

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TECSON LIM Y CHUA AND MAXIMO FLORES Y VITERBO, ACCUSED-APPELLANTS.

G.R. No. 187503. September 11, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision[1] dated 18 November 2008 of the Court of Appeals in CA-G.R. CR HC No. 01871, which affirmed in toto the Decision[2] dated 12 February 2003 of the Regional Trial Court (RTC) of Parañaque City, Branch 258, in Criminal Case No. 00-0100, finding herein appellants Tecson Lim y Chua (Lim) and Maximo Flores y Viterbo (Flores) guilty beyond reasonable doubt of violation of Section 15,[3] Article III of Republic Act No. 6425,[4] as amended by Republic Act No. 7659,[5] sentencing each of them to suffer the penalty of reclusion perpetua and ordering each to pay a fine of P2,000,000.00.

Appellants Lim and Flores were charged with violation of Section 15, Article III in relation to Section 21(b),[6] Article IV of Republic Act No. 6425, as amended, in an Information[7] which reads:

That on or about [3 December 1999], in Parañaque City, Philippines, and within the jurisdiction of the Honorable Court, the above-named [appellants], conspiring and confederating together and mutually aiding and abetting one another, did then and there willfully, unlawfully, and feloniously deliver and/or sell to a poseur-buyer methamphetamine hydrochloride, a regulated drug which is commonly known as shabu and with an approximate weight of nine hundred seventy five point four (975.4) grams, without any authority whatsoever.[8]

During arraignment, the appellants, assisted by their counsel de parte, refused to enter a plea after the Information was read to them; thus, the court a quo ordered that a plea of NOT GUILTY be entered into the records for both appellants. Thereafter, trial on the merits ensued.

The prosecution presented the testimony of the following witnesses: Police Officer (PO) 1 Mangontawar Amerol (PO1 Amerol), member of the Philippine National Police (PNP) Narcotics Group, Camp Crame, Quezon City, who acted as the poseur-buyer in the buy-bust operation on 3 December 1999; Annalee R. Forro, Forensic Chemical Officer of the PNP Crime Laboratory, Camp Crame, Quezon City; and Police Senior Inspector Eleazar Mata (P/Sr. Insp. Mata), member of the PNP Narcotics Group, Camp Crame, Quezon City, who conducted a briefing of his team members on the conduct of their buy-bust operation on 3 December 1999.

The prosecution's version of the facts of this case based on the testimony of the aforesaid witnesses is as follows:

In the early afternoon of 3 December 1999, the PNP Narcotics Group, Camp Crame, Quezon City, received information from their reliable informant that appellant Lim is engaged in illegal drug activities. Immediately, a buy-bust operation team, composed of PO1 Amerol, Senior Police Officer 1 Salvador M. Sorreda (SPO1 Sorreda), PO1 Fabo, PO1 Musni, PO1 Fabian, P/Sr. Insp. Mata, as the team leader, and others was organized to

conduct a buy-bust operation at the designated place, which was at McDonald's along Dr. A. Santos Avenue, Sucat, Parañaque City. P/Sr. Insp. Mata, as the team leader, called for a briefing of his team regarding the conduct of their buy-bust operation and designated PO1 Amerol as the poseur-buyer.[9] During the said briefing, the team was apprised that the methamphetamine hydrochloride (shabu) involved in their buy-bust operation weighed almost one kilo and was valued at P700,000.00.[10] In preparation therefor, the team prepared seven bundles of boodle money[11] and two genuine P1,000.00 bills bearing Serial No. AG 150525 and No. AR 252979 with the markings "SMS," written by PO1 Amerol, as marked money.[12] The said two genuine P1,000.00 bills were placed on top of the two bundles of boodle money.[13]

