PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GREGG C. BUENAVENTURA, ACCUSED-APPELLANT.

G.R. No. 184807. November 23, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

For Our review is the Decision[1] dated March 10, 2008 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00902, which affirmed in toto the Decision[2] dated January 21, 2005 of Branch 70 of the Regional Trial Court (RTC) of Pasig City in Criminal Case No. 12772-D, finding accused-appellant Gregg C. Buenaventura guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. Accused-appellant was sentenced to life imprisonment and ordered to pay a fine of P500,000.00.

The criminal Information against accused-appellant reads:

> On or about August 5, 2003 in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully, and feloniously sell, deliver and give away to PO1 Michael Espares, a police poseur-buyer, one (1) heat-sealed transparent plastic sachet containing three (3) centigrams (0.03 gram) of white crystalline substance, which was found positive to the test for Methylamphetamine Hydrochloride, a dangerous drug, in violation of the said law.[3]

When arraigned on October 28, 2003, accused-appellant pleaded not guilty to the charge against him.[4] During the pre-trial conference held on February 11, 2004, the parties stipulated only as to the genuineness and due execution, as well as to the truthfulness of the contents, of the chemistry report. The said report stated that when tested, the plastic sachet containing crystalline substance was positive for methamphetamine hydrochloride.[5] Trial then ensued.

The RTC summarized the evidence of the parties as follows:

> Apart from Forensic Chemist P/INSP. ISIDRO CARINO, whose testimony was the subject of stipulation of facts between the prosecution and the defense, as contained in the Pre-Trial Order, above reproduced, the prosecution presented two (2) other witnesses, namely: PO1 MICHAEL ESPARES and PO3 EDILBERTO SANCHEZ both of the Station Drug Enforcement Unit (SDEU) of the Pasig Police Station, a compendium of whose testimonies follows:
>
> On August 5, 2003, at about 5:30 in the afternoon, a confidential informant arrived in their office at the Pasig Police Station to report the rampant selling of illegal drugs by one, alias "Gregg," at Teacher's Village, Barangay San Miguel, Pasig City. They relayed the information to their Chief, Jojie A. Tabios, who immediately caused the formation of a team composed of P/Insp. Sabio, as team leader, and SPO3 Eliseo Sta. Ana, SPO1 Mateo Garcia, SPO1 Graciana Delosata, and themselves (PO1 Espares and PO3 Sanchez) as team members, to conduct a buy-bust operation against the said suspect, with PO1 Espares being designated as the poseur-buyer. The buy-bust money consisting of two One Hundred Peso bills (Exhs. "F" and "G") was prepared and marked with the letters "ME" on each of the bills (Exhs. "F-1" and "G-1") representing the

