

PEOPLE OF THE PHILIPPINES, PLAINTIFF/APPELLEE, VS. GEORGE EYAM Y WATANG, ACCUSED/APPELLANT.

G.R. No. 184056. November 26, 2012

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Subject of this appeal is the September 20, 2007 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02215 which affirmed appellant's conviction by the Makati City Regional Trial Court (RTC), Branch 64, through its March 8, 2006 Decision,[2] for the crime of illegal possession of methylamphetamine hydrochloride or shabu, a dangerous drug, in violation of Section 11, Article II of Republic Act (RA) No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Factual Antecedents

In an Information[3] filed on July 17, 2003, appellant was charged with violation of Section 11, Article II of RA No. 9165, the accusatory portion of which reads:

That on or about the 15[th] day of July, 2003, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess and/or use dangerous drugs and without any license or proper prescription, did then and there willfully, unlawfully and feloniously have in his possession, custody and control one (1) small heat sealed transparent plastic sachet of Methylamphetamine Hydrochloride weighing forty seven point eighty (47.80) gram[s], a dangerous drug, in violation of the aforesaid law.

CONTRARY TO LAW.[4]

Appellant pleaded not guilty to the charge when arraigned. After termination of the pre-trial, trial on the merits ensued.

Version of the Prosecution

At around 11:00 a.m. of July 15, 2003, Security Guard Rashied A. Sahid (S/G Sahid) was doing routinary inspection of people entering the Guadalupe Commercial Complex. When it was appellant's turn to be inspected, S/G Sahid patted appellant's back pocket and felt something bulky. Thinking that appellant was carrying a bomb, S/G Sahid ordered him to empty his pocket. Appellant brought out a plastic sachet[5] and when asked what it contained, replied "shabu". Appellant was immediately apprehended and brought to the security office of the complex. S/G Sahid marked the plastic sachet with appellant's initials, GEW.[6] Then, together with the Officer-in-Charge (OIC) of the security office, he brought appellant and the plastic sachet to the Police Community Precinct 2 for recording purposes and subsequently, to the Drug Enforcement Unit (DEU) for investigation. Police investigator PO3 Conrado Mapili (PO3 Mapili) received the plastic sachet containing the suspected shabu. Thereafter, he prepared a request for laboratory examination[7] and submitted the specimen to the Philippine National Police (PNP) Crime Laboratory.

Version of the Defense

The defense gave an entirely different version of the incident.

At around 11:00 a.m. of July 15, 2003, while appellant was at the entrance of the Guadalupe Commercial Complex, a man in front of him was frisked by S/G Sahid. The guard recovered something wrapped in a newspaper from the man's right pocket. However, the man suddenly ran away so S/G Sahid pursued him. Unable to catch the man, S/G Sahid returned, held appellant's shirt, and pointed to him as the man's companion. Appellant denied any knowledge of the man but still he was brought to the second floor of the mall where he was frisked and beaten by four men including S/G Sahid. S/G Sahid even asked P20,000.00 from him in exchange for his release, but he could not give any money. He was thereafter brought to Police Station 2 and later to the DEU-Criminal Investigation Division (CID) where he was investigated by PO3 Mapili. When he told PO3 Mapili that the shabu came from the man pursued by S/G Sahid, PO3 Mapili and two others tortured him. Because of the severe beatings, appellant lost consciousness. When he woke up, he realized that he had urinated. He was then made to lick his urine off the floor. Due to this ordeal, appellant was forced to admit ownership of the shabu. He was thus brought to Fort Bonifacio for drug test and then detained at the CID. The following day, he was taken to the prosecutor's office for inquest.

Ruling of the Regional Trial Court

After evaluating the evidence for the prosecution and the defense, the trial court, in its Decision[8] dated March 8, 2006, found appellant guilty beyond reasonable doubt of violation of Section 11, Article II of RA No. 9165 and sentenced him to suffer the penalty of life imprisonment and to pay a fine of P400,000.00.

Ruling of the Court of Appeals

In its assailed Decision[9] of September 20, 2007, the CA found that the prosecution was able to prove appellant's guilt of the crime charged. Hence, it dismissed the appeal and affirmed in toto the Decision of the RTC.

Issues

Unable to accept the verdict of his conviction, appellant is now before this Court raising the same issues he submitted before the CA, viz:

I

THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND REASONABLE DOUBT DESPITE FAILURE OF THE PROSECUTION TO ESTABLISH: (1) [THAT] THE ITEM ALLEGEDLY CONFISCATED WAS INDEED A PROHIBITED DRUG AND (2) THE CHAIN OF CUSTODY OF THE SPECIMEN.

