

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROLANDO LLAMADO Y CRUZ, APPELLANT.

G.R. No. 185278. March 13, 2009

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is an appeal from the May 6, 2008 Decision[1] of the Court of Appeals in CA-G.R. CR-HC No. 02799, which affirmed the May 21, 2007 Decision[2] of the Regional Trial Court of Marikina City, Branch 192, finding appellant Rolando Llamado guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002 and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

In an Information[3] filed on February 21, 2005, appellant was charged with the crime of illegal sale of dangerous drugs, the accusatory portion of which reads as follows:

That on or about the 12[th] day of February 2005, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously sell to poseur buyer PO2 Ferdinand Brubio for and in consideration of Php200.00, 0.02 gram of methylamphetamine hydrochloride (shabu), which is a dangerous drug, in violation of the above-cited law.

Contrary to law.

Appellant pleaded "not guilty" when arraigned on March 14, 2005.

After the pre-trial conference, trial on the merits ensued.

The facts as narrated by the prosecution are as follows:

Around 6:50 in the evening of February 12, 2005, PO2 Ferdinand Brubio, PO2 Ramiel Soriano, PO1 Christopher Anos and P/Supt. Romeo Abaring were on duty at the Station of the Anti-Illegal Drugs Special Operations Task Force located in Sta. Elena Marikina City, when a police informant came to the station, informing them of the rampant selling of shabu by appellant Rolando Llamado alias "Pusa" in E. Dela Paz St., Sto. Niño, Marikina City.

Upon learning of the information, P/Supt. Abaring formed a buy-bust team and designated PO2 Brubio as the poseur-buyer. After PO2 Brubio coordinated their plan with the Philippine Drug Enforcement Agency (PDEA), P/Supt. Abaring gave two (2) one hundred peso bills, dusted with fluorescent powder, to PO2 Brubio to be used as buy-bust money.

PO2 Brubio went with the confidential informant to the pinpointed place of operation. PO3 Soriano and PO1 Anos were assigned as "back-up." Upon reaching the area, the police informant saw appellant, who was then wearing a basketball uniform, and pointed him to PO2 Brubio. When PO2 Brubio and the informant approached him, the informant introduced PO2 Brubio as the "scorer." Appellant asked PO2 Brubio how much

he would buy and the latter answered "dos lang", meaning two hundred pesos. Appellant gave a sachet of shabu to PO2 Brubio who, in turn, gave the buy-bust money to appellant. Amid their transaction, another blonde-haired male arrived and also bought shabu from appellant.

PO2 Brubio held the shoulder of the police informant, the pre-arranged signal to their back-up police officers that the drug sale transaction had been consummated. PO2 Brubio introduced himself as a police officer and arrested appellant and the blonde-haired male who, unfortunately, was able to escape later on. PO2 Brubio placed the markings "RCL-FB BUYBUST 02-12-05" on the sachet of shabu bought from appellant and the buy-bust money. "RCL" and "FB" markings are appellant's and PO2 Brubio's initials, respectively.

Appellant was taken to the Anti-Illegal Drugs Special Operations Task Force where the affidavit of arrest and request for laboratory examination and urine test were prepared. Thereafter, PO2 Brubio personally brought appellant to the Philippine National Police (PNP) Crime Laboratory, together with the confiscated shabu and the request for laboratory examination.

P/Sr. Insp. Maridel Rodis, Forensic Chemist of the PNP Crime Laboratory based in Camp Crame, Quezon City, personally received the request for laboratory examination and the attached specimen from PO2 Brubio. She conducted a physical, chemical and confirmatory examination on the specimen recovered from appellant. In Chemistry Report No. D-115-05 prepared by P/Sr. Insp. Rodis, the specimen recovered from appellant was positive for methylamphetamine Hydrochloride or shabu, thus:

"FINDINGS:

Qualitative examination conducted on specimen A and B gave positive result to the tests for methylamphetamine hydrochloride, a dangerous drugs.

x x x x x x x x

CONCLUSION:

Specimen A and B contain Methylamphetamine hydrochloride, a dangerous drugs.[4]

Appellant admitted that his alias is "Pusa"; however, he denied having sold shabu to a poseur-buyer and having held the buy-bust money. He claimed that the police officers were the ones in possession of the buy-bust money when they arrested him.

Luningning Llamado, mother of the appellant, substantially corroborated the testimony of her son. She claimed that four persons suddenly barged into their house while they were having dinner; that they invited her son "Jun" to go with them but appellant refused claiming that he did not do anything wrong; that the men started frisking her son; that the policemen did not have any warrant but justified the intrusion as buy-bust operation; that the officers did not recover anything from appellant except money amounting to P140.00 and his cellphone.

The trial court found the prosecution's version more credible and accordingly found appellant guilty as charged. The dispositive portion of the Decision reads:

WHEREFORE, the Court finds the accused, ROLANDO LLAMADO y CRUZ, GUILTY BEYOND REASONABLE DOUBT of Violation of Section 5, Article II of Republic Act 9165. Applying Article 63 of the Revised Penal Code, and there being no mitigating or aggravating circumstance attending the commission of the crime, the accused is hereby sentenced to suffer the penalty of Life Imprisonment and ordered to pay a fine of Five Hundred Thousand (P500,000.00) Pesos.