> initials of PO1 Michael Espares, for identification purposes. After a briefing and after coordinating with the Philippine Drug Enforcement Agency (PDEA), they proceeded to the target area. Upon reaching Teacher's Village, Barangay San Miguel, Pasig City, their confidential informant pointed to the suspect, alias "Gregg," who was standing at the opening of an alley. PO1 Espare[s], the poseur-buyer, together with the confidential informant, then approached the suspect while the other team members positioned themselves nearby to observe. Upon getting near the suspect, the informant introduced PO1 Espares to the former as the one who wanted to buy shabu. The suspect then asked how much and in reply, PO1 Espares said that he wanted to buy PHP200.00 worth of shabu simultaneously handing, the PHP200.00 marked money to the suspect. In turn, the latter took out from his right pocket a transparent plastic sachet containing white crystalline substance which he handed to PO1 Espares. After getting hold of the plastic sachet, PO1 Espares lit a cigarette, which was their pre-arranged signal signifying that the transaction had been consummated. Sensing that something was amiss, the suspect immediately ran towards his house and locked the door. PO1 Espares, together with his teammates who by then were with the former having responded to the pre-arranged signal, followed the suspect to his house and after announcing that they are police officers commanded the suspect to open the door which was not done. Momentarily, they heard voices coming from the roof-top and saw the suspect, together with another person, jump towards the "kangkungan," a watery part at the back of suspect's house. Eventually, PO1 Espares and his companions were able to corner and arrest the suspect, who later turned out to be the herein accused, Gregg C. Buenaventura. Recovered from the accused was the marked buy-bust money where PO1 Espares placed the markings MPE/GCB representing his initials and that of the accused, respectively, and the date 8.05.03 of the buy[-]bust operation. The specimen subject of the operation was likewise marked by PO1 Espares with the markings MPE/GCB 08-05-03 and signed by him for identification purposes. Accused, was later brought to the police station for investigation and filing of the appropriate charges. At the police station, an investigation was conducted wherein PO1 Espares and PO3 Edilberto Sanchez executed a Joint Affidavit of Arrest (Exh. "E").
>
> Testifying in his defense, accused, GREGG BUENAVENTURA claims that as early as 3:00 in the afternoon of August 5, 2003, he was hiding at the back of his house because a soldier whom he does not know was pestering him and insisting that he accompany him to the house of a certain "Bukol." When he refused to do so, they had an argument which culminated in a fist fight ("nagkasuntukan kami"). The soldier then went away to call for a police officer. At this point, he left his house and went to the house of his neighbor named Pilo. When the solider returned to his house already accompanied by a policeman he was no longer there. He denied selling dangerous drugs. Accused further testified on cross-examination that it was only from his neighbors that he learned that policemen came to his house while he was at his friend Pilo's house. While at first he claims that he saw the soldier for the first time on August 5, 2003, he testified in the later part of his cross-examination that two weeks prior to August 5, 2003 he already had a fight with the soldier. Thus, on said date, when he heard loud knocks on the door, thinking it was the soldier trying to avenge himself as a result of their quarrel, he ran with his friend, Edgardo Habana, and jumped into the flooded kangkungan area lest he be shot.[6]

After an evaluation of the evidence, the RTC promulgated its Decision dated January 21, 2005, finding accused-appellant guilty beyond reasonable doubt of the offense charged and sentencing him thus:

> WHEREFORE, premises considered, accused Gregg Buenaventura is hereby adjudged GUILTY beyond reasonable doubt of Violation of Section 5, Article II of Republic Act 9165, and is hereby sentenced, as mandated under the aforequoted provision, to LIFE IMPRISONMENT and for him to pay a Fine of Five Hundred Thousand (PHP500,000.00).
>
> Considering the penalty imposed, the immediate commitment of herein accused to the National Penitentiary, New Bilibid Prison, Muntinlupa City is hereby ordered.
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> Pursuant to Sec. 20 of R.A. 9165, the amount of PHP200.00 recovered from the accused representing the proceeds from the illegal sale of the plastic sachet of shabu is hereby ordered forfeited in favor of the

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> government.
>
> Again, pursuant to Sec. 21 of the same law, the PDEA is hereby ordered to take charge and have custody of the plastic sachet of shabu, subject of the instant case, for proper disposition.[7]

Accused-appellant's conviction was elevated to the Court Appeals for review. Accused-appellant, represented by the Public Attorney's Office, filed his Brief[8] on August 23, 2005, while plaintiff-appellee, through the Office of the Solicitor General, filed its Brief[9] on December 19, 2005.

The Court of Appeals considered the following arguments presented by the parties:

> Accused-appellant raises the following assignment of errors:
>
> - The trial court gravely erred in not finding his search and arrest as illegal.
>
> - The trial court gravely erred in convicting him of the crime charged despite the failure of the prosecution to prove his guilt beyond reasonable doubt.
>
> It is [accused-appellant's] posture that his arrest and the seizure of the marked money, being without warrant, were illegal as it violates Sec. 2, Art. III, of the Constitution providing:
>
> "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, of whatever nature and for any purpose shall be inviolable and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination of the complaint and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized."

According to him, items which were the product of illegal search and seizure are inadmissible as evidence in any proceedings for any purpose. And even in instances where warrantless search and seizure may be valid, the requirement of existence of probable cause cannot be dispensed with. Probable cause must only be based on reasonable ground of suspicion or belief that a crime has been committed or is about to be committed in cases of search/seizure without warrant. In this case, [accused-appellant] claimed that he was not in either situation as he just mistook the policeman to be companions of the soldier with whom he had a spat earlier. Unable to hold the [accused-appellant] liable for possession of prohibited drug, the police planted evidence (marked money) and filed a case of selling illegal drug, [accused-appellant] maintains.

