

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GREGORIO FELIPE Y CALINGANGAN, ACCUSED-APPELLANT.

G.R. No. 191754. April 11, 2011

Ponente: PERALTA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-191754/>

PERALTA, J.:

Appellant Gregorio Felipe (Felipe) seeks the reversal of the Decision¹ of the Court of Appeals (CA), dated December 3, 2009, in CA-G.R. CR-H.C. No. 03038, which in turn affirmed in toto the Decision of the Regional Trial Court (RTC), Laoag City, Branch 13, in Criminal Case No. 13251-13 convicting him of Violation of Section 5, Article II of Republic Act (RA) No. 9165.

The factual and procedural antecedents are as follows:

On January 11, 2007, an Information^[2] for Violation of Section 5, Article II of RA No. 9165 was filed against Felipe, the accusatory portion of which reads:

That on or about the 10th day of January 2007, in the city of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without any authority, did then and there willfully, unlawfully and feloniously sell and deliver to a police poseur buyer methamphetamine hydrochloride (sic) "Shabu" weighing more or less 0.6411 (excluding plastic container), in violation of the aforecited law.

CONTRARY TO LAW.

Upon his arraignment, Felipe pleaded not guilty to the charge. Consequently, trial on the merits ensued.

Evidence for the Prosecution

On January 10, 2007, at around 6:00 o'clock (sic) in the evening, Edwin Rumbaoa, a confidential police informant, went to the intelligence office of the Laoag City Police Station and reported to SPO3 Rovkmanuel Balolong (or "SPO3 Balolong"), Chief of Intelligence Division, that there was a transaction involving a certain "Gorio," (sic) herein [Felipe], for the delivery of "shabu" worth P6,000.00 to a prospective buyer at the Rizal Park in Laoag City. SPO3 Balolong immediately relayed the information to the Chief of Police, Police Superintendent Wilson Lopez, who instructed him to organize a team to conduct a buy-bust operation. SPO3 Balolong then presided over a briefing, wherein he designated PO2 Randy Diego (or "PO2 Diego") as poseur-buyer, while he and SPO3 Arthur Mateo (or "SPO3 Mateo") would act as back-up security.

At around 6:45 o'clock (sic) in the evening, while still in the investigation office, the confidential informant contacted [Felipe] to confirm the transaction and informed the latter of the description of the prospective buyer as one wearing a white bull cap, white t-shirt and maong short pants, who would be waiting in front of Rizal Park along the northernmost part of Ablan Avenue, Laoag City at around 7:00 o'clock (sic) in the evening. Thereafter, PO2 Diego proceeded to the area on board a motorcycle, while the rest of the members of the team followed riding on a separate vehicle. PO2 Diego positioned himself at the designated place, while the rest of the members of the group parked their vehicle in front of Mariano Marcos State University.

After about fifteen (15) minutes, PO2 Diego, who went directly to the northernmost part of Rizal Park riding on his motorcycle, saw [Felipe] driving a tricycle coming from the south. [Felipe] parked his tricycle north of the place where PO2 Diego was. When [Felipe] saw PO2 Diego, he immediately approached the latter and uttered "Ne daytoyen ti ideliberko kenka" ("here is the thing I am going to deliver to you"). [Felipe] then handed over the "shabu