The shabu subject matter of this case is hereby confiscated in favor of the Government and to be turned over to the Dangerous Drugs Board for proper disposition, without delay.

SO ORDERED.[5]

On appeal, appellant alleged that the evidence seized from him was a product of illegal search; hence, inadmissible; that the acts of the policemen could not be accorded the presumption of regularity because they failed to secure either a search warrant or warrant of arrest; that the police officers failed to comply with Section 21 of R.A. No. 9165 when they failed to make an inventory and take photographs of the paraphernalia seized during the buy-bust operation.

On May 6, 2008, the Court of Appeals rendered the assailed Decision[6] denying the appeal and affirming the decision of the court a quo. The appellate court held that the failure of the police officers to coordinate with the local barangay officials prior to the conduct of the buy-bust operation did not invalidate the undertaking of the police officers; that the prosecution has established the authenticity of the buy-bust operation; that non-compliance with the requirements set forth in Section 21 of R.A. No. 9165 did not render void and invalid the seizure of and custody over the confiscated items considering that the integrity and evidentiary value of the seized items were properly preserved by the apprehending team.

Hence, the instant appeal.

Section 5, Article II of R.A. No. 9165 provides in part:

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 drugs, 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 transactions.

In this case, appellant is charged with selling "shabu," which is a dangerous drug. Section 3 (ii), Article I of R.A. No. 9165 defines "selling" as "any act of giving away any dangerous drugs and/or controlled precursors and essential chemicals whether for money or any other consideration." For the prosecution of illegal sale of drugs to prosper, the following elements must be proven: (1) the identity of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.[7]

In the instant case, the prosecution positively identified appellant as the seller of the substance which was found to be Methylamphetamine hydrochloride, a dangerous drug. Appellant sold the drug to PO2 Brubio, a police officer who acted as poseur-buyer for a sum of P200.00. The prosecution positively and categorically testified that the transaction or sale actually took place. The subject shabu[8] weighing 0.02 grams and the money amounting to P200.00[9] pesos were likewise identified by the prosecution witnesses when presented in court.

It has been held that it is the duty of the prosecution to present a complete picture detailing the buy-bust operation from initial contact between the poseur-buyer and the pusher, the offer to purchase, the promise or payment of the consideration, until the consummation of the sale by the delivery of the illegal subject of sale. The manner by which the initial contact was made, the offer to purchase the drug, the payment of the buy-bust money, and the delivery of the illegal drug must be the subject of strict scrutiny by courts to insure that law-abiding citizens are not unlawfully induced to commit an offense.[10]

Appellant's defense of denial is unavailing. There was no evidence that PO2 Brubio was motivated by reasons other than his duty to enforce the law. In fact, appellant was caught in flagrante delicto in a legitimate entrapment operation and was positively identified by the police officers who conducted the operation. As between the categorical testimony that rings of truth on one hand, and a bare denial on the other, the former is generally held to prevail.[11]

Moreover, the failure on the part of the police officers to take photographs and make an inventory of the drugs seized from the appellant was not fatal because the prosecution was able to preserve the integrity and evidentiary value of the said illegal drugs. What determines if there was, indeed, a sale of dangerous drugs is proof of the concurrence of all the elements of the offense. The prosecution satisfactorily proved the illegal sale of dangerous drugs and presented in court evidence of corpus delicti.[12] PO2 Brubio was able to put the necessary markings on the sachet of shabu bought from appellant, for identification purposes, immediately after the consummation of the drug sale. He personally delivered the same specimen to the PNP Crime Laboratory for chemical analysis on the same day the entrapment was conducted. Lastly, PO2 Brubio was able to identify the said markings in court.

In 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 be evidence to the contrary. Moreover, in the absence of proof of motive to falsely impute such a serious crime against the appellant, 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 appellant's self-serving and uncorroborated denial.[13]

WHEREFORE, the appeal is DENIED. The May 6, 2008 Decision of the Court of Appeals in CA-G.R. CR-HC. No. 02799, affirming the Decision of the Regional Trial Court of Marikina City, Branch 192, finding appellant Rolando Llamado guilty of violation of Section 5, Article II of R.A. No. 9165, and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00, is AFFIRMED.

SO ORDERED.

Austria-Martinez, Chico-Nazario, Nachura, and Peralta, JJ., concur.

[1] Rollo, pp. 3-16; penned by Associate Justice Josefina Guevara-Salonga and concurred in by Associate Justices Magdangal M. De Leon and Normandie B. Pizarro.

[2] CA rollo, pp. 32-41; penned by Judge Geraldine C. Fiel-Macaraig.

[3] Record (Main Folder), p. 1.

[4] CA rollo, pp. 88-90.

[5] Id. at 41.

[6] Id. at 120.

[7] People v. Ong, G.R. No. 175940, February 6, 2008, 544 SCRA 123, 132.

[8] Folder of Documentary Exhibits, Exhibit "B", p. 2.

[9] Id., Exhibit "G", p. 10.

[10] People v. Ong, supra.

[11] People v. Torres, G.R. No. 170837, September 12, 2006, 501 SCRA 591, 611-612.

[12] People v. Nicolas, G.R. No. 170234, February 8, 2007, 515 SCRA 187, 197-198.

[13] Dimacuha v. People, G.R. No. 143705, February 23, 2007, 516 SCRA 513, 522-523.

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