

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CARLO MAGNO AURE Y ARNALDO AND MELCHOR AUSTRIACO Y AGUILA, ACCUSED-APPELLANTS.

G.R. No. 185163. January 17, 2011

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the May 12, 2008 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR No. 02600 entitled *People of the Philippines v. Carlo Magno Aure and Melchor Austriaco*, which affirmed the September 1, 2006 Decision[2] in Criminal Case Nos. 03-3296, 03-3297, and 03-4210 of the Regional Trial Court (RTC), Branch 64 in Makati City. The RTC found accused Carlo Magno Aure (Aure) and Melchor Austriaco (Austriaco) guilty of violating Sections 5, 11, and 15, Article II of Republic Act No. (RA) 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

The Information in Criminal Case No. 03-3296 charged Aure and Austriaco with violation of Sec. 5, Art. II of RA 9165. The Information reads:

That on or about the 26[th] day of August, 2003, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating and both of them mutually helping and aiding with one another, without the necessary license or prescription and without being authorized by law, did then and there, willfully, unlawfully and feloniously sell, deliver, and give away P6,000.00 worth of Methylamphetamine Hydrochloride (Shabu) weighing three point ninety-one (3.91) grams, a dangerous drug.

CONTRARY TO LAW.[3]

In Criminal Case No. 03-3297, the Information charged Aure with violation of Sec. 11, Art. II of RA 9165, as follows:

That on or about the 26[th] day of August, 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 regulated drugs and without any license or proper prescription, did then and there willingly, unlawfully, feloniously have in his possession, custody and control Methylamphetamine Hydrochloride (Shabu) weighing eighty six point twenty-three (86.23) grams, which is a dangerous drug, in violation of the aforesaid law.

CONTRARY TO LAW.[4]

And the Information in Criminal Case No. 03-4210 charged Austriaco with violation of Sec. 15, Art. II of RA 9165, as follows:

That on or about the 26[th] day of August, 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 use any dangerous drug, and having been arrested and found positive for the use of Methylamphetamine after a confirmatory test, did then and there willfully, unlawfully and feloniously use Methylamphetamine, a dangerous drug, in violation of the said law.

CONTRARY TO LAW.[5]

When arraigned in Criminal Case Nos. 03-3296 and 03-3297 on September 9, 2003, Aure and Austriaco entered their negative pleas.[6]

Meanwhile, during the arraignment on February 19, 2004, Austriaco pleaded guilty in Criminal Case No. 03-4210. The promulgation of the decision in this case was deferred pending submission by the defense counsel of a certification that he had not been convicted of the same offense.[7]

Thereafter, a consolidated trial of Criminal Case Nos. 03-3296 and 03-3297 ensued.

During trial, the prosecution presented three (3) witnesses, to wit: (1) Makati Anti-Drug Abuse Council (MADAC) operative Norman Bilason (Bilason), the designated poseur-buyer; (2) Police Officer 3 Jay Lagasca (PO3 Lagasca), the buy-bust team leader; and (3) MADAC operative Rogelio Flores (Flores), one of the back-up operatives. On the other hand, the defense presented Aure and Austriaco as its witnesses.[8]

The Prosecution's Version of Facts

At around 4:00 in the afternoon of August 26, 2003, an informant came to the Office of MADAC Cluster 2 and reported that a certain Carlo, later identified as Carlo Magno Aure, was rampantly selling illegal drugs along F. Nazario Street, Barangay Singkamas, Makati City.[9] Aure was reportedly armed with a handgun and was using his car in his illegal transactions.[10]

Upon being apprised of the ongoing drug peddling, the Chief of the Drug Enforcement Unit of the Makati City Police Station immediately created a group of officers which would conduct a buy-bust operation.[11] Composing this team was PO3 Lagasca, as the team leader, with operatives from both the police station's Anti-Illegal Drug Special Operation Task Force (AIDSOTF) and MADAC's Clusters 2 and 3 as members.

When a briefing was conducted, MADAC operative Bilason was assigned as the poseur-buyer to be provided with 12 marked five hundred peso (Php 500) bills, amounting to six thousand pesos (Php 6,000).

