

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EVANGELINE SOBANGEE Y EDAÑO, ACCUSED-APPELLANT.

G.R. No. 186120. January 31, 2011

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the February 29, 2008 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01904 entitled *People of the Philippines v. Evangeline Sobangee y Edaño*, which affirmed the October 12, 2005 Decision in Criminal Case No. 02-3445 of the Regional Trial Court (RTC), Branch 65 in Makati City. The RTC found accused Evangeline Sobangee y Edaño (Sobangee) guilty of violating Section 5, Article II of Republic Act No. (RA) 9165 or the Comprehensive Dangerous Drugs Act of 2002, for selling methylamphetamine hydrochloride.

The Facts

An Information^[1] charged Sobangee as follows:

That on or about the 21st day of November, 2002, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, 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 P150,000.00 worth of Methylamphetamine Hydrochloride (Shabu) weighing eighty seven point nineteen (87.19) grams and forty eight point seventy six (48.76) grams, a dangerous drug.

During her arraignment, Sobangee pleaded not guilty.

At the trial, the prosecution presented the following witnesses: Police Inspector Lourdeliza M. Gural (P/Insp. Gural), Senior Police Officer 1 Marvin Fajilan (SPO1 Fajilan), SPO1 Antonio Fulleros (SPO1 Fulleros), SPO2 Wilmer Antonio (SPO2 Antonio), SPO4 Arsenio Mangulabnan (SPO4 Mangulabnan), and Police Officer 3 Reynaldo Juan (PO3 Juan). Sobangee was the only witness for the defense.

Version of the Prosecution

A confidential informant reported to the Drug Enforcement Unit (DEU) of Makati City that a certain "Vangie" was engaged in drug pushing activities. The DEU Chief, Senior Police Inspector Leandro Abel, thus, ordered a buy-bust operation against the alleged drug pusher.^[2]

On November 21, 2002, a buy-bust operation was planned by the DEU. SPO4 Mangulabnan conducted the briefing. "Vangie" was contacted by SPO4 Mangulabnan through a mobile phone, and a drug deal worth PhP 150,000 was agreed upon. The parties arranged to meet at Jollibee in Guadalupe Viejo.

SPO1 Fulleros was designated as poseur-buyer, while SPO2 Antonio, SPO1 Fajilan, PO2 Costa, PO2 Gabrang, PO1 Inopla, PO1 Santos, and PO3 Mapili served as back-up. SPO1 Fulleros was instructed to place a genuine marked one thousand peso bill on top of a bundle of boodle money.

Before the actual meeting, the target location was changed by "Vangie" to Starbucks Café on Rockwell Drive, Rockwell Center, Makati City. SPO1 Fulleros acceded to her request and headed to the coffee shop. The back-up team monitored the transaction from a distance. Minutes after, "Vangie" arrived and looked for the poseur-buyer. SPO4 Mangulabnan had earlier told "Vangie" that the customer would be dressed in a black jacket and bull cap.

"Vangie" approached SPO1 Fulleros and asked his name. She then allowed him to examine the contents of the plastic bags she had with her. He gave "Vangie" the boodle money after examining the plastic bags. Afterwards, he gave the pre-arranged signal to alert his team that the transaction had been consummated. The back-up operatives arrived while he was introducing himself to "Vangie" as a DEU operative. She was placed under arrest and later identified as Sobangee.

The operations retrieved the marked buy-bust bill from Sobangee along with the boodle money and informed her of her constitutional rights. The seized items, consisting of the plastic bags and its contents, were turned over to SPO4 Mangulabnan and marked inside their vehicle.[3]

PO3 Juan, the investigating officer, prepared the inventory of the seized items. This was made in the presence of Prosecutor Christopher Garvida, Barangay Captain Rodolfo Doromal, and media representative Loudeth Bonilla. PO3 Juan then requested for the Philippine National Police Crime Laboratory to examine the contents of the items. Sobangee was later brought to the DEU for investigation. She was tested for drugs at the Southern Police District Crime Laboratory.[4] P/Insp. Gural, a Forensic Chemical Officer, tested the plastic bags marked "EES" (87.19 grams) and "EES-1" (48.76 grams). These tested positive for methylamphetamine hydrochloride. After the examination, the seized substance was turned over to the evidence custodian and presented in court.[5]

Version of the Defense

Denying the charge against her, Sobangee claimed that at the time of the buy-bust, she was in Rockwell to get money from a certain "Rolly," a friend of her common-law partner. She testified that she had no mobile phone with her at the time. Upon her arrival, she could not find "Rolly." While she was still there, she was suddenly accosted by two men who instructed her to go with them and forced her to board a van. She asked why she was being held and what offense had she committed but received no reply. She observed that five other persons, all of them male, were inside the vehicle.

