

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANUEL RESURRECCION, ACCUSED-APPELLANT.

G.R. No. 186380. October 12, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the August 8, 2008 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02399 entitled *People of the Philippines v. Manuel Resurreccion*, which affirmed the August 5, 2002 Decision of the Regional Trial Court (RTC), Branch 119 in Pasay City in Criminal Case No. 00-1225 for violation of Section 15, Article III of Republic Act No. (RA) 6425, as amended by RA 7659. Accused-appellant Manuel Resurreccion was sentenced to reclusion perpetua.

The Facts

An Information charged accused-appellant as follows:

That on or about the 13[th] day of July 2000, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Manuel Resurreccion, without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to another 992.9835 grams of Methamphetamine Hydrochloride (shabu), a regulated drug.

Contrary to law.[1]

During his arraignment, accused-appellant gave a not guilty plea.

The Prosecution's Version of Facts

At the trial, the prosecution presented the following witnesses: Forensic Chemist Felicisima Francisco and National Bureau of Investigation (NBI) Special Task Force members Atty. Reynaldo Esmeralda, Special (SA) Agent Romeo J. Vallejo, and Special Investigator (SI) Eric Isidoro.

According to Atty. Esmeralda, an informant went to the NBI Special Task Force office on July 13, 2000. The informant reported to SI Eduardo Villa the drug activities of a certain Manuel Resurreccion. Atty. Esmeralda assembled and briefed a 12-member buy-bust team on the basis of the informant's report. He designated SA Vallejo as the poseur-buyer. The team headed to Matias St. in Pasay City on board five vehicles. Atty. Esmeralda was 200 to 300 meters away from their target when the pre-arranged signal, a radio transmission, was received. The target turned out to be accused-appellant, whom SA Vallejo had arrested. Along with the seized shabu, they brought accused-appellant to their office where he was subjected to printing and photographing.[2]

During cross-examination, Atty. Esmeralda stated that their computer records also revealed that accused-appellant was convicted in one case by the RTC, for which he was presently serving sentence.[3]

SA Vallejo gave details as to his role as poseur-buyer and likewise corroborated Atty. Esmeralda's testimony. He testified that he and the informant waited for accused-appellant to arrive while the rest of the buy-bust team hid

within the vicinity. Accused-appellant arrived around 3:30 in the afternoon. Inside accused-appellant's house, the informant introduced SA Vallejo as an interested buyer. Accused-appellant then handed SA Vallejo a green plastic bag and demanded payment. SA Vallejo took out a white envelope containing marked money and gave it to accused-appellant. Once accused-appellant had the white envelope in his hand, SA Vallejo announced that he was a law enforcer and that he was conducting a buy-bust. He then alerted the rest of the team via radio transmitter that the operation had just concluded. SA Vallejo then gave the green plastic bag to SI Isidoro, who counted 10 small plastic bags inside containing suspected shabu. The specimens were marked at the office and brought to the Forensic Chemistry Division for laboratory examination.[4]

During his rebuttal examination, SA Vallejo said that accused-appellant's claim of extortion on the part of the buy-bust team was incredible. He said the amount of PhP 300,000 mentioned by accused-appellant as the buy-bust team's asking price was unbelievable considering that the street value of a kilo of shabu is PhP 1,500,000.[5]

SI Isidoro, a member of the back-up team, was likewise presented by the prosecution. On the witness stand he said that after the buy-bust operation, SA Vallejo gave him the green plastic bag. He, in turn, marked the plastic bag and its contents and personally brought the shabu to the Forensic Chemistry Division.[6]

NBI Forensic Chemist Francisco stated that she received the specimen, a plastic bag, from SA Vallejo at her office. It was pre-marked and accompanied by a Disposition Form. The contents of the 10 plastic sachets inside the plastic bag were tested positive for methamphetamine hydrochloride or shabu after a series of examinations. She likewise subjected accused-appellant to examination and found traces of ultra-violet fluorescent powder on his hands.[7]

Version of the Defense

The defense offered the testimonies of accused-appellant, his housemaid, Corazon Meliton (Meliton), and Barangay Captain Dominador Costales.

Accused-appellant claimed that on the morning of July 13, 2000, he bought food for his invalid friend, Vilma Vivas. He proceeded to her house on foot, accompanied by his house maid, Meliton. At her house, they handed her the food they bought. Accused-appellant and Vivas started talking. Suddenly, three men barged in around 11 o'clock in the morning. They introduced themselves as NBI agents and manhandled accused-appellant. They dragged him out of the house and started shouting, "Shabu shabu shabu!" Accused-appellant was then made to lie on his stomach, and frisked. His belongings were confiscated and he was boarded into a van along with Meliton and three others. Inside the van, the agents asked him about a certain "Nestor." He was hit with a gun when he answered that he did not know who they were referring to. They likewise demanded payment of PhP 300,000 for his release. When he said he did not have money, he was brought to the NBI where he was beaten up and forced to hold a white envelope. He was also made to place his hands over a machine. Four days later, he was taken for inquest.[8]