After marking the 12 Php 500 bills, the team, with the informant, went to the place where Aure was reported to be conducting his trade. When they reached a point along Primo Rivera Street, about 30 meters away from F. Nazario Street, they alighted from their vehicles. MADAC operative Bilason and the informant walked towards F. Nazario Street, while the rest of the team members followed them.

Thereafter, when Bilason and the informant saw Aure and a certain "Buboy," who turned out to be Austriaco, seating inside a car parked along F. Nazario Street, they approached the latter. In the meantime, the other team members strategically positioned themselves within the area to monitor the transaction.

Bilason was introduced by the informant as a buyer of shabu. Aure initially expressed his apprehension that Bilason could be an operative. Nevertheless, when the informant assured him that Bilason is his friend from the province, Aure asked Bilason how much he needed. To this, Bilason replied "Isang bolto, pare,"[12] which meant six thousand pesos (Php 6,000) worth of shabu. When demanded by Aure, Bilason handed the previously marked money to him. The latter then placed the marked money inside his right front pocket.

Afterwards, Aure secured from Austriaco a small brown bag and a plastic sachet containing white crystalline substance, suspected as shabu, taken from the same bag. Aure then handed over the same plastic sachet with its contents to Bilason.

After ascertaining that what Aure gave him was shabu, Bilason lighted his cigarette to signal to his team members that the transaction with Aure was already consummated. Immediately, PO3 Lagasca and MADAC operative Flores closed in.[13] After introducing themselves as AIDSOTF and MADAC operatives, Bilason and his team members placed Aure and Austriaco under arrest, and ordered them to get out of the car.[14]

Subsequently, Bilason seized the small brown bag from Aure. When inspected, said bag yielded another plastic sachet containing substantial amount of suspected shabu wrapped in red wrapping paper, empty plastic sachets, and glass pipe tooter. Also seized was a .45 caliber pistol with one magazine and five live bullets found inside the car near the place where Aure was seated. Flores also recovered the marked money from Aure. The recovered items were marked by Bilason in the presence of Aure and Austriaco. PO3 Lagasca likewise explained to the two suspects the cause of their arrest and apprised them of their constitutional rights.

Eventually, Aure and Austriaco were brought to the AIDSOTF office. The examinations conducted by the Philippine National Police Crime Laboratory on the plastic sachets of suspected shabu and the glass pipe tooter yielded positive results for Methamphetamine Hydrochloride.[15] This was indicated in Chemistry Report No. D-1068-03[16] issued by Police Inspector Alejandro C. de Guzman.

Version of the Defense

Aure and Austriaco interposed the defense of denial.

Aure testified that on August 26, 2003, at around 8:00 in the evening, he fetched Austriaco in Pasay City.[17] The latter was referred to him by his compadre[18] to repair the cabinet in the house he intended to lease on F. Nazario Street, Barangay Singkamas, Makati City. They proceeded to the said house in Makati City on board Aure's Toyota Celica.

At around 8:30 in the evening, while Austriaco was estimating the cost of materials to be used for the repair of the cabinet, Aure heard knocks on the door. When he opened the door, he saw 10 men in civilian clothes who immediately grabbed him and made him lie face down for about three minutes.

This group of men allegedly began to search the house and seized the money amounting to PhP 200,000 which Aure intended to use for purchasing a taxi cab, among other things. During this time, Austriaco was standing beside the cabinet near the lavatory when someone ordered, "Kunin niyo na rin yung isa." [19]

Thereafter, Aure was handcuffed and was subsequently brought to the office of the Drug Enforcement Unit.[20] After about five to 10 minutes, he saw Austriaco, who was also handcuffed, being brought inside the said office.[21]

Aure further testified that a plastic sachet of shabu was shown to him, and when he denied that the item came from him despite the arresting men's insistence that this was in his possession, he was punched by a police officer. He also averred that a certain Rogelio Flores tried to extort money from him. His wallet and license were allegedly taken from him by the persons who arrested him.

For his part, Austriaco recounted that in the evening of August 26, 2003, he was fetched by a certain Benjamin Zaide from his house in Pasay City to repair the cabinet of Aure. Together, they proceeded to the house of Benjamin Zaide, also in Pasay City, where Aure was waiting. Thereafter, they proceeded to Aure's house in Makati City.

