PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ARNEL ZAPATA Y CANILAO, APPELLANT.

G.R. No. 184054. October 19, 2011

Ponente: BRION, J.

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BRION, J.:

We decide the appeal, filed by Arnel Zapata y Canilao (appellant), from the decision[1] and the resolution[2] of the Court of Appeals (CA) dated November 28, 2007 and March 6, 2008, respectively, in CA-G.R. CR-H.C. No. 02136. The CA decision affirmed in toto the October 12, 2005 decision[3] of the Regional Trial Court (RTC), Branch 41, San Fernando City, finding the appellant guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

In its October 12, 2005 decision, the RTC found the appellant guilty of illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165. The RTC held that the witnesses for the prosecution were able to prove that a buy-bust operation indeed took place; and the shabu subject of the sale was brought to, and duly identified in, court. It found no improper motive on the part of the police officers to falsely testify against the appellant. The lower court likewise disregarded the appellant's claim of frame-up, as this defense can easily be concocted and is a common and standard defense ploy in prosecutions for violation of dangerous drugs. Accordingly, it ordered the appellant to suffer the penalty of life imprisonment, and to pay a P500,000.00 fine.

On appeal, the CA affirmed the RTC decision in toto. It held that the poseur-buyer positively identified the appellant as the person who gave him two (2) transparent plastic sachets containing white crystalline substances in exchange for P300.00. It added that the plastic sachets were submitted to the Philippine National Police (PNP) Crime Laboratory for examination, and were found to be positive for the presence of shabu. It likewise held that the defense failed to overcome the presumption that the police officers regularly performed their official duties. The CA further ruled that the chain of custody over the seized items was not shown to have been broken. It also took note of the admission of the appellant's wife that the appellant was a "financier of drugs," as well as the positive result of the drug test conducted on the appellant.

Our Ruling

The appellant's conviction stands.

For a successful prosecution of offenses involving the illegal sale of drugs under Section 5, Article II of R.A. No. 9165, the following elements must be proven: (1) the identity of the buyer and the seller, the object of the sale and the 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 the corpus delicti of evidence.[4]

The evidence for the prosecution showed the presence of all these elements. Police Officer (PO)3 John U. Salcedo

narrated in detail on how the police conducted a surveillance on the appellant for two months; and how he and PO1 Edwin Carlos conducted the buy-bust operation. PO3 Salcedo duly and positively identified the appellant as the person who sold to him two (2) transparent plastic sachets containing white crystalline substances in exchange for P300.00. The white crystalline substances contained in the two plastic sachets were later on confirmed to be methamphetamine hydrochloride or shabu, per Chemistry Report No. D-316-2004 issued by the PNP Forensic Chemist, Police Inspector (P/Insp.) Maria Luisa David. The marked money used in the entrapment operation was likewise positively identified by the arresting officers as the same one provided and used in the buy-bust operation. PO1 Carlos corroborated PO3 Salcedo's testimony on all material points. Significantly, the appellant failed to produce convincing proof that the prosecution witnesses had any improper or malicious motive when they testified.

Contrary to the appellant's assertion, the chain of custody over the seized prohibited drugs was shown not to have been broken. The evidence shows that after PO3 Salcedo received the two plastic sachets from the appellant, PO3 Salcedo and PO1 Carlos brought the appellant and the confiscated items to the police station. There, PO3 Salcedo immediately marked the two plastic sachets with "JUS 1" and "JUS 2," respectively.[5] PO3 Salcedo, thereafter, turned over the seized items to Senior Police Officer 3 Danilo Fernandez who, in turn, made the appropriate requests for the laboratory examination of the seized items and for the drug test on the appellant. On the same day, PO1 Ronwald Basa brought the plastic sachets and the appellant's urine sample to the PNP Crime Laboratory, where a certain SPO1 Sales received and immediately forwarded the submitted specimens to P/Insp. David. The latter then examined the two heat-sealed transparent plastic sachets marked as "JUS 1" and "JUS 2," and found them to be positive for the presence of shabu. She likewise examined the appellant's urine sample, and concluded that it tested positive for the presence of shabu. When the prosecution presented the two plastic sachets in court, PO3 Salcedo positively identified them to be the same items he seized from the appellant.

The prosecution thus established the crucial link in the chain of custody of the seized items from the time they were first seized until they were brought for examination and presented in court. Clearly, the integrity and the evidentiary value of the drugs seized from the appellant were duly proven not to have been compromised.

Finally, we stress that the appellant failed to raise the buy-bust team's alleged non-compliance with Section 21, Article II of R.A. No. 9165 during trial; this argument cannot be raised for the first time on appeal. At any rate, whatever minor deviations there might have been is not fatal, as failure to strictly comply with Section 21, Article II of R.A. No. 9165 will not necessarily render the items confiscated from an accused inadmissible; what is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as these are the evidence critical in the determination of the guilt or innocence of the accused.[6] In the present case, we find sufficient compliance by the police with the required procedure on the custody and control of the seized items. The succession of events established by evidence shows that the items seized were the same items tested, and subsequently identified and testified to in court.

WHEREFORE, the decision and the resolution of the Court of Appeals dated November 28, 2007 and March 6, 2008, respectively, in CA-G.R. CR-H.C. No. 02136 are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Sereno, Reyes, and Perlas-Bernabe,[*] JJ., concur.

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[*] Designated as Acting Member of the Second Division in lieu of Associate Justice Jose Portugal Perez, per Special Order No. 1114 dated October 3, 2011.

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[1] Rollo, pp. 2-19; penned by Associate Justice Rebecca de Guia-Salvador, and concurred in by Associate Justice Magdangal M. de Leon and Associate Justice Ricardo R. Rosario.

[2] CA rollo, pp. 170-171.

[3] Id. at 79-100.

[4] See People of the Philippines v. Manuel Cruz y Cruz, G.R. No. 187047, June 15, 2011; People v. Andres, G.R. No. 193184, February 7, 2011, 641 SCRA 602, 608; and People v. Lazaro, Jr., G.R. No. 186418, October 16, 2009, 604 SCRA 250, 263-264.

[5] See also People v. Resurreccion, G.R. No. 186380, October 12, 2009, 603 SCRA 510, 520, where we clarified that "[m]arking upon immediate confiscation" does not exclude the possibility that marking can be at the police station or office of the apprehending team.

[6] See People v. Campomanes, G.R. No. 187741, August 9, 2010, 627 SCRA 494, 507; and People v. Sta. Maria, G.R. No. 171019, February 23, 2007, 516 SCRA 621, 633-634.

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