When further questioned, Sobangee stated that none of the prosecution witnesses arrested her. She was detained at the DEU for three days and then transferred to the Makati City Jail. She explained that she did not sign the inventory sheet because she had not committed any offense.[6]

During cross-examination, Sobangee revealed that she did not divulge any information while she was at the DEU, because she was told to keep quiet and she obeyed out of fear. She stated that none of the men who arrested her or who were at the DEU was known to her, and she did not know of any reason why she would be maliciously prosecuted. She did not press any charges against those who arrested her.[7]

The Ruling of the Trial Court

After trial, the RTC convicted Sobangee. The trial court was convinced that all the elements of the offense were established. It ruled that the requirements for a valid buy-bust operation were complied with.

In contrast, the bare denials of Sobangee did not impress the trial court in the face of the testimonies of the prosecution's credible witnesses. The RTC ruled that they had the presumption of regularity in the performance of official functions working in their favor.

The dispositive portion of the October 12, 2005 RTC Decision[8] reads:

THE FOREGOING CONSIDERED, the court is of the opinion and so hold accused Evangeline Sobangee y Edaña guilty beyond reasonable doubt of the offense charged. She is hereby sentenced to life imprisonment and is fined the sum of one million pesos (Php 1,000,000.00) without subsidiary imprisonment in case of insolvency.

x x x x

SO ORDERED.

The Ruling of the Appellate Court

On appeal, Sobangee claimed that the RTC erred in finding her guilty beyond reasonable doubt. She claimed that the testimonies of the prosecution witnesses suffered from major inconsistencies, such as: (1) the date the alleged informant came to the DEU office; (2) the time the buy-bust team left the office to conduct its operation; (3) the place that the team first went to before going to the buy-bust at Rockwell Center, Makati City; (4) the location of the operatives during the buy-bust operation; (5) the site where the illegal substances seized were marked; (6) the amount involved in the buy-bust; (7) the officer who informed Sobangee of her constitutional rights; and (8) the identity of the informant.

She also cited as incredulous the claim that she conducted drug pushing activities via her mobile phone when the prosecution did not present the phone she allegedly used.

On February 29, 2008, the appellate court affirmed the judgment of the trial court.[9] It ruled that all the elements of the offense charged were established by the prosecution. It deferred to the finding of the RTC on the credibility of the witnesses against Sobangee and dismissed her claim of inconsistencies in their testimonies as insignificant and immaterial.

On August 4, 2008, Sobangee filed her Notice of Appeal from the appellate court's Decision.

On March 16, 2009, this Court required the parties to submit supplemental briefs if they so desired. The People, represented by the Office of the Solicitor General (OSG), reserved its option to file a supplemental brief if accused-appellant Sobangee should file one. Accused-appellant did not file any.

The Issue

Whether the Court of Appeals erred in finding accused-appellant guilty beyond reasonable doubt of having violated Sec. 5, Art. II of Republic Act No. 9165

The Ruling of this Court

Accused-appellant maintains that the witnesses' testimonies were conflicting on material points.

We affirm accused-appellant's conviction.

The inconsistencies referred to are inconsequential. What is important is that the prosecution was able to establish the key elements needed for a conviction. In order to successfully prosecute an accused for illegal sale of drugs, the prosecution must be able to prove the following elements: (1) identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment for it.[10]

The relevant portion of the RTC's disquisition reads:

The prosecution succeeded in proving the presence of all the elements of the offense charged. The plastic bags containing white crystalline substance taken from the accused were positively and categorically identified by Forensic Chemist Lourdeliza Gural as methylamphetamine hydrochloride, a dangerous drug otherwise known

as shabu. According to her, the said substance was contained in two (2) knot-tied transparent plastic bags delivered and submitted to the PNP Crime Laboratory for testing on 21 November 2002; immediately after the same was turned over for investigation and documentation. The markings placed by the arresting officer were identified in open court and shown to be the same markings present on the plastic bags examined by the forensic chemist are proof that the plastic bags delivered for laboratory examination were the same plastic bags bought from the accused (Exhibits "A" to "E").

The identity of the accused was positively established. In open court, witnesses for the prosecution pointed to the accused as the person they arrested after consummation of the buy-bust operation. This same person when asked of her identity identified herself as Evangeline Sobangee. The marked money found in the possession of the accused consisting of one genuine one thousand peso bill placed on top of a bundle of money was likewise positively identified by the arresting officers as the same one provided and used in the operation.

All the prosecution's witnesses to the buy-bust operation consistently and unequivocally narrated the events that transpired during the operation, particularly the delivery of the accused of the subject plastic bags to the poseur-buyer upon payment by the latter to accused Sobangee of the agreed amount. The testimonies with respect to the discovery of the bags of shabu subject of the charge for pushing and the marked money were likewise straightforward and definite.