At around 2:00 p.m., the buy-bust team proceeded to the designated place on board three vehicles. PO1 Amerol and their informant rode together in a white Toyota Corolla car. At around 3:30 p.m., PO1 Amerol and their informant arrived at the parking lot of McDonald's along Dr. A. Santos Avenue, Sucat, Parañaque City, while the rest of the buy-bust team positioned themselves strategically within its premises. Then, PO1 Amerol and their informant waited for appellant Lim to arrive. At around 4:30 p.m., appellant Lim, together with appellant Flores, arrived on board a red Daihatsu Charade car with Plate No. TEN 576. Subsequently, appellant Lim went out of the car and talked to their informant.[14] During the time that the two were talking to each other, PO1 Amerol was about nine meters away from them, while P/Sr. Insp. Mata, who was standing beside the road as if waiting for a ride, was about 10 meters away from appellant Lim and their informant.[15]

After a while, appellant Lim and their informant approached him, and the latter introduced him to appellant Lim as Mike Amerol, a Muslim who wanted to buy shabu. Appellant Lim asked PO1 Amerol if he had with him the money. Upon being shown the marked money placed inside a brown envelope, together with the seven bundles of boodle money, appellant Lim went back to the car. Thereafter, appellant Flores alighted from the car carrying a black bag. Both appellants approached PO1 Amerol. Appellant Flores opened the black bag and showed him its contents. PO1 Amerol saw therein a tape-sealed transparent plastic bag containing shabu weighing about one kilo. Appellant Lim then asked for the agreed amount of P700,000.00 in payment thereof.[16] PO1 Amerol handed the money to appellant Lim, and appellant Flores gave him the black bag with a tape-sealed transparent plastic bag containing shabu.[17]

After the sale was consummated, PO1 Amerol executed their pre-arranged signal by lighting his cigarette.[18] P/Sr. Insp. Mata and SPO1 Sorreda immediately responded and arrested both appellants. The buy-bust money was recovered from appellant Lim. PO1 Amerol then placed the markings "12/3/99" and "SMS," which stood for Salam Mangontawar Saud, on both sides of the surface of a tape-sealed transparent plastic bag containing shabu. Afterwards, both appellants were brought to the office of the PNP Narcotics Group, Camp Crame, Quezon City, where they were booked, and where the joint affidavit of their arrest and the arrest reports were prepared.[19]

Requests for the examination of the specimen[20] and for the physical and medical examination of the appellants[21] both dated 3 December 1999 were likewise made. The specimen was submitted to the PNP Crime Laboratory for examination. Forensic Chemist Forro of the PNP Crime Laboratory examined the specimen, which is a white crystalline substance placed in a tape-sealed transparent bag, by first weighing it. She stated that the substance weighed 975.4 grams. She then proceeded with the chemical examination of the said specimen, and the same yielded a positive result for methamphetamine hydrochloride. Her examination was reduced into writing,[22] as evidenced by Physical Sciences Report No. D-5933-99[23] dated 4 December 1999. The physical and medical examination of appellants, on the other hand, yielded negative results, meaning, there was no showing that they were physically harmed.[24]

For its part, the defense presented the testimonies of the following witnesses: appellant Lim, a Chinese national; appellant Flores; Bienvenido Olan (Olan); and SPO1 Sorreda, as adverse witness.

Appellant Lim testified that he is engaged in buy-and-sell business in Baclaran and Divisoria. On 3 December 1999, he was in Baclaran to collect money from some of his customers therein. Between 10:00 a.m. and 10:30 a.m., he met Bienvenido Olan,[25] a dealer of pants and garments,[26] whom he called Ben Olan. Olan then invited him to visit the former's kumpare, who lived in Quezon City near SM North Edsa, as the latter would be returning to Olan some goods that appellant Lim might be interested in selling to his customers. Then, appellant Lim and Olan went to the house of the latter's kumpare, who turned out to be appellant Flores, on board a taxi. They arrived therein at around 11:30 a.m. or 12:00 noon.[27]

Thereafter, appellants Lim and Flores and Olan proceeded to the house of Olan's customer in Parañaque on board appellant Flores' Daihatsu car, because the goods that would be shown to appellant Lim were actually in Parañaque. They arrived at the house of Olan's customer in Parañaque between 2:00 p.m. and 2:30 p.m. Suddenly, while they were inside the house, some men barged in and immediately handcuffed and boarded them to a car, where appellant Lim was blindfolded and beaten up on the way to the PNP Narcotics Group's office in Quezon City. He was also asked to identify something, which he failed to do because he could not see it, as he has a blindfold. When they arrived at the PNP Narcotics Group Office in Quezon City, the handcuffs were removed, but his hands were tied to the chair he was sitting on. The police authorities who arrested him never gave him any chance to talk because, whenever he would try to do so, they would hit him on his mouth. Then, his blindfold was removed and his hand was placed on something while his picture was taken. He was also made to undergo some fingerprinting.[28]