Upon arriving at Aure's house, Austriaco immediately attended to the cabinet he was supposed to repair. A few minutes later, he heard some noise coming from the direction of the stairs of the house. Nonetheless, he went on with his work and just focused his attention on the cabinet he was estimating.[22]

Austriaco further narrated that when Aure opened the door, he saw several men wearing civilian clothes enter the house and forcibly grab Aure. The latter stumbled and fell to the floor with his face down. The group of men began to search the house. Eventually, Austriaco saw Aure being brought outside of Aure's house. After two to three minutes, he was also taken out of the house and was brought to the Criminal Investigation Division.[23]

Ruling of the Trial Court

After trial, the RTC convicted Aure and Austriaco. The dispositive portion of its Decision reads:

WHEREFORE, in view of the foregoing judgment is rendered as follows:

1. In Criminal Case No. 03-3296, for Violation of Section 5, Article II of Republic Act No. 9165, the accused CARLO MAGNO AURE y ARNALDO and MELCHOR AUSTRIACO y AGUILA are found GUILTY beyond reasonable doubt of the offense charged and both are sentenced to suffer the penalty of LIFE IMPRISONMENT and each one to pay a fine of FIVE HUNDRED THOUSAND (PHP 500,000.00) PESOS.
2. In Criminal Case No. 03-3297 for Violation of Section 11, Article II Republic Act No. 9165, the accused CARLO MAGNO AURE y ARNALDO is found GUILTY beyond reasonable doubt of the offense charged and considering the quantity of shabu recovered from his possession which is 86.23 grams, is sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of Five Hundred Thousand (Php 500,000.00) [Pesos].
3. In Criminal Case No. 03-4210, for Violation of Section 15 Article II, Republic Act No. 9165, the accused MELCHOR AUSTRIACO y AGUILA having pleaded GUILTY to the charge is sentenced to undergo drug rehabilitation for at least six (6) months in a government rehabilitation center under the auspices of the Bureau of Corrections subject to the provisions of Article VIII of Republic Act No. 9165.

The Branch Clerk of Court is directed to transmit to the Philippine Drug Enforcement Agency (PDEA), the two (2) plastic sachets of shabu with a combined weight of 90.14 grams subject matter of Criminal Cases Nos. 03-3296 and 03-3297 for said agency's appropriate disposition.

SO ORDERED.[24]

On appeal to the CA, Aure and Austriaco questioned the trial court's decision in convicting them despite their claim that the prosecution failed to prove their guilt beyond reasonable doubt.[25]

Ruling of the Appellate Court

On May 12, 2008, the CA affirmed the judgment of the RTC. It ruled that all the elements necessary to establish the fact of sale or delivery of illegal drugs were aptly established by the prosecution, to wit:

In the present controversy, the elements of the crimes charged were amply proven not only by the categorical and materially consistent declarations of the poseur-buyer and two other members of the buy-bust team, but also by laboratory examinations of the substance seized, drug test of one of the accused-appellants, affidavits, marked bills, and other reports which were all submitted in court. Taken collectively, these pieces of evidence bear out that the accused-appellants indeed sold a packet of white crystalline substance to MADAC operative and poseur-buyer Norman Bilason in exchange for P6,000 and that the substance seized eventually tested positive for shabu. In the prosecution of the offense of illegal sale of prohibited drugs, what is essential is the proof that the transaction or sale actually took place coupled with the presentation in court of the corpus delicti as evidence.[26] (Citations omitted.)

The CA held also that in the absence of proof to suggest that the arresting officers were moved by improper motives, the presumption of regularity in the performance of official duty, as well as the findings of the trial court on the credibility of witnesses, shall prevail over the self-serving claim of having been framed.[27] Further, the appellate court ruled that the statutory burden of guilt beyond reasonable doubt was ably discharged by the prosecution. After all, it ratiocinated that "proof beyond reasonable doubt" does not necessarily contemplate "absolute certainty" but that degree of proof which produces conviction in an unprejudiced mind.

The fallo of the CA Decision reads:

WHEREFORE, in the light of the foregoing discussion, the present appeal is hereby DISMISSED. Accordingly, the decision of the court a quo dated 01 September 2006 is perforce affirmed in its entirety.