Also, all the requirements for a valid arrest and prosecution for violation of sale of dangerous drugs under Republic Act No. 9165 have likewise been complied with. An inventory of the items involved in the buy-bust operation was conducted by the investigator (Exhibit "J"). The seizing officers, SPO4 Mangulabnan and then SPO1 Fulleros, prepared the inventory in the presence of prosecutor Christopher Garvida, barangay captain Rodolfo Doromal and Loudeth Bonilla, a representative from the media.[11]

The trial court explained that the inconsistencies found in the testimonies of the witnesses for the prosecution were minor and even made their testimonial evidence more believable and unrehearsed. We agree with the trial and appellate courts in this respect. Minor variances in the details of the witnesses' accounts, more frequently than not, are badges of truth rather than indicia of falsehood, and they often bolster the probative value of their testimonies.[12]

The defense opposes the verdict since the following details presented by the prosecution were inconsistent: the date of the buy-bust operation, the time the buy-bust team left their office, the stops made on the way to the target area, the location of the operatives during the buy-bust, where the seized items were marked, the denomination of the buy-bust money, the identity of the operative who informed accused-appellant of her constitutional rights, and the identity of the alleged confidential informant.

These pieces of information, however, do not destroy the foundation that the prosecution has built in proving accused-appellant's culpability. These are but irrelevant inconsistencies that do not take away the credibility of the police officers who testified against accused-appellant. Considering there were five (5) police officers who testified on the buy-bust operation, one can hardly expect their testimonies to be in perfect agreement. As held in the past, it is perhaps too much to hope that different eyewitnesses shall give, at all times, testimonies that are in all fours with the realities on the ground. Minor discrepancies in their testimonies are, in fact, to be expected; they neither vitiate the essential integrity of the evidence in its material entirety nor reflect adversely on the credibility of witnesses.[13] For a successful appeal, the inconsistencies brought up should pertain to that crucial moment when the accused was caught selling shabu, not to peripheral matters.[14] Testimonies of witnesses need only corroborate each other on important and relevant details concerning the principal occurrence.[15]

The presentation of accused-appellant's mobile phone is not essential to her conviction, as it is not an element of the offense of sale of illegal drugs. Contrary to the position of the defense, it is not a major piece of evidence, the non-presentation of which would result in an acquittal. What is material to the prosecution of the illegal sale of

dangerous drugs is proof that the transaction actually took place, coupled with the presentation in court of the corpus delicti.[16] The transaction between accused-appellant and the poseur-buyer and the presentation in court of the shabu seized from her were adequately established, as can be gleaned from the records.

In affirming accused-appellant's conviction, We adhere to the general rule that unless some facts or circumstances of weight and influence have been overlooked or the significance of which has been misinterpreted by the trial court, this Court will defer to the findings of the trial court as to the credibility of witnesses.[17] An examination of the records shows that none of the aforementioned exceptions exists in the instant case that would necessitate a reversal of judgment.

Penalty Imposed

For drug pushing 48.76 grams of shabu under Sec. 5, Art. II of RA 9165, accused-appellant was sentenced to life imprisonment and a fine of one million pesos (PhP 1,000,000). We find this proper and in accord with the penalty provided under the same provision of the law, which penalizes the commission of the offense involved with life imprisonment and a fine ranging from five hundred thousand pesos (PhP 500,000) to ten million pesos (PhP 10,000,000).[18]

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-H.C. No. 01904 finding accused-appellant guilty of the charge is AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Abad,[*] and Perez, JJ., concur.

[*] Additional member per raffle dated January 26, 2011.

[1] CA rollo, p. 19.

[2] Id. at 21.

[3] Id. at 21-22.

[4] Id. at 22.

[5] Id. at 20.

[6] Id. at 23.

[7] Id. at 24.

[8] Id. at 26. Penned by Judge Salvador S. Abad Santos.

[9] Rollo, p. 10. Penned by Associate Justice Arcangelita M. Romilla-Lontok and concurred in by Associate Justices Mariano C. Del Castillo (now a member of this Court) and Romeo F. Barza.

[10] People v. Miguel, G.R. No. 180505, June 29, 2010.

[11] CA rollo, pp. 24-25.

[12] People v. De Leon, G.R. Nos. 132484-85, November 15, 2002, 391 SCRA 682, 695.

[13] People v. Gutierrez, G.R. No. 177777, December 4, 2009, 607 SCRA 377, 386.

[14] People v. Razul, G.R. No. 146470, November 22, 2002, 392 SCRA 553, 571.

- [15] People v. Tuan, G.R. No. 176066, August 11, 2010.
- [16] People v. Lacap, G.R. No. 139114, October 23, 2001, 368 SCRA 124, 143-144.
- [17] People v. Campomanes, G.R. No. 187741, August 8, 2010.
- [18] As amended by RA 9346 or An Act Prohibiting the Imposition of Death Penalty in the Philippines.

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