PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FEDERICO CAMPOS Y RANILE, APPELLANT.

G.R. No. 186526. August 25, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Federico Campos y Ranile (appellant) challenges the Court of Appeals decision[1] of July 31, 2008 affirming the Joint Decision[2] of Branch 95 of the Regional Trial Court (RTC) of Quezon City which convicted him of selling dangerous drugs.

Appellant was charged with violation of Section 5, Article II of Republic Act No. 9165 (Comprehensive Drugs Act) allegedly committed as follows:

> That on or about the 25th day of February, 2004, in Quezon City, Philippines, the said accused, not begin authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did then and there, willfully and unlawfully and feloniously sell, dispense, deliver, transport, distribute or act as broker in the said transaction zero point sixteen (0.16) gram of Methylamphetamine Hydrochloride, a dangerous drug.
>
> CONTRARY TO LAW. (Criminal Case No. Q-04-125078)

The case was consolidated with Criminal Case No. Q-04-125079 which charged Joel Jaitin y Dano (Jaintin) with violation of Section 11 of Art. II of the same law, allegedly committed as follows:

> That on or about the 25th day of February, 2004, in Quezon City, Philippines, the said accused, not being authorized by law to possess or use any dangerous drug, did the and there, willfully and unlawfully and knowingly have in his possession and control zero point thirteen (0.13) gram of Methylamphetamine Hydrocholoride, a dangerous drug.
>
> CONTRARY TO LAW. (underscoring supplied)

The prosectution presented PO2 Manny Panlilio (PO2 Panlilio) and PO1 Cecil Collado (PO1 Collado), the officers who participated in the buy-bust operation. The testimony of Engr. Leonardo Cabonillo, the Forensic Chemist of the Philippine National Poloce (PNP)who tested the drug specimen, as well as that of PO1 Judy de Jesus, the police investigation assigned to the case, was dispensed with by agreement of the parties.

From the evidence for the prosecution, the following version is culled:

On February 25, 2004, a confidential informat reported to P/Chief Insp. Paterno, head of the Talipapa Police Station at barangay Baesa, Quezon City, that a certain person known as Federico Campos was engaged in selling illegal drugs in said barangay. A buy-bust team as the poseur-buyer and given a 500 peso bill which he marked with his initials "MSP," PO1 Collado, SPO4 An, SPO2 Sevilla, SPO1 Catiis, and SPO1 Adona.

On board two vehicles, the team along with the informant proceeded to F. Carlos St., barngay Baesa where the informant saw appellant and a male companion, later identified to be Jaitin. The informant then introduced PO2

Panlilio to appellant as a friend who wanted to buy shabu, whereupon PO2 Panlilio remarked that he wanted to buy P500 worth. As appellant agreed, PO2 Panlilio gave the initialed 500 peso bill to him and, in exchange, appellant gave PO2 Panlilio a plastic shachet containing white crystalline substance. PO2 Panlilio at once signaled his team members to close in, introduced himself as a police officer, and arrested appellant from whom he recovered the 500 peso bill. PO1 Collado then arrested Jaitin from whom he recovered a plastic sachet containing white crystalline substance.

The team brought appellant and Jaitin to the police station and turned them over to the desk officer. PO2 Panlilio marked the plastic sachet he received from appellant with his (PO2 Panlilio's) initials and turned it over, together with the initialed 500 peso bill, to the desk officer. PO2 Collado likewise marked the plastic sachet he seized from Jaitin with his own initials "CCC" and turned it over to the desk officer. The substance inside the plastic sachets were found positive for Methylamphetamine Hydrochloride or shabu. That received from appellant weighed 0.16 gram, while that seized from Jaitin weighed 0.13.

Appellant denied the accusation and claimed that he was framed-up. His version follows:

At around 3:00 o'clock in the morning of February 25, 2004, while he and his live-in partner Rachel Macapagal were inside his house, PO2 Panlilio together with three men, barged inside looking for a certain "Bunso" Failing to find "Bunso", the police officers brought him and Rachel to the police station on board mobile car where he first met Jaitin.

At the police station, the officers asked appellant if he knew one "Bunso", to which he replied in the negative. The officers also talked to Rachel, threatening to file a case against appellant if they fail to produce P10,000. He told the officers that he did not have such amount, following which the officers remarked "tuluyan na yan". He was thereafter brought before the inquest prosecutor.

The trial court, by Joint Decision, convicted appellant as charged.

As for Jaitin who jumped bail and has remained at large, the trial court convicted him as charged.