SO ORDERED.[28]

On June 3, 2008, accused-appellants filed their Notice of Appeal.[29]

In our Resolution dated January 14, 2009,[30] We notified the parties that they may file their respective supplemental briefs if they so desired. On March 19, 2009, the People of the Philippines manifested that it was no longer filing a supplemental brief, as it believed that the Brief for the Plaintiff-Appellee dated November 6, 2007 had thoroughly refuted and discussed the lone issue raised by accused-appellants in the instant case.[31] Similarly, accused-appellants, on April 8, 2009, manifested that they were no longer filing a supplemental brief, as they are adopting all the arguments contained in their Brief for the Accused-Appellants dated June 15, 2007.[32]

The Issues

Accused-appellants contend in their Brief for the Accused-Appellants dated June 15, 2007[33] that:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED GUILTY OF THE CRIME CHARGED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE their GUILT BEYOND REASONABLE DOUBT.

Our Ruling

We sustain accused-appellants' conviction.

Proof of guilt beyond reasonable doubt adequately established by the prosecution

After a careful examination of the records of this case, We are satisfied that the prosecution's evidence established the guilt of accused-appellants beyond reasonable doubt.

In deciding this appeal, this Court is guided by the legal aphorism that factual findings of the CA, affirming those of the trial court, are binding on this Court, unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness, or palpable error.[34] As this Court held in *People v. Lusabio, Jr.*:[35]

All in all, we find the evidence of the prosecution to be more credible than that adduced by accused-appellant. When it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate testimonial evidence properly. (Emphasis supplied; citations omitted.)

Here, accused-appellants failed to show any palpable error, arbitrariness, or oversight on the findings of fact of the trial and appellate courts as to warrant a review of such findings.

In the prosecution for the crime of illegal sale of prohibited drugs under Sec. 5, Art. II of RA 9165, the following elements must concur: (1) the identities of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment for it.[36] What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually occurred, coupled with the presentation in court of the substance seized as evidence.[37] In the instant case, all these were sufficiently established by the prosecution.

MADAC operative Bilason, the poseur-buyer, testified on the first element, thus:

Q:

On August 26, 2003 at around 9:05 in the evening, where were you Mr. Witness?

A:

I'm at F. Nazario St., Brgy. Singkamas, Makati City, sir.

Q:

What were you doing in the said place?

A:

We were conducting buy bust operation against a certain Carlo, sir.

Q:

What was your participation in that buy bust operation that you were then conducting?

A:

I was the poseur buyer.

x x x x

Q:

Could you tell us what happened to the buy bust operation that you conducted at F. Nazario St., Brgy. Singkamas, Makati City?

A:

We successfully apprehended Carlo together with his companion Melchor Austriaco.

Q:

If this alias Carlo is present in court, will you be able to identify him?

A:

Yes, sir.

Q:

Will you please point him out to us?

A:

(The witness pointed to a man who identified himself as Carlo Magno Aure y Arnaldo)

Q:

How about Melchor Austriaco Mr. Witness, will you please point him out to us?

A:

(The witness pointed to a man who identified himself as Melchor Austriaco y Aguila)

x x x x

Q:

What happened Mr. Witness after the operation was coordinated with the PDEA?

A:

PO3 Jay Lagasca prepared the buy bust money, sir.

Q:

And how much were you supposed to buy in the buy bust operation?

A:

Worth P6,000.00 pesos, sir.

Q:

And what were you supposed to buy?

A:

Shabu, sir.

Q:

You said that PO3 Jay Lagasca prepared the buy bust money?

A:

Yes, sir.

Q:

Where were you when it was given to you?

A:

I was present, sir, beside PO3 Jay Lagasca, sir.

Q:

If the buy bust money that was given to you by PO3 Jay Lagasca will be shown to you, will you be able to identify the same?

A:

Yes, sir.

Q:

By the way, how much was given to you by PO3 Jay Lagasca?

A:

Worth P6,000.00 pesos, sir.

Q:

And could you tell us in what denomination were those P6,000.00 pesos are?

A:

Twelve (12) pieces of P500.00 peso bills, sir.

Q:

If this [sic] twelve (12) pieces of P500.00 peso bills given to you by PO3 Jay Lagasca to be used in that operation will be shown to you, will you be able to identify the same?

A:

I am very sure, sir.