Appellant Lim further testified that he wanted to call up his family or relatives, but he was not able to do so, as he was confined in a cell the whole night. The next day or on 4 December 1999, he was brought to the Department of Justice (DOJ); and when he was brought back to the PNP Narcotics Group Office in Quezon City, he was charged with possession of one kilogram of shabu.[29]

Appellant Flores, on the other hand, testified that on the morning of 3 December 1999, while he was at home in Pag-asa, Quezon City, Olan, his kumpare, called him up and insisted on borrowing his car. He then asked Olan to come to his house to talk about the matter. While appellant Flores was having lunch with his family, Olan, together with his companion, arrived at his house. Olan reiterated to appellant Flores the former's intention of borrowing the latter's car. Since his car was not available, appellant Flores borrowed the car of his daughter. As he would not be doing anything else that day, he went with Olan and the latter's companion to Mon-el Subdivision in Parañaque to meet a certain Boyet Samoy (Samoy), Olan's other kumpare, whose house was near McDonald's, Sucat, Parañaque City. When they arrived at the house of Samoy between 2:00 p.m. and 2:30 p.m., the latter was not there. It was only an old man who entertained them and even asked them to go inside the house. Suddenly, around 10 armed men barged in while shouting, "Nasaan, nasaan?" Then, he and appellant Lim were handcuffed, and they were dragged into a vehicle. While inside the vehicle, they were blindfolded until they reached Camp Crame, where they were interrogated.[30] Appellant Flores later found out that Olan was not apprehended.[31]

Appellant Flores stated that during the interrogation, he was tortured with a plastic bag put on his head to make him admit to the crime. Also, he was never informed of his rights. After the interrogation, he and appellant Lim were transferred to the room of a certain Major Suan. Major Suan then took out from his drawer a plastic bag containing crystalline substance which was handed to both appellants while their pictures were taken. Thereafter, they were brought back to their detention cell, where appellant Flores was asked to sign an arrest booking sheet even in the absence of a lawyer.[32]

The defense's next witness was Olan, who stated that on 3 December 1999, he was in Baclaran to look for some ready-to-wear (RTW) merchandise when he met appellant Lim. He then invited appellant Lim to go with him to the house of his kumpare, appellant Flores, in Quezon City, to which appellant Lim agreed. When they arrived at

the house of appellant Flores, they ate lunch and thereafter, Olan, appellants Lim and Flores proceeded to Parañaque City on board the car of appellant Flores' daughter. Their reason for going to Parañaque City was for appellant Lim to see the pants that he might want to buy. Upon reaching Parañaque City, they went to Samoy's house but it was a certain Mang Jr. whom they saw there. Mang Jr. told them to just go to his house in Mon-el Subdivision, Parañaque City, because the pair of pants they wanted to see was already at his house. They arrived at Mon-el Subdivision, which was near McDonald's, Sucat, Parañaque City, at around 1:30 p.m. to 2:00 p.m., and proceeded to Mang Jr.'s house to get the pants. While inside the house of Mang Jr., the police authorities arrived. They were then arrested, and boarded in separate cars, and brought to Camp Crame where Olan was asked to keep silent. Appellants Lim and Flores were separated from him. At night, Major Suan arrived and ordered his release.[33]

The defense also presented SPO1 Sorreda as an adverse witness, who stated before the court a quo that the initials "SMS" appearing on the plastic bag containing shabu is also his initials. However, he stated that PO1 Amerol used the same initials "SMS," and that it was the latter who made an inscription of these initials on a tape-sealed transparent plastic bag containing shabu, which was marked as Exhibit "F." [34]

After trial, a Decision was rendered by the court a quo on 12 February 2003, finding both appellants guilty beyond reasonable doubt of the crime charged. The dispositive portion reads:

