

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EFREN DITONA Y MONTEFALCON, BERNARD FERNANDEZ AND ERNESTO EMNAS, ACCUSED.

G.R. No. 189841. December 15, 2010

Ponente: ABAD, J.

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ABAD, J.:

This case is about the need for the prosecution to show proof that the integrity of seized prohibited drugs has been preserved from the moment of seizure to the moment they are presented in court.

The Facts and the Case

The prosecution evidence shows that the Drug Enforcement Group of the Olongapo City Police had received reports of rampant selling of illegal drugs at Compound 7-9[th] Street, Barangay Ilalim, Olongapo City.

On July 19, 2002, within the election period, the police conducted a buy-bust operation at the place. SPO1 Alfredo Flores, acting as a poseur-buyer, and an informer met the accused Efren M. Ditona in front of the latter's house. SPO1 Flores gave Ditona the marked money consisting of two P100 bills in exchange for one plastic sachet of shabu.

At a signal, PO3 Norberto Ventura and PO2 Allan Delos Reyes rushed towards the gate of the compound to make the apprehension but, before they could reach SPO1 Flores and Ditona, the latter noticed their movement and ran into his house. The officers arrested him there and four others who were then sniffing shabu and preparing aluminum tin foils.

The police frisked them and found the marked money on Ditona's person together with transparent plastic sachets containing what appeared to be shabu substance and one cal. 22 magnum revolver with six live ammunitions. They confiscated the marked money, the suspected shabu substance in sachets, the gun, and the ammunitions.[1] Upon laboratory examination, the substance proved positive for methamphetamine hydrochloride or shabu.[2]

The City Prosecutor of Olongapo City filed four separate informations against Ditona before the Regional Trial Court (RTC) of Olongapo City for selling and possessing illegal drugs[3] in Criminal Cases 436-2002[4] and 437-2002[5] violation of the Omnibus Election Code[6] in Criminal Case 438-2002[7] and illegal possession of firearms[8] in Criminal Case 466-2002.[9] The RTC tried all four cases jointly.

On July 11, 2007 the RTC[10] found Ditona guilty of all the charges and sentenced him to suffer the penalty of life imprisonment (reclusion perpetua) in Criminal Case 436-2002; imprisonment from 12 years and one day to 20 years in Criminal Case 437-2002; imprisonment from one year to six years in Criminal Case 438-2002; and imprisonment from four years, two months, and one day to six years of prision correccional and a fine of P15,000.00 in Criminal Case 466-2002. Ditona's denial, said the RTC, cannot prevail over the police officers' positive declarations considering that the latter did not have any motive to concoct a false charge against him and

presumably performed their official duties regularly.

On appeal, the Court of Appeals (CA)[11] affirmed the conviction for the crimes relating to the prohibited drugs but modified the RTC ruling with respect to the other charges after observing that it erred in convicting Ditona separately for illegal possession of firearms and violation of the Omnibus Election Code.

The Issue Presented

The sole issue for resolution is whether or not the prosecution was able to establish beyond reasonable doubt Ditona's guilt for illegal possession and sale of shabu.

The Court's Ruling

To successfully prosecute an accused for selling illegal drugs, the prosecution has to prove: (1) the identities of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment for it.[12] On the other hand, for an accused to be convicted of possession of illegal drugs, the prosecution is required to prove that: (1) the accused was in possession of prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the prohibited drug.[13]

In both instances, the State has to prove as well the corpus delicti, the body of the crime.[14] It must be shown that the suspected substance the police officers seized from the accused is the same thing presented in court during the trial. Thus, the chain of custody rule is essential to ensure that doubts regarding the identity of the evidence are removed through the monitoring and tracking of the movements of the seized drugs from the accused, to the police, to the forensic chemist, and finally to the court.[15] The witnesses should be able to describe these movements to ensure that there had been no change in the condition of the item and that no one who did not belong in the chain had access to the same.[16]

Here, the prosecution dismally failed to prove the corpus delicti since there were substantial gaps in the chain of custody of the seized drugs which raised doubts on the authenticity of the evidence presented in court.

To begin with, SPO1 Flores, PO3 Ventura, and PO2 Delos Reyes executed a Joint Affidavit,[17] which formed part of their direct testimonies, in which they narrated the details of the buy-bust operation. Yet, they did not say how they handled the seized drugs from the time they frisked Ditona until they brought him to the police station. They also omitted these important points in their testimonies on direct and cross-examination.

PO2 Delos Reyes testified on the details of the seized drugs, the gun, and the ammunitions taken from the persons in the house but he did not specify what things he confiscated from Ditona. PO3 Ventura, on the other hand, merely testified that he issued a receipt for the things the police seized, thus:[18]

PROSECUTOR:

As regards the shabu, we will maintain it to be collectively marked as Exhibit "B." Now...will you tell us briefly your participation in this police operation?

A: I was tasked as back-up together with PO3 [sic] Allan Delos Reyes. It was SPO1 Alfredo Flores who acted as poseur-buyer.