Q:

I'm showing to you Mr. Witness twelve (12) pieces of P500.00 peso bills. Will you please go over the same and tell us what relation does that have to the money that was given to you by PO3 Jay Lagasca?

A:

This is the same buy bust money that we used in the buy bust operation.

Q:

x x x Why are you certain Mr. Witness that these are the same buy bust money that were given to you by PO3 Jay Lagasca?

A:

Because of the marking above the serial number C2, sir.

Q:

What does this marking C2 stands for?

A:

Cluster 2, sir.

Q:

Who placed these markings above the serial numbers of the P500.00 peso bills?

A:

Our team leader, PO3 Jay Lagasca, sir.

Q:

Where were you when these markings were placed?

A:

I'm just in front of him, sir.

Q:

x x x Mr. Witness, what did you do next after the P500.00 peso bills were given to you by PO3 Jay Lagasca?

A:

After receiving the money, we proceeded to the area, sir.

Q:

Who was with you when you proceeded to the area?

A:

The confidential informant together with the buy bust team, sir.

x x x x

Q:

You said that while you were walking at F. Nazario Street, you saw the [sic]?

A:

The informant told me that that is the accused, sir.

Q:

And what was the accused doing when you saw him?

A:

He was seated inside the car and beside him on the driver side is a male person.

x x x x

Q:

And what was the other male person doing at that time that you saw accused Carlo Magno Aure?

A:

They were talking to each other, sir.

Q:

Where was this other man at that time?

A:

Beside him, sir, at the other side, sir.

Q:

What happened after you saw the two men, Mr. Witness?

A:

The confidential informant introduced me to the subject alias Carlo and told him that I am in need of shabu.

Q:

So Mr. Witness, you said that you were introduced by the informant to accused Carlo Magno Aure?

A:

Yes, sir.

Q:

How were you introduced by the informant?

A:

That I was in need of shabu, sir.

Q:

And what was the reply of accused Carlo Magno Aure?

A:

Carlo Magno Aure said that pare "parang parak yata yan tol?"

Q:

And when he said "parang parak yata yan tol?" to whom was he addressing this statement?

A:

To the informant.

Q:

And what happened after he uttered those words Mr. Witness?

A:

Sumagot yung informant "barkada ko yan, taga probinsya." [38]

The second element--the delivery of the thing sold and the payment for it--was satisfied through the testimony of witness Bilason:

Q:

And what happened after that?

A:

"Tinanong ako ni Carlo Magno Aure kung magkano ang kukunin ko, sabi ko sa kanya isang bolto pare."

Q:

When you said "isang bolto" what exactly do you mean?

A:

According to the informant worth P6,000.00 pesos "isang bolto."

Q:

And what happened after you said "isang bolto?"

A:

He got the money from me and put it inside his right front pocket, sir.

Q:

And what happened after that?

A:

He ordered his companion alias Buboy to get the brown bag and took out one plastic sachet, sir.

Q:

And what did he do with this plastic sachet?

A:

Alias Buboy handed to Carlo Magno Aure one plastic sachet containing white crystalline substance, the suspected shabu and the brown bag.

Q:

After the plastic sachet and the brown bag were handed to accused Carlo Magno Aure what happened next?

A:

Alias Carlo gave me the one piece of transparent plastic sachet containing crystalline substance, the suspected shabu.

Q:

If the male companion of Carlo Magno is inside the courtroom, will you be able to identify him?

A:

Yes, sir.

Q:

Will you please point him out to us.

A:

(The witness pointed to a man who identified himself as Melchor Austriaco y Aguila)

Q:

So, you are referring to accused Melchor Austriaco y Aguila?

A:

Yes, sir.

Q:

What happened next Mr. Witness after accused Carlo Magno Aure handed to you this plastic sachet?

A:

When I got the plastic sachet and I was convinced that it was shabu then I gave the pre-arranged signal, sir.

Q:

What convinced you that the sachet contained shabu?

A:

Because of [sic] the appearance consist of white crystalline substance, sir.

Q:

What was the pre-arranged signal that you gave?

A:

By lighting my cigarette, sir.

Q:

And what happened after the pre-arranged signal was given?

A:

Our team leader and my back up Rogelio Flores approached us and helped me in arresting the suspect, sir.