WHEREFORE, premises considered, judgment is hereby rendered, finding [appellants], TECSON LIM y CHUA and MAXIMO FLORES y VITERBO, GUILTY beyond reasonable doubt of the offense of violation of Section 15, Article III of R.A. [No.] 6425, as amended by R.A. [No.] 7659 in relation to Number 3,[35] Section 20 thereof, and [appellants] TECSON LIM y CHUA and MAXIMO FLORES y VITERBO are hereby sentenced to each suffer the penalty [of] RECLUSION PERPETUA and for both [appellants] to pay a fine of TWO MILLION PESOS (P2,000,000.00) each.

The methamphetamine hydrochloride or shabu confiscated from both the [appellants] is hereby ordered confiscated in favor of the government and the Sheriff of this Court is directed to immediately turn over the same to the Dangerous Drugs Board and for the said office to acknowledge receipt thereof.

No pronouncement as to costs.[36]

The records of this case were originally transmitted to this Court on appeal. Pursuant to *People v. Mateo*, [37] the records were transferred to the Court of Appeals for appropriate action and disposition.

In their brief, the appellants' lone assignment of error was: the court a quo gravely erred in finding the [appellants] guilty beyond reasonable doubt of the crime charged.[38]

On 18 November 2008, the Court of Appeals rendered a Decision affirming in toto the 12 February 2003 Decision of the trial court.

Appellants appealed to this Court, contending that the trial court erred in relying heavily on the testimonies of PO1 Amerol and P/Sr. Insp. Mata. Appellants claimed that PO1 Amerol was silent on the instructions given during the briefing as to what the rest of the buy-bust team would do upon arrival at the target area, while he was transacting with appellants. They insisted that if there was really a briefing, the buy-bust team should have discussed and identified the areas where they would conceal themselves to boost the confidence of PO1 Amerol as the poseur-buyer. In the absence of such briefing, it cannot be presumed that the other members of the buy-bust team concealed themselves.

Moreover, P/Sr. Insp. Mata, the officer-in-charge in the buy-bust operation, failed to perform his regular duty to conduct a test-buy before the buy-bust operation. For failure of P/Sr. Insp. Mata to do this, the trial court should

not have given much weight and reference to the said buy-bust operation.

The appellants also faulted the trial court for convicting them despite the fact that PO1 Amerol had already prepared the crime laboratory result of the white crystalline substance even prior to its submission for laboratory examination.

Finally, appellants asserted that the trial court erred in considering the testimony of PO1 Amerol despite the inconsistencies therein, particularly his testimony referring to two different places where he put markings on the buy-bust money, to wit: (1) at the scene of the crime; and (2) at their office in Camp Crame, Quezon City. The said inconsistencies, if ignored, would cause injustice to appellants.

Appellants' contentions are bereft of merit.

Primarily, a buy-bust operation is a form of entrapment whereby ways and means are resorted to for the purpose of trapping and capturing lawbreakers in the execution of their criminal plan. Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies on the operation deserve full faith and credit. When the police officers involved in the buy-bust operation have no motive to falsely testify against the accused, the courts shall uphold the presumption that they have performed their duties regularly.[39] The courts, nonetheless, are advised to take caution in applying the presumption of regularity. It should not by itself prevail over the presumption of innocence and the constitutionally protected rights of the individual.[40] Thus, this Court discussed in *People v. Doria*[41] the "objective" test in buy-bust operations to determine the credibility of the testimonies of the police officers involved in the operation:

We therefore stress that the "objective" test in buy-bust operations demands that the details of the purported transaction must be clearly and adequately shown. This must start from the 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 drug subject of the sale. The manner by which the initial contact was made, whether or not through an informant, the offer to purchase the drug, the payment of the "buy-bust" money, and the delivery of the illegal drug, whether to the informant alone or the police officer, must be the subject of strict scrutiny by courts to insure that law-abiding citizens are not unlawfully induced to commit an offense. Criminals must be caught but not at all cost. At the same time, however, examining the conduct of the police should not disable courts into ignoring the accused's predisposition to commit the crime. If there is overwhelming evidence of habitual delinquency, recidivism or plain criminal proclivity, then this must also be considered. Courts should look at all factors to determine the predisposition of an accused to commit an offense in so far as they are relevant to determine the validity of the defense of inducement.