Appellant appealed to the Court of Appeals before which he contended that the prosecution failed to prove his guilt beyond reasonable doubt; that there was no showing that the police officers coordinated with the Philippine Drug Enforcement Agency (PDEA) before conducting the buy-bust operation, contrary to Sec. 86 (a) of the Implementing Rules of R.A. No. 9165; that there was no showing that the shabu marked in evidence in court was the same allegedly confiscated from him; and that the police officers failed to conduct a physical inventory of and photograph the confiscated item immediately after confiscation as required under Sec. 21 (1) of the law, thus raising doubt as to his guilt.

By the assailed Decision, the appellate court affirmed the trial court's decision, hence the present recourse wherein appellant advances the same issues he raised before the appellant court.

The appeal fails.

The alleged procedural lapses in the conduct of the buy-bust operation, namely tha lack of prior coordination with the PDEA and the failure to inventory and photograph the confiscated items immediately after the operation, are not fatal to the prosecution's cause.

In order to successfully prosecute a charge for violation of Sec. 5. Art. II of Republic Act No. 9165 involving entrapment or buy-bust operations, it must only be proven that the sale took place and that it was the accused who undertook it. Cruz vs. People[3] illuminates:

> A buy-bust operation is a form of entrapment whereby ways and means are resorted to for the purpose of

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> trapping and capturing the lawbreakers in the execution of their criminal plan. For the successful prosecution of the illegal sale of shabu, the following elements must be established: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and its payment. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence. Thus, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction. (emphasis and underscoring supplied)

The absence of an inventory of personal effects seized from appellant becomes immaterial to the legitimacy of the buy-bust operation for it is enough that it is established that the operation was indeed conducted and that the identity of the seller and the drugs subject of the sale are proven.
People v. Concepcion[4] so instructs:

> After going over the evidence on record, we find that there, indeed, was a buy-bust operation involving appellants. The prosecution's failure to submit in evidence the required physical inventory of the seized drugs and the photograph pursuant to Section 21, Article II of Republic Act No. 9165 will not exonerate appellants. Non-compliance with said section is not fatal and will not render an accused's arrest illegal or the items seized/confiscated from him inadmissible. What is of utmost importance is the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in teh determination of the guilt or innocence of the accused. (emphasis supplied)

People v. De Mesa[5] in fact is emphatic:

> The integrity of the evidence is presumed to have been preserved unless there is a showing of bad faith, ill will, or proof that the evidence has been tampered with. Appellants in this case bear the burden of showing that the evidence was tampered or meddled with in order to overcome a presumption of regularity in the handling of exhibits by public officers and a presumption that public officers properly discharged their duties. (emphasis and understanding supplied)

In the present case, the presumption that official duty had been regularly by the police officers had remained uncontroverted, given the failure of the defense to present clear and convicting evidence that PO2 Panlilio and PO1 Collado were impelled by improper motive[6] to falsely charge appellant.

People v. Bernardino[7] where the accused was convicted of illegal possession but acquitted of illegal sale of shabu due to doubts as to the chain of custody is not on four squares with the present case. In said case, while the forensic chemist duly identified the shabu she examined and testified on the results thereof, her testimony merely referred to the specimens submitted by the apprehending officer, hence, the conclusion that "no clear specific link exists between the examined specimen and the shabu allegedly sold at the buy-bust except by inference," for there was no segregation of which sachets of shabu submitted were for the charge of illegal sale or for the charge of illegal possession. The factual milieu in Bernardino thus differs from that of the present case, there being no question that there was only one plastic sachet of shabu confiscate from appellant to give rise to confusion during its laboratory examination and presentation in evidence.

Appellant's defense of frame-up fails. For, like alibi, it can easily be concocted, hence it must be proven by clear and convincing evidence. This appellant failed to discharge.[8]

WHEREFORE, the Decision of the Court of Appeals dated July 31, 2008 affirming the Joint Decision dated February 6, 2007 of the Regional Trial Court (RTC) of Quezon City, Branch 95, finding appellant Federico Campos y Ranile guilty beyond reasonable doubt of violating Sec. 5, Art. II, republic Act No. 9165 is AFFIRMED.

SO ORDERED.

Brion, Bersamin, Villarama, Jr., and Sereno, JJ., concur.

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[1] Rollo, pp. 2-20. Penned by Associate Justice Myrna Dimaranan-Vidal and concurred in by Associate Justices Jose L. Sabio, Jr. and Jose C. Reyers, Jr.

[2] Records, pp. 123-132. Penned by Judge Henry Jean-Paul Inting.

[3] G.R. No. 164580, February 6, 2009, 578 SCRA 147.

[4] G.R. No. 178876, June 27, 2008, 556 SCRA 421.

[5] G.R. No. 188570, July 6, 2010.

[6] Vide People v. Naquita, G.R. No. 180511, July 28, 2008, 560 SCRA 430, 454.

[7] G.R. No. 171088, October 2, 2009, 602 SCRA 270

[8] Vide People v. Agulay, G.R. No. 181747, September 26, 2008, 566 SCRA 571.

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