Meliton, who had been accused-appellant's housemaid for three years, testified that while they were at Vivas' house, three men arrived and arrested accused-appellant. One of the men ordered Meliton to go out. She then saw accused-appellant being hit by a gun on his right side. He was also frisked and his wallet taken from him. She immediately left the place since she was scared and wanted to inform accused-appellant's wife of what had happened.[9]

Costales was last to testify for the defense. He was the Barangay Captain of the area where the buy-bust operation took place. He confirmed that Vivas walked with a limp and said that he would see her in the area. He testified

that Vivas has since left her house and that he received a letter from accused-appellant seeking his assistance.[10]

The Ruling of the Trial Court

The RTC pronounced accused-appellant guilty of the crime charged. It found that the prosecution was able to establish all the elements in the sale of illegal drugs. The dispositive portion of the RTC Decision[11] reads:

WHEREFORE, finding the guilt of the accused MANUEL [RESURRECCION] y ALBERTO beyond reasonable doubt of violation of Section 15, Article III, Republic Act 6425, as amended by Republic Act 7659, said accused is hereby sentenced to reclusion perpetua and to pay a fine of One Million Pesos (P1,000,000.00).

SO ORDERED.

The Ruling of the Appellate Court

On appeal, accused-appellant faulted the trial court for disregarding his defense of denial. He pointed to inconsistencies in the testimonies of the prosecution witnesses. The CA, however, affirmed the Decision of the RTC.[12] It agreed with the trial court in holding that the inconsistencies cited by accused-appellant were trivial and did not affect the integrity of the prosecution's evidence as a whole. The appellate court also observed that accused-appellant failed to prove his claim that the evidence against him was manufactured and that the police tried to extort money from him.

On September 2, 2008, accused-appellant filed his Notice of Appeal from the appellate court's Decision.

On March 30, 2009, this Court directed the parties to submit supplemental briefs if they so desired. The parties manifested that they were submitting the case for decision based on the records already submitted to the Court.

The Issues

I

WHETHER THE COURT OF APPEALS ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF VIOLATION OF SECTION 15, ARTICLE III OF RA 6425.

II

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN NOT GIVING WEIGHT AND CREDENCE TO ACCUSED-APPELLANT'S DEFENSE OF DENIAL.

The Ruling of this Court

Accused-appellant maintains that certain flaws in SA Vallejo and the other witnesses' testimonies were overlooked.

Another claim made in this appeal is that the first link in the chain of custody was not established by the prosecution. Accused-appellant points to the failure of the buy-bust team to immediately mark the seized drugs as a cause to doubt the identity of the shabu allegedly confiscated from him.

The Office of the Solicitor General (OSG), on the other hand, counters accused-appellant's arguments by saying that the alleged inconsistencies referred to are too trivial to merit consideration. On the issue of chain of custody, the OSG argues that accused-appellant's contention is speculative and without basis. The OSG likewise reasons that it is of no moment that the confiscated drugs were marked at the NBI office.

We affirm accused-appellant's conviction.

Inconsistencies in Testimonial Evidence

Inconsistencies referring to who the informant talked to at the NBI office, how many informants there were, and how many vehicles were used, are not material. These matters were not necessary to establish the elements of the crimes committed.[13] The inconsistencies do not detract from the elements of the offense of illegal sale of drugs, which the prosecution adequately established.[14]

Thus, the trial court observed:

While this Court notes some discrepancy in the testimony of SA Vallejo and SI Isidoro as to the identity of the informant, wherein the former claimed that he [talked] to only a male informant while the former saw SA Vallejo talking with a male and a female [informant], this is trivial and does not impair the essential integrity of the prosecution's evidence as a whole. SI Isidoro even explained that he was busy with other work in the office and just saw SA Vallejo conversing with the informants and his participation in this operation commenced when he was called in for a briefing. [15]

In fact, it may well be pointed out that it was accused-appellant's witness, Meliton, who substantially contradicted the evidence presented by accused-appellant. She stated under oath that upon accused-appellant's arrest, she immediately left the place out of fear and to inform the wife of accused-appellant of the arrest. Yet accused-appellant testified that he was boarded into a van with Meliton and a few others. We find this contradiction substantial as Meliton's testimony could have otherwise backed up accused-appellant's alibi.

What is more, the allegation of material inconsistencies involves a question of fact which generally cannot be raised. We will not disturb the findings of the trial court in assessing the credibility of the witnesses, unless some facts or circumstances of weight and influence have been overlooked or the significance of which has been misinterpreted by the trial court.[16] This is so because of the judicial experience that trial courts have; they are in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. They can, thus, more easily detect whether a witness is telling the truth or not.[17] All the more do we apply this rule when the trial courts' findings are sustained by the appellate court.[18]

Chain of Custody Requirements

Jurisprudence tells us that the failure to immediately mark seized drugs will not automatically impair the integrity of chain of custody.