In this case, the trial court correctly upheld the testimonies of the prosecution witnesses, i.e., PO1 Amerol and P/Sr. Insp. Mata, the police officers who conducted the buy-bust operation. It did not err in applying the presumption of regularity in the performance of duty by law enforcement agents.

As observed by both lower courts, the testimonies of PO1 Amerol, the poseur-buyer in the buy-bust operation, and P/Sr. Insp. Mata, the team leader thereof, were straightforward, categorical, consistent, unwavering, clear and credible. They also positively identified appellants as the offenders. The records even revealed that the testimony of PO1 Amerol, as corroborated by the testimony of P/Sr. Insp. Mata, had satisfactorily proven the elements for the prosecution of the illegal sale of regulated or prohibited drugs, to wit: (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.[42] Here we quote the testimony of PO1 Amerol:

Q:

At about what time did you arrive at the Mc[D]onalds parking lot?

A:

About 3:30 o'clock in the afternoon, sir.

Q:

At about 3:30 o'clock in the afternoon, what did you do there upon arrival, Mr. Witness?

A:

We waited there and the subject arrived at 4:30 o'clock in the afternoon, sir.

Q:

And when you say the subject, Mr. Witness, who is that subject?

A:

Tecson Lim, sir.

Q:

Was he alone when he arrived?

A:

Two (2) of them, Maximo Flores, sir.

x x x x

Q:

Now, Mr. Witness, when you said these two (2) [appellants] arrived at that place about 4:30 o'clock, what transpired next?

A:

When they arrived our reliable informant saw them and then Tecson Lim went out of the vehicle and they talk to each other, sir.

Q:

After these reliable informant and Tecson Lim talked to each other, what happened next?

A:

They approached me and then our reliable informant introduced Tecson Lim to me, sir.

x x x x

Q:

Mr. Witness, you said that you were introduced to Tecson Lim by your informant, Mr. Witness, did any conversation take place at that time?

A:

Our reliable informant introduced me to Tecson Lim that, this is Mike Amerol, a [M]usli[m] and wanted to buy shabu, sir.

Q:

After that, Mr. Witness, you were introduced as one who was interested to buy shabu, what other conversation took place at that time?

A:

Tecson Lim asked me if I brought money, sir.

Q:

What was your reply, Mr. Witness?

A:

I said "yes" and I showed to him the buy-bust money, sir.

x x x x

Q:

Now, Mr. Witness, we go back to that particular location now at the Mc[D]onalds parking lot wherein the two (2) [appellants] together with your confidential informant approach you and then you have some conversations and you were introduced to each other and then you showed to Tecson Lim this Manila brown envelope containing the seven (7) bundles of paper cut out including these two (2) genuine P1,000.00 bills. So after you have shown this (sic) bundles now, to Mr. Tecson Lim, what transpired next?

Atty: Bringas: Objection, your honor, no basis yet.

Court: Overruled.

A:

He excused himself and go back to his car, sir.

Q:

When you say Tecson Lim excused himself and went back to his car, Mr. Witness, how about your confidential informant, what did he do also?

A:

He was standing in front of the vehicle, sir.

Q:

When Tecson Lim went back to their car, Mr. Witness, did he go inside or he just remain (sic) outside of the car?

A:

After a while both of them alighted, sir.

Q:

When you say alighted, his other companion then was Maximo Flores?

A:

Yes, sir.

x x x x

Q:

So, when they alighted, Mr. Witness, both of the [appellants] alighted from their Daihatsu Car, where did they proceed?

A:

They came to me and Maximo Flores was carrying a black bag, sir.

Q:

And how about Tecson Lim, Mr. Witness, where was he at that time when Maximo Flores came near you?

A:

Both of them approach me, sir.

x x x x

Q:

When they approach you, what transpired then?

A:

Maximo Flores open (sic) that bag and showed to me its contents, sir.

x x x x

Q:

When he opened the black bag, Mr. Witness, what did you see inside that black bag?