Q:

What happened Mr. Witness after you arrested the two accused?

A:

I got hold of Carlo Magno and I introduced myself as MADAC operative and we asked him to go outside the vehicle, sir.

Q:

And what happened after you ordered the two to get off the car?

A:

Narecover ko po yung isang brown bag na naglalaman ng nakabot [sic] na kulay pulang birthday wrapping paper na shabu at glass tooter at saka may lamang mga plastic po.

Q:

Mr. Witness, if the item that you bought from the accused will be shown to you, will you be able to identify the same?

A:

Yes, sir.

Q:

I'm showing to you Mr. Witness several pieces of object evidence. Will you please go over these and identify the item that you bought from the accused?

A:

Sir, ito po mismo yung nabili ko kay Carlo Magno Aure worth P6,000.00 pesos.

Q:

x x x Why are you certain that this is the same item that you bought?

A:

Because of the marking CAA 8/26/03.

Q:

Who placed the markings on the sachet?

A:

I was the one, sir.

Q:

Where were you when you placed this marking?

A:

In front of the accused, in the area where we arrested the accused.

Q:

What does the initial CAA stands for?

A:

Carlo Magno Aure y Arnaldo, sir.

Q:

How did you come to know that the initial of accused Carlo Magno Aure was CAA at the time that you made this marking?

A:

After arresting them and after confiscating all the items PO3 Jay Lagasca asked his name.

x x x x

Q:

By the way Mr. Witness, earlier you identified these pieces of evidence contained in this brown plastic bag. Why are you certain Mr. Witness that these are the same evidence, which you recovered from the possession of accused Carlo Magno Aure?

A:

I was the one who marked that evidence that we recovered from Carlo Magno Aure, sir.

Q:

What happened to the buy bust money, Mr. Witness?

A:

MADAC Rogelio Flores recovered the buy bust money from the front pocket of his worn pants.

Q:

From whom was it recovered?

A:

From Carlo Magno Aure, sir.

Q:

Where were you when MADAC Flores recovered the money?

A:

I was beside him, sir.

Q:

After you have arrested the two accused where did you go?

A:

We [went] to the Drug Enforcement Unit of the Makati Police Station.

Q:

And what happened at the Drug Enforcement Unit?

A:

To give the evidence to the duty investigator PO1 Alex Inopia and PO1 Alex Inopia made a request for laboratory examination of the specimen recovered from Carlo Magno Aure and drug test as well.

Q:

Who brought the two accused to the PNP Crime Laboratory for drug testing and the shabu for laboratory examination?

A:

I was the one together with my group, sir.

Q:

Did you come to know the result of the drug test conducted from the two accused?

A:

I'm not aware, sir. I have not seen the result.

Q:

How about the drug that were subject of these cases?

A:

It gave positive result for Methlyamphetamine [sic] Hydrochloride, sir.[39]

As shown in Bilason's testimony, a buy-bust operation took place. Being the poseur-buyer, he positively identified accused-appellants as the sellers of a sachet containing a white crystalline substance for a sum of PhP 6,000. The sachet was confiscated and marked with the initials "CAA" and was subsequently taken to the crime laboratory for examination, where a chemical analysis on its contents confirmed that the substance is indeed

Methylamphetamine Hydrochloride or shabu. Moreover, the testimonies of the other members of the buy-bust team, PO3 Lagasca and MADAC operative Flores, substantially corroborated Bilason's testimony.

As regards the charge of illegal possession of dangerous drugs under Sec. 11, Art. II of RA 9165 against accused-appellant Aure, We also find that the elements of the offense have been established by the evidence of the prosecution.

The elements necessary for the prosecution of illegal possession of dangerous drugs are: (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 said drug.[40]

In the instant case, a brown bag was found inside the car of accused-appellant Aure. It yielded a plastic sachet of shabu weighing 86.23 grams wrapped in red wrapping paper, small plastic sachets, and an improvised plastic tooter. Considering that during the sale to Bilason, it was from the same bag that accused-appellant Austriaco took the sachet of shabu, per order of accused-appellant Aure, the owner-possessor of said bag and its contents is no other than accused-appellant Aure, who has not shown any proof that he was duly authorized by law to possess them or any evidence to rebut his animus possidendi of the shabu found in his car during the buy-bust operation.