The failure to strictly comply with Sec. 21(1), Art. II of RA 9165 does not necessarily render an accused's arrest illegal or the items seized or confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as these would be utilized in the determination of the guilt or innocence of the accused.[19]

As we held in *People v. Cortez*,[20] testimony about a perfect chain is not always the standard because it is almost always impossible to obtain an unbroken chain. Cognizant of this fact, the Implementing Rules and Regulations of RA 9165 on the handling and disposition of seized dangerous drugs provides as follows:

SECTION 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a

representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof; Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items x x x. (Emphasis supplied.)

Accused-appellant broaches the view that SA Isidoro's failure to mark the confiscated shabu immediately after seizure creates a reasonable doubt as to the drug's identity. *People v. Sanchez*,^[21] however, explains that RA 9165 does not specify a time frame for "immediate marking," or where said marking should be done:

What Section 21 of R.A. No. 9165 and its implementing rule do not expressly specify is the matter of "marking" of the seized items in warrantless seizures to ensure that the evidence seized upon apprehension is the same evidence subjected to inventory and photography when these activities are undertaken at the police station rather than at the place of arrest. Consistency with the "chain of custody" rule requires that the "marking" of the seized items - to truly ensure that they are the same items that enter the chain and are eventually the ones offered in evidence - should be done (1) in the presence of the apprehended violator (2) immediately upon confiscation.

To be able to create a first link in the chain of custody, then, what is required is that the marking be made in the presence of the accused and upon immediate confiscation. "Immediate confiscation" has no exact definition. Thus, in *People v. Gum-Oyen*,^[22] testimony that included the marking of the seized items at the police station and in the presence of the accused was sufficient in showing compliance with the rules on chain of custody. Marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.

It is clear then that the prosecution was able to provide all the facts necessary to establish adherence to the chain of custody rule. First, SA Vallejo, upon consummation of the transaction with accused-appellant, handed the sachets of shabu to SI Isidoro; second, SI Isidoro marked the sachets at their headquarters; third, SI Isidoro then personally brought the specimens to Forensic Chemist Felicisima Francisco, who found the items positive for shabu; and fourth, the same specimens were presented during trial as Exhibit "C."

Moreover, the presumption of regularity works against accused-appellant. The integrity of the evidence is presumed to be preserved unless there is a showing of bad faith, ill will, or proof that the evidence has been tampered with. Accused-appellant in this case has the burden to show that the evidence was tampered or meddled with to overcome a presumption of regularity in the handling of exhibits by public officers and a presumption that public officers properly discharge their duties.^[23] Having failed to discharge this burden, his conviction must be affirmed.

Penalty Imposed

The penalty prescribed under Sec. 15, Article III of RA 6425, as amended by RA 7659, for unauthorized sale of 200 grams or more of shabu or methamphetamine hydrochloride, is reclusion perpetua to death and a fine ranging from PhP 500,000 to PhP 10 million.^[24]

Accused-appellant was found guilty of selling 992.9835 grams of shabu. We, thus, affirm the RTC and CA's imposition of reclusion perpetua and a fine of PhP 1,000,000.

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-H.C. No. 02399 finding

accused-appellant Manuel Resurreccion guilty of violation of Sec. 15, Art. III of RA 6425, as amended, is AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Chico-Nazario, Nachura, and Peralta, JJ., concur.

[1] CA rollo, p. 229.

[2] Id. at 21.

[3] Id. at 22.

[4] Id. at 23.

[5] Id. at 27.

[6] Id. at 24-25.

[7] Id. at 26-27.

[8] Rollo, pp. 7-8.

[9] Id. at 8-9.

[10] Id. at 9.

[11] CA rollo, p. 39. Penned by Judge Pedro De Leon Gutierrez.

[12] Id. at 3-15. Penned by Associate Justice Romeo F. Barza and concurred in by Associate Justices Mariano C. Del Castillo (now a member of this Court) and Arcangelita M. Romilla-Lontok.

[13] See *People v. Darisan*, G.R. No. 176151, January 30, 2009.

[14] *People v. Encila*, G.R. No. 182419, February 10, 2009: When what is involved is a prosecution for illegal sale of regulated or prohibited drugs, conviction can be had if the following elements are present: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti of the crime. The delivery of the contraband to the poseur-buyer and the receipt of the marked money consummate the buy-bust transaction between the entrapment officers and the accused.

[15] CA rollo, p. 38.

[16] *Cruz v. People*, G.R. No. 164580, February 6, 2009.

[17] *People v. Mateo*, G.R. No. 179036, July 28, 2008, 560 SCRA 375.

[18] *People v. Macatingag*, G.R. No. 181037, January 19, 2009.

[19] *Zalameda v. People*, G.R. No. 183656, September 4, 2009.

[20] G.R. No. 183819, July 23, 2009.

[21] G.R. No. 175832, October 15, 2008, 569 SCRA 194.

[22] G.R. No. 182231, April 16, 2009.

[23] *People v. Macatingag*, supra note 18.

[24] *Ching v. People*, G.R. No. 177237, October 17, 2008, 569 SCRA 711.

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