A:

I saw one tape sealed on a transparent plastic bag containing the methamphetamine hydrochloride, sir.

Q:

By the way, Mr. Witness, during the briefing or during the negotiation of this drug deal what was the weight agreed upon in the negotiations of this drug deal that is going to take place?

A:

One (1) kilo, sir.

Q:

How much was the price of that one (1) kilo that was agreed upon?

A:

P700,000.00, sir.

Q:

Mr. Witness, after Mr. Maximo Flores [open] that black bag and showed to you the contents, what transpired next?

A:

Tecson Lim asked the money in payment of the item, sir.

Q:

How about that black bag, Mr. Witness, where was it, who was holding that black bag?

A:

Maximo Flores, sir.

Q:

Mr. Witness, after Maximo Flores held on to that bag, what did he do with that black bag containing the item, Mr. Witness?

A:

He just showed it to me, sir, and we exchange, I got the black bag and he got the money, sir.

Q:

And after that exchange took place, what did you do next?

A:

I execute my pre-arrange signal, sir.

Q:

What was your pre-arrange signal, Mr. Witness?

A:

To light my cigarette, sir.[43]

From the foregoing, this Court is strongly convinced that the testimony of PO1 Amerol as the poseur-buyer was, indeed, clear and credible. He recounted in full detail how the deal was set by the informant, their meeting with appellants at McDonald's, Sucat, Parañaque City, their agreement to purchase one kilo of shabu for P700,000.00, the actual exchange of the black bag with a tape-sealed transparent plastic bag containing the substance and the boodle money, and the apprehension of appellants. Further, the prosecution presented before the court a quo the shabu subject of the buy-bust operation and the boodle money, which were marked as Exhibit "B" and Exhibits "F" to "F-8."

Appellants allege that (1) the buy-bust team should have discussed and identified the areas where they would conceal themselves to boost the confidence of PO1 Amerol as the poseur-buyer because, in absence thereof, it cannot be presumed that the other members of the buy-bust team concealed themselves; and (2) P/Sr. Insp. Mata, the team leader of the buy-bust operation, failed to perform his regular duty to conduct a test-buy before the buy-bust operation. We do not agree.

In *People v. Beriarmente*[44] citing *People v. Tranca*,[45] this Court has held that there is no rigid or textbook method of conducting buy-bust operations. It is of judicial notice that drug pushers sell their wares to any prospective customer, stranger or not, in both public and private places, with no regard for time. They have become increasingly daring and blatantly defiant of the law. Thus, the police must be flexible in their operations to keep up with the drug pushers. Practice buy-bust operations will not only hinder police efforts to apprehend

drug pushers, but would even render them inutile, as these would only forewarn the drug pushers.[46]

Further, the choice of effective ways to apprehend drug dealers is within the ambit of police authority. Police officers have the expertise to determine which specific approaches are necessary to enforce their entrapment operations.[47] Thus, there was no irregularity in the performance of duty on the part of the members of the buy-bust team, even though they did not anymore conduct a test or trial buy-bust operation.

Contrary to appellants' claim that PO1 Amerol had already prepared the crime laboratory result of the white crystalline substance even prior to the submission of the specimen for laboratory examination, the records revealed otherwise. Records showed that after appellants were apprehended, a request was made for the laboratory examination of the white crystalline substance confiscated by the buy-bust team from appellants. The white crystalline substance was subsequently submitted to the PNP Crime Laboratory for examination by its forensic chemist, Annallee R. Forro. The examination yielded a positive result for methamphetamine hydrochloride. Forensic chemist Forro reduced the result of the examination into writing, as evidenced by Physical Sciences Report No. D-5933-99 dated 4 December 1999. Clearly, the crime laboratory result of the examination of the shabu confiscated from appellants was not prepared prior to the submission of the specimen for laboratory examination, as appellants would want this Court to believe.

Appellants' assertion that the trial court erred in considering the testimony of PO1 Amerol despite the inconsistencies therein, which, if ignored, would cause injustice to the appellants, is likewise specious.