It is also the argument of [accused-appellant] that the presumption of regularity in the performance of duty of the arresting police officers cannot prevail over the constitutional presumption of innocence which the accused enjoys unless there are other proof[s] showing the guilt of the accused beyond reasonable [doubt].

He postulates that his conviction was based mainly on the testimony of a police officer who acted as poseur-buyer, unsubstantiated by other evidence; thereby creating doubt as to his culpability.

Upon the other hand, [plaintiff-appellee] contends that the warrantless search and arrest of appellant was legal. [Plaintiff-appellee] considers [accused-appellant's] excuse for running away because he mistook the policeman to be companions of the soldier with whom he had a fight earlier completely unacceptable and flimsy. It maintained that his arrest without warrant was in the course of his selling prohibited drug and therefore there was probable cause as he had just committed a crime.

Besides, no evidence was shown by [accused-appellant] that the prosecution witnesses harbor ill-motive to impute so grave a crime against him. Thus, the presumption of regularity in the performance of official duty was correctly upheld by the trial court since it found the testimonies of the prosecution witnesses to be credible and were given him a straightforward manner.

[Plaintiff-appellee] also debunk [accused-appellant's] assertion that error was committed by the trial court in convicting him because his guilt was not proven beyond reasonable doubt. [Plaintiff-appellee] avers that all the elements of the crime of selling illegal drugs have sufficiently been established, which are: (a) the identity of the buyer and seller, the object and the consideration and (b) the delivery of the thing sold and payment therefore. The important thing in the prosecution of the crime of sale of illegal drug is that the transaction or sale transpired or was completed or consummated, coupled with the presentation of the "corpus delicti" or body of the crime in court, which is the shabu.[10]

Ultimately, in its Decision dated March 10, 2008, the appellate court affirmed in toto the RTC judgment against the accused-appellant.

Hence, this final review.

In our Resolution[11] dated November 19, 2008, we required the parties to file their respective supplemental briefs. However, both plaintiff-appellee and accused-appellant manifested that they had already exhausted their arguments before the Court of Appeals and, thus, would no longer file any supplemental brief.[12]

Consequently, we peruse the same arguments raised by the parties before the appellate court, and reach the same conclusion. We sustain the judgment of conviction against accused-appellant, for the prosecution has proven beyond reasonable doubt that accused-appellant was selling dangerous drugs without lawful authority, in violation of Section 5, Article II of Republic Act No. 9165.

Accused-appellant was charged with the offense defined and penalized as follows:

> 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 transaction.

For the successful prosecution of the offense of illegal sale of dangerous drugs under the aforequoted statutory provision, the following elements must be proven: (1) the identity of the buyer and seller, 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.[13] The presence of all of these elements in the instant case has been duly established.

Police Officer (P0) 1 Michael Espares (Espares)[14] and P03 Edilberto Sanchez (Sanchez),[15] police officers of Pasig City, provided clear and detailed testimonies, and corroborated each other's account of the entrapment or buy-bust operation their team conducted on August 5, 2003, during which, they caught accused-appellant in flagrante delicto or while in the commission of the offense of illegally selling dangerous drugs.

The entrapment operation was planned in response to a tip given by a confidential informant. P01 Espares was designated as the poseur-buyer and two P100 bills were marked with his initials "ME." P03 Sanchez and the other members of the entrapment team positioned themselves nearby to observe the transaction between PO1 Espares and accused-appellant. P01 Espares confidently recalled the exchanges between him and accused-appellant, to wit:

> Q: After you were given the pre-marked money, what else happened, mr. witness?

A: Together with our team leader, we proceeded to the target area, ma'am.

x x x x

Q: What happened next?
A: Upon reaching the place, the asset pointed to me the person named alias Greg, ma'am.

Q: What happened next?
A: I, together with the asset, approached alias Greg, ma'am.

Q: What happened after you approached alias Greg?
A: When we got near our subject, alias Greg greeted the asset, and he said, "O, anong atin?"

Q: And what was the reply of your asset?
A: And the asset replied, "kukuha sana itong pinsan ko. Meron ka ba dyan?"

Q: When the asset said, "itong pinsan ko," to whom was he referring to?
A: To me, ma'am.

Q: What was the reply of alias Greg?
A: He said, "Pare, magkano ba?"