Q: After the consummation, Alfredo Flores gave his pre-arranged signal and when Ditona saw it, and sensed the presence the other members of the team he tried to ran inside his house and that's the time we gave chase upon which we saw another person inside the sala?

A: Yes Sir.

Q: By the way, what was the lighting condition when this incident transpired?

A: From the light post, it is well-lighted...near the house at No. 7-9[th] St.

Q: In connection with this drug operation, do you recall having prepared a receipt of evidence or property seized?

A: Yes Sir.

Q: If you see this again, will you be able to recognize it?

A: Yes Sir.

Q: I am showing to you a document which we request to be marked as Exhibit "L," please go over this and tell if this is the receipt of property seized you are referring to?

A: Yes Sir, this is it.

Q: Can you identify the signatures indicated below?

A: This is Alfredo Flores, this is my signature and this is Allan Delos Reyes' signature.

Finally, SPO1 Flores testified only that he was the one who bought the shabu from Ditona, thus:[19]

Q: You said you were able to buy shabu on July 19, 2002, from whom were you able to buy shabu?

A: From Efren Ditona, Sir.

Q: Will you tell the Court the quantity of shabu you were able to purchase?

A: One sachet of shabu containing 0.2 grams.

Q: If you see the stuff you were able to buy, will you be able to recognize this?

ATTY. COLOMA:

We stipulate that the witness can identify the stuff.

Quite clearly, the prosecution failed to establish the required chain of custody of the prohibited drugs through the testimonies of the police officers. While the RTC noted that SPO1 Flores and PO3 Ventura placed their initials, "AF" and "NV," on the seized drugs, they did not identify the markings as theirs during their direct testimonies nor did they testify when and where they made such markings. Moreover, they failed to show how the seized drugs reached the laboratory technician who examined it and how the same were stored pending turnover to the court.[20]

Indeed, there is no room to apply the presumption of regularity in the police officers' performance of official duty. While the testimonies of the police officers who apprehended the accused are generally accorded full faith and credit because of the presumption that they have performed their duties regularly, such presumption is effectively destroyed where the performance of their duties is tainted with failure to comply with the prescribed procedure and guidelines.[21]

The drug enforcement agencies of the government and the prosecution should put their acts together to ensure that the guilty are punished and the innocent absolved. Poor handling and preservation of the integrity of evidence show lack of professionalism and waste the time that the courts could use for hearing and adjudicating other cases. Prosecutors ought not to file drugs cases in court unless the law enforcement agencies are able to show documented compliance with every requirement of Section 21 of Republic Act 9165, the Comprehensive

Dangerous Drugs Act of 2002. Likewise prosecutors ought to have a checklist of the questions they should ask their witnesses in drugs cases that would elicit the required proof.

WHEREFORE, the Court GRANTS the petition and MODIFIES the assailed Decision of the Court of Appeals in CA-G.R. CR-HC 03095 dated July 31, 2009 in that accused-appellant Efren Ditona y Montefalcon is ACQUITTED with respect to the crimes charged in Criminal Cases 436-2002, 437-2002, and 466-2002. The Court, however, AFFIRMS the finding of the Court of Appeals of his guilt beyond reasonable doubt with respect to the charge of violation of Section 261(q) in relation to Section 264 of the Omnibus Election Code in Criminal Case 438-02 and the corresponding penalty of imprisonment from one (1) year to six (6) years meted out to him.

SO ORDERED.

Carpio, (Chairperson), Nachura, Villarama, Jr.,[*] and Mendoza, JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Diosdado M. Peralta, per raffle dated December 13, 2010.

[1] Records, Vol. I, p. 188.

[2] Id. at 186.

[3] In violation of Sections 5 and 11, Republic Act (R.A.) 6425 as amended by R.A. 9165.

[4] Records, Vol. I, p. 59.

[5] Id. at 65.

[6] Section 261(q) in relation to Section 264.

[7] CA rollo, p. 13.

[8] In violation of Section 1, P.D. 1866 as amended by R.A. 8294.

[9] Records, Vol. II, p. 1.

[10] Records, Vol. I, pp. 262-264.

[11] Rollo, pp. 2-23. Penned by Associate Justice Fernanda Lampas Peralta, with Associate Justices Andres B. Reyes, Jr. and Apolinario D. Bruselas, Jr.

[12] People v. Partoza, G.R. No. 182418, May 8, 2009, 587 SCRA 809, 816.

[13] People of the Philippines v. Padua, G.R. No. 174097, July 21, 2010.

[14] People v. Coreche, G.R. No. 182528, August 14, 2009, 596 SCRA 350, 356.

[15] People of the Philippines v. Sitco, G.R. No. 178202, May 14, 2010; see also People of the Philippines v. Nandi, G.R. No. 188905, July 13, 2010.

[16] Malillin v. People, G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632-633.

[17] Records, Vol. I, p. 3.

[18] Id. at 226-227.

[19] Id. at 229.

[20] *People v. Partoza*, supra note 12, at 819.

[21] *People of the Philippines v. De Guzman*, G.R. No. 186498, March 26, 2010.

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