This Court has repeatedly held that a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not actually touching upon the central fact of the crime do not impair their credibility. Instead of weakening their testimonies, such inconsistencies tend to strengthen their credibility, because they discount the possibility of such testimonies being rehearsed.[48] Moreover, PO1 Amerol satisfactorily explained the inconsistencies in his testimony. He stated that he was not able to understand the question, as he thought that it referred to the markings on the shabu. He then clarified that the markings on the buy-bust money were made at their office in Camp Crame, Quezon City. What was marked at the scene of the crime was the shabu and not the buy-bust money.

The defense of both appellants consists mainly of mere denials. Denial, like alibi, is a weak defense, which becomes even weaker in the face of the positive identification of the accused by prosecution witnesses. Appellants' denial constituted self-serving negative evidence, which can hardly be considered as overcoming a straightforward and credit-worthy eyewitness account. As between the categorical, convincing and credible testimonies of the prosecution witnesses, as well as their positive identification of appellants as the offenders in the crime charged, and the defense of denial proffered by the latter, the former's testimonies are generally held to prevail, especially given the facts obtaining in this case.[49]

Finally, this Court affirms the findings of both lower courts that there was conspiracy between appellants Lim and Flores to commit the crime charged, and that the same was apparent from their actuations in selling the prohibited drug to PO1 Amerol.

Direct proof is not essential to prove conspiracy; it may be established by acts of the accused before, during and after the commission of the crime charged, from which may be logically inferred the existence of a common purpose to commit the same.[50]

As the Court of Appeals stated in its Decision, both appellants arrived together at the place of the buy-bust operation on board a Daihatsu car. Appellant Lim alighted from the car and spoke to the informant and to PO1 Amerol, the poseur-buyer. After the negotiation, appellant Lim went back to the car and returned with appellant

Flores, who was then carrying a black bag containing a tape-sealed transparent plastic bag with shabu. Appellant Flores gave the black bag with a tape-sealed transparent plastic bag containing shabu to PO1 Amerol, and the latter handed to appellant Lim the boodle money in payment thereof. The actuations of both appellants clearly revealed that there was conspiracy between them to commit the illegal transaction of selling shabu, a regulated or prohibited drug.

With the foregoing, it is beyond any cavil of doubt that the appellants were, indeed, guilty of violation of Section 15, Article III of Republic Act No. 6425, as amended.

As to the penalties. Section 15, Article III, in relation to Section 20(3) of Republic Act No. 6425, as amended, provides:

Sec. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs. - The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug.

Sec. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instruments of the Crime. - The penalties for offenses under Sections 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:

- 40 grams or more of opium;
- 40 grams or more of morphine;
- 200 grams or more of shabu or methylamphetamine hydrochloride;
- 40 grams or more of heroin;
- 750 grams or more of Indian hemp or marijuana;
- 50 grams or more of marijuana resin or marijuana resin oil;
- 40 grams or more of cocaine or cocaine hydrochloride; or
- In the case of other dangerous drugs, the quantity of which is far beyond therapeutic requirements, as determined and promulgated by the Dangerous Drugs Board, after public consultations/hearings conducted for the purpose. (Emphases supplied.)

On the basis of the aforesaid provisions of law, the penalty imposed by the lower courts upon appellants, which is reclusion perpetua, is proper, considering that the shabu confiscated in this case as a result of the buy-bust operation weighs more than 200 grams, i.e., 975.4 grams.

In the same vein, the fine of P2,000,000.00 imposed by the lower courts on each appellant is also in order as the same is still within the range of fines imposable on any person who sells prohibited drugs without any authority as clearly provided in Section 15, Article III of Republic Act No. 6425, as amended.

WHEREFORE, premises considered, the Decision dated 18 November 2008 of the Court of Appeals in CA-G.R. CR HC No. 01871, is hereby **AFFIRMED** in toto. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Velasco, Jr., Leonardo-De Castro,[*] and Peralta, JJ., concur.

[*] Associate Justice Teresita J. Leonardo-De Castro was designated to sit as additional member replacing Associate Justice Antonio Eduardo B. Nachura per Raffle dated 27 May 2009.