Defense of denial is inherently weak

The sachet containing the dangerous drug was positively identified by MADAC operative Bilason during the trial as the very sachet with white crystalline substance sold and delivered to him by accused-appellants. Thus, accused-appellants' denial is self-serving and has little weight in law. A bare denial is an inherently weak defense,[41] and has been invariably viewed by this Court with disfavor, for it can be easily concocted but difficult to prove, and is a common standard line of defense in most prosecutions arising from violations of RA 9165.[42]

Time and again, We have held that "denials unsubstantiated by convincing evidence are not enough to engender reasonable doubt particularly where the prosecution presents sufficiently telling proof of guilt." [43]

In the absence of any intent on the part of the police authorities to falsely impute such crime against the accused-appellants, the presumption of regularity in the performance of duty stands.[44] Especially here, where an astute analysis of MADAC operative Bilason's testimony does not indicate any inconsistency, contradiction, or fabrication.

Considering the foregoing disquisitions, We uphold the presumption of regularity in the performance of official duty and find that the prosecution has discharged its burden of proving the guilt of accused-appellants beyond reasonable doubt.

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR No. 02600 finding accused-appellants Carlo Magno Aure and Melchor Austriaco guilty of the crimes charged is AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Perez, JJ., concur.

[1] Rollo, pp. 2-12. Penned by Associate Justice Bienvenido L. Reyes and concurred in by Associate Justices Vicente Q. Roxas and Myrna Dimaranan-Vidal.

[2] CA rollo, pp. 19-41. Penned by Judge Delia H. Panganiban.

[3] Records, p. 2.

[4] Id. at 4.

[5] Rollo, p. 6.

[6] Records, p. 29.

[7] Rollo, p. 7.

[8] CA rollo, p. 23.

[9] Id. at 23-24.

[10] Rollo, p. 2.

[11] Id. at 2-3.

[12] TSN, November 23, 2004, p. 20.

[13] Rollo, p. 3.

[14] Id. at 3-4.

[15] Id. at 4.

[16] Records, p. 143.

[17] CA rollo, p. 28.

[18] A name called by men to each other, as when one is a godfather to the other's child in baptism.

[19] "Get the other one, too."

[20] CA rollo, p. 29.

[21] Id. at 29-30.

[22] Id. at 30.

[23] Rollo, p. 5.

[24] CA rollo, pp. 39-41.

[25] Id. at 57.

[26] Rollo, p. 11.

[27] Id. at 11-12.

[28] Id. at 12.

[29] Id. at 13-14.

[30] Id. at 19-20.

[31] Id. at 21-23.

[32] Id. at 25-27.

[33] CA rollo, pp. 55-70.

[34] *People v. Belo*, G.R. No. 187075, July 5, 2010; citing *Fuentes v. Court of Appeals*, G.R. No. 109849, February 26, 1997, 268 SCRA 703, 705.

[35] G.R. No. 186119, October 27, 2009, 604 SCRA 565, 590.

[36] *People v. Alberto*, G.R. No. 179717, February 5, 2010, 611 SCRA 706, 713; citing *People v. Dumlao*, G.R. No. 181599, August 20, 2008, 562 SCRA 762, 770.

[37] *Id.*

[38] TSN, November 23, 2004, pp. 4-19.

[39] *Id.* at 20-32.

[40] *People v. Gutierrez*, G.R. No. 177777, December 4, 2009, 607 SCRA 377, 390-391; citing *People v. Pringas*, G.R. No. 175928, August 31, 2007, 531 SCRA 828, 846.

[41] *People v. Dulay*, G.R. No. 150624, February 24, 2004, 423 SCRA 652, 662; citing *People v. Arlee*, G.R. No. 113518, January 25, 2000, 323 SCRA 201, 214.

[42] *People v. Barita*, G.R. No. 123541, February 8, 2000, 325 SCRA 22, 38.

[43] *People v. Eugenio*, G.R. No. 146805, January 16, 2003, 395 SCRA 317, 326; citing *People v. Del Mundo*, G.R. No. 138929, October 2, 2001, 366 SCRA 471.

[44] *People v. Cruz*, G.R. No. 185381, December 16, 2009, 608 SCRA 350, 368.

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