II

THE TRIAL COURT GRAVELY ERRED IN GIVING SCANT CONSIDERATION TO THE EVIDENCE PRESENTED BY THE DEFENSE, WHICH IS MORE CREDIBLE THAN THAT OF THE PROSECUTION.[10]

Our Ruling

After a painstaking review of the records of the case, the Court finds no merit in the appeal.

Appellant contends that the prosecution failed to prove beyond reasonable doubt that the substance allegedly confiscated was an illegal drug when it did not present the forensic chemist who conducted the examination on the

specimen. He thus avers that the identity of the illegal drug which constitutes the corpus delicti of the crime and which must be established with certainty and conclusiveness was not proven in this case. He also questions the chain of custody in the handling of the said specimen.

Appellant's contentions are utterly untenable.

Appellant wittingly overlooked the fact that during the pre-trial, the prosecution and the defense stipulated that the specimen submitted for examination was positive for Methylamphetamine Hydrochloride, a dangerous drug, per Physical Science Report No. D-925-03S.[11] This was the very reason why the testimony of the forensic chemist was dispensed with during the trial. Stipulation of facts at the pre-trial constitutes judicial admissions which are binding and conclusive upon the parties.[12]

Regarding the chain of custody rule, records reveal that after S/G Sahid confiscated and marked with GEW the plastic sachet containing the substance seized from appellant, S/G Sahid, together with his OIC Ruben Geronimo, then immediately brought the appellant and the plastic sachet to Police Community Precinct 2 from whence the incident was referred to the DEU for investigation. PO3 Mapili thereafter received the plastic sachet and made a request for laboratory examination of its contents. When the prosecution presented the marked specimen in court, these witnesses positively identified it to be the same plastic sachet seized from the appellant. Thus, the prosecution had indubitably established the crucial links in the chain of custody as the evidence clearly show that the integrity and evidentiary value of the confiscated substance have been preserved. This is the clear import of the chain of custody rule – to ensure the preservation of the integrity and the evidentiary value of the seized item as it would determine the guilt or innocence of the accused.

Significantly, in no instance did appellant manifest or at least intimate before the trial court that there were lapses in the handling and safekeeping of the seized item that might affect its admissibility, integrity and evidentiary value. When a party desires the court to reject the evidence offered, he must so state in the form of objection. Without such objection, he cannot raise the question for the first time on appeal as we ruled in *People v. Sta. Maria*[13] and reiterated in *People v. Hernandez*.[14]

The second error ascribed to the trial court boils down to the issue of credibility of witnesses. In this regard, the well-settled rule is that in the absence of palpable error or grave abuse of discretion on the part of the trial court, its evaluation of the credibility of witnesses will not be disturbed on appeal.[15] And “[i]n cases involving violations of Dangerous Drugs Act, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner unless there is evidence to the contrary.”[16] We cannot find anything to justify a deviation from the said rules.

Finally, the Court is convinced of appellant's commission of the crime charged. In *People v. Sembrano*,[17] we ruled that “[f]or illegal possession of regulated or prohibited drugs, the prosecution must establish the following elements: (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 drug.” All the foregoing elements were duly established by the prosecution in this case. Appellant was caught in possession of shabu, a dangerous drug. He failed to show that he was authorized to possess the same. Lastly, by his mere possession of the drug, there is already a prima facie evidence of knowledge, which he failed to rebut. All told, we sustain the conviction of appellant.

WHEREFORE, the appeal is DISMISSED and the September 20, 2007 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02215 is AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Mendoza,[*] JJ., concur.

[*] Per raffle dated November 19, 2012.

[1] CA rollo, pp. 77-88; penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justices Marina L. Buzon and Rosmari D. Carandang.

[2] Records, pp. 91-96; penned by Judge Delia H. Panganiban.

[3] Id. at 1.

[4] Id.

[5] Exhibit “E,” id. at 50.

[6] Exhibit E-2,” id.

[7] Exhibit “B,” id. at 43.

[8] Id. at 91-96.

[9] CA rollo, pp. 77-88.

[10] Id. at 35.

[11] Records, p. 44.

[12] Cuenco v. Talisay Tourist Sports Complex, Incorporated, G.R. No. 174154, October 17, 2008, 569 SCRA 616, 628.

[13] G.R. No. 171019, February 23, 2007, 516 SCRA 621, 633-634.

[14] G.R. No. 184804, June 18, 2009, 589 SCRA 625, 645.

[15] People v. Remerata 449 Phil. 813, 822 (2003).

[16] People v. Llamado, G.R. No. 185278, March 13, 2009, 581 SCRA 544, 552.

[17] G.R. No. 185848, August 16, 2010, 628 SCRA 328, 342-343.

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