[1] Penned by Associate Justice Isaias Dicdican with Associate Justices Juan Q. Enriquez, Jr. and Marlene Gonzales-Sison, concurring; rollo, pp. 4-24.

[2] Penned by Judge Raul E. de Leon, CA rollo, pp. 26-34.

[3] Sec. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs. - The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug.

[4] Also known as "The Dangerous Drugs Act of 1972."

[5] An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for That Purpose the Revised Penal Code, as amended, other Special Penal Laws and for Other Purposes.

[6] Section 21. Attempt and Conspiracy. The same penalty prescribed by this Act for the commission of the offense shall be imposed in case of any attempt or conspiracy to commit the same in the following cases:

x x x x

b) Sale, administration, delivery, distribution and transportation of dangerous drugs. x x x.

[7] CA rollo, pp. 10-12.

[8] Id. at 11.

[9] PO1 Amerol, TSN, 31 August 2000, pp. 7-10.

[10] Id. at 26-27.

[11] Id. at 9.

[12] Records, Vol. 1, p. 32.

[13] PO1 Amerol, TSN, 31 August 2000, pp. 16, 19-20 and 22; P/Sr. Insp. Mata, TSN, 16 November 2000, pp. 5-11.

[14] PO1 Amerol, TSN, 31 August 2000, pp. 11-14.

[15] PO1 Amerol, TSN, 12 October 2000, pp. 16-17 and 21-22; P/Sr. Insp. Mata, TSN, 16 November 2000, pp. 9, 11-12 and 24-27.

[16] PO1 Amerol, TSN, 31 August 2000, pp. 14-27.

[17] PO1 Amerol, TSN, 12 October 2000, pp. 8 and 18.

[18] PO1 Amerol, TSN, 31 August 2000, p. 28.

[19] PO1 Amerol, TSN, 26 September 2000, pp. 4-16; P/Sr. Insp. Mata, TSN, 16 November 2000, pp. 17-20.

[20] Records, Vol. I, p. 28.

[21] Id. at 30.

[22] Forensic Chemist Forro, TSN, 7 November 2000, pp. 13-15.

- [23] Records, Vol. II, p. 399.
- [24] Records, Vol. I, p. 29.
- [25] TSN, 6 March 2001, pp. 8-10.
- [26] TSN, 20 March 2001, p. 6.
- [27] TSN, 6 March 2001, p. 10; TSN, 20 March 2001, pp. 8-9.
- [28] Id. at 11-15; id. at 10-13.
- [29] Id. at 15-17.
- [30] TSN, 24 April 2001, pp. 6-12, 18.
- [31] TSN, 10 July 2001, p. 14.
- [32] TSN, 24 April 2001, pp. 12-14.
- [33] TSN, 20 September 2001, pp. 4-9; TSN 25 September 2001, pp. 16-19.
- [34] TSN, 11 April 2002, pp. 7-11.
- [35] Sec. 20. Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instruments of the Crime. - The penalties for offenses under Sections 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:
- x x x x
3. 200 grams or more of shabu or methylamphetamine hydrochloride;
- [36] CA rollo, pp. 33-34.
- [37] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [38] CA rollo, p. 212.
- [39] *People v. Valencia*, 439 Phil. 561, 567 (2002).
- [40] *People v. De Guzman*, G.R. No. 151205, 9 June 2004, 431 SCRA 516, 522-523.
- [41] 361 Phil. 595, 621 (1999).
- [42] *People v. Tiu*, 469 Phil. 163, 173 (2004).
- [43] TSN, 31 August 2000, pp. 12-28.
- [44] 418 Phil. 229, 237-238 (2001).
- [45] G.R. No. 110357, 17 August 1994, 235 SCRA 455, 463.
- [46] *People v. Beriamente*, supra note 44.
- [47] *People v. Hajili*, 447 Phil. 283, 305 (2003).
- [48] *People v. Bagaua*, 442 Phil. 245, 255 (2002).
- [49] *People v. Garcia*, 346 Phil. 475, 497 (1997).

[50] People v. Bulan, G.R. No. 143404, 8 June 2005, 459 SCRA 550, 575.

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