Q: So, what did you say?
A: So I replied, "I will be getting Dos lang," or Two Hundred Pesos (P200) worth of shabu, ma'am.

Q: How far were you from this Greg when you said "Dos lang."
A: We were facing each other, ma'am.

Q: After you said, "Dos lang," what happened next?
A: Alias Greg asked for the money and I handed it to him, ma'am.

Q: And what happened after that?
A: He took the buy-bust money and placed it on his left pocket, ma'am.

Q: After that, what happened next?
A: And from his right pocket, he took out a plastic sachet and handed it to me, ma'am.

Q: What did this plastic sachet contain, mr. witness?
A: Containing white crystalline substance, ma'am.[16]

PO1 Espares then executed the pre-arranged signal to let the other police officers know that the buy-bust transaction had been consummated. Accused-appellant, already sensing that something was wrong, attempted to escape by locking himself up in his house and jumping off the roof to an adjoining vacant lot. The police officers pursued and eventually arrested accused-appellant, and seized from him the marked bills in his possession. The plastic sachet containing white crystalline substance, obtained by PO1 Espares from accused-appellant, was duly marked at the place where accused-appellant was apprehended. [17] Thereafter, the contents of the plastic sachet were subjected to forensic examination which yielded positive results for methamphetamine hydrochloride, otherwise known as shabu.

Credence was properly accorded to the testimonies of the prosecution witnesses, who are law enforcers. When police officers have no motive to testify falsely against the accused, courts are inclined to uphold this presumption. In this case, no evidence has been presented to suggest any improper motive on the part of the police enforcers in arresting accused-appellant. We accord great respect to the findings of the trial court on the matter of credibility of the witnesses in the absence of any palpable error or arbitrariness in its findings.[18]

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In contrast, accused-appellant's defense consisted only of denial and claim of frame-up.[19] Aside from accused-appellant's bare allegations, there is no other evidence on record to corroborate his version of events on August 5, 2003. Accused-appellant's denial cannot prevail over the positive testimonies of the prosecution witnesses. As has been held, denial as a rule is a weak form of defense, particularly when it is not substantiated by clear and convincing evidence. The defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecutions for violation of the Dangerous Drugs Act.[20]

Accused-appellant asserts the violation of his constitutional right as the police officers did not have a warrant to search accused-appellant's person and to seize the marked money in his possession.

We are not persuaded.

A buy-bust operation is far variant from an ordinary arrest; it is a form of entrapment which has repeatedly been accepted to be a valid means of arresting violators of the Dangerous Drugs Law. In a buy-bust operation, the violator is caught in flagrante delicto and the police officers conducting the operation are not only authorized, but duty-bound, to apprehend the violator and to search him for anything that may have been part of or used in the commission of the crime.[21]

WHEREFORE, the Decision dated March 10, 2008 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00902, which affirmed in toto the Decision dated January 21, 2005 of Branch 70 of the Regional Trial Court of Pasig City in Criminal Case No. 12772-D, finding accused-appellant Gregg C. Buenaventura GUILTY beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and sentencing him to life imprisonment and to pay a fine of P500,000.00, is hereby AFFIRMED.

SO ORDERED.

Corona, (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

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[1] Rollo, pp. 2-12; penned by Associate Justice Lucenito N. Tagle with Associate Justices Amelita G. Tolentino and Agustin S. Dizon, concurring.

[2] CA rollo, pp. 15-19; penned by Judge Pablito M. Rojas.

[3] Records, p. 1.

[4] Id. at 30.

[5] Id. at 54-55.

[6] CA rollo, pp. 16-18.

[7] Id. at 19.

[8] Id at 25-35.

[9] Id. at 90-111.

[10] Rollo, pp. 5-8.

[11] Id. at 18.

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[12] Id. at 19-21 and 38-40.

[13] People v. Andres, G.R. No. 193184, February 7, 2011, 641 SCRA 602, 608.

[14] TSN, April 27, 2004.

[15] TSN, July 14, 2004.

[16] TSN, April 27, 2004, pp. 6-8.

[17] Id. at 8-11.

[18] People v. Johnson, 401 Phil. 734, 750 (2000).

[19] TSN, September 15, 2004.

[20] People v. Johnson, supra at note 18 at 750.

[21] People v. Juatan, 329 Phil. 331, 337-338 (1996).

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