shabu.

When Babanggol asked for the payment, Alfonso gave him the boodle money and ignited his cigarette lighter as a signal for his team to move in. Alfonso identified himself as a police officer and arrested Babanggol. The other

accused fled but were apprehended by the other officers. Alfonso recovered the boodle money from Babanggol.

Alfonso took custody of the suspected shabu, the paper bag, and the boodle money and with the other officers brought their captives to the police station. Alfonso prepared a request for a clinical analysis of the substance and marked the plastic container with his initials "WCA." Then, he and a certain SPO2 De Leon brought the substance to the PNP Crime Laboratory for examination.

Forensic chemist P/Sr. Insp. Eustaquio testified that she received the request for laboratory examination of the substance in a plastic bag wrapped in a brown paper bag. A qualitative examination of the same showed that it weighed 295.8 grams and was methamphetamine hydrochloride or shabu.

For the defense, Babanggol and Sumayan, childhood friends, uniformly testified that on May 18, 1999 they went to Plaza Lawton to get a ride to Cavite where they would be buying upper column shells for Babanggol's business. They went to Plaza Lawton from Quiapo and hired a van driven by Naranjo, whom they met for the first time. As they chanced upon San Jose, Naranjo's friend, somewhere near Baclaran, Naranjo asked his passengers if they could take San Jose along and the two agreed.

While they were driving down the coastal road to Cavite, a group of armed men stopped their van. When they asked what the matter was, the strangers responded by beating them up and divesting them of their belongings. As it turned out the men were police officers. The accused were taken to Camp Crame, shown a bag of shabu, and told that they would be charged in connection with the drugs unless they paid up.

San Jose substantially corroborated the testimonies of Babanggol and Sumayan. San Jose added, however, that the police officers who arrested them along coastal road were not those who testified in court as their arresting officers.

For his part, Naranjo testified that he had known San Jose since February 1999 when the latter first rented his van. On May 17, 1999 San Jose rented his van anew, this time in the company of Sumayan. On the following day, May 18, 1999, Naranjo agreed by prior arrangement to drive for San Jose and Sumayan again. He picked them up in Bacoor, Cavite, and they proceeded to Singalong in Manila where they got Babanggol to join them. They then headed for Cavite. While they were driving along the coastal road, the police stopped and arrested them. Naranjo denied that they were caught in a buy-bust operation.

The RTC found all four accused guilty of the crime charged and sentenced each of them to the penalties of reclusion perpetua and a fine of P500,000.00.[2] The accused appealed from the decision against them. Meantime, Sumayan passed away.[3]

The Court of Appeals (CA) affirmed the RTC decision with respect to the three remaining accused.[4] Two of them, Naranjo and Babanggol, appealed the CA decision to this Court.

The Issues Presented

In essence, Naranjo and Babanggol question the sufficiency of the prosecution's evidence. Particularly, they contend that:

- Inconsistencies in the prosecution's evidence negates its theory that the accused were arrested on the occasion of a police buy-bust operation;

- The prosecution failed to conclusively show that the substance that the police seized was in fact 295.8 grams methamphetamine hydrochloride; and

- The prosecution failed to prove that Naranjo, the driver of the van, acted in conspiracy with the other accused.

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The Court's Rulings

One. Appellants point to indications in the evidence that the buy-bust operation did not take place. For instance, the request for laboratory examination (Exhibit "A") originally referred to "One (1) heat-sealed transparent plastic bag." But the words "heat-sealed" were written over by words "self-sealing." The appellants claim that there was a switching of evidence after the seizure and before the laboratory examination.

But police officer Alfonso testified that what they seized during the operation was a self-sealing bag and that it was this that he marked with his initials. He even illustrated in court how the bag could be opened and re-sealed.[5] Nowhere in the records does it appear that it was a heat-sealed plastic bag that was actually involved.

The writing of the original words "heat-sealed" in Exhibit "A" was apparently inadvertent since someone promptly corrected it by writing over the wrong words. Although it would have been less problematic for the police officers to retype the letter, the open correction shows that they did not try to hide anything.

The appellants further claim that the failure of the police to apply fluorescent powder to the boodle money indicates that no buy-bust operation actually took place. But it is settled that the use of fluorescent powder is not required to prove the commission of the offense.[6] Alfonso testified that Babanggol asked for the payment and that the latter got the boodle money. Alfonso later recovered that money from Babanggol after the arrest.

Also, appellants claim that the prosecution should have presented the police informer in the case. They point out that, since the informant was said to be Sumayan and Babanggol's friend, then the accused had known him beforehand and concealing his identity did not make any sense. The failure to present the informant implies that the supposed buy-bust operation did not take place at all.

But the presentation of the police informant is not necessary to prove the offense charged. The prosecution of criminal actions is under the public prosecutor's direction and control. He determines what evidence to present.[7] In this case, the testimonies of the prosecution witnesses sufficiently covered the facts constituting the offense. Since police officer Alfonso who testified was present during the buy-bust operation, the testimony of the informant would have merely been corroborative.

Further, the prosecution said at the hearing that there was still a need to conceal the identity of the informant for his personal safety. The accused were detained but sympathetic outsiders could attend the hearing and mark the informant for punishment. The burden of showing the necessity of presenting the informant rests upon the accused.[8]

Two. The appellants argue that the prosecution failed to prove with certainty the existence of the substance confiscated during the buy-bust operations.

First, they claim that the prosecution failed to establish the chain of custody of the seized drugs. Particularly they allege that as it appears in the dorsal portion of the request for laboratory examination (Exhibit "A-2"), the drugs were actually brought to the crime laboratory by a certain SPO2 De Leon and not by Alfonso as the prosecution made it appear. They claim that this was corroborated by Eustaquio who testified that the drugs were brought to her by a certain SPO2 De Leon and that she did not know Alfonso. Appellants conclude that SPO2 De Leon's testimony was indispensable.

But appellants do not properly appreciate the prosecution's evidence. Alfonso testified that he brought the substance to the crime laboratory together with SPO2 De Leon.[9] So it was not merely SPO2 De Leon who delivered the specimen to the laboratory. Alfonso was so situated that his testimony sufficiently established the chain of custody of the substance.

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Eustaquio's testimony that it was SPO2 De Leon who brought the specimen to her and that she did not know Alfonso does not contradict what she said earlier. Eustaquio was not permanently stationed at Camp Crame. She was there on May 18, 1999 on a mere tour of duty. Consequently it was likely that she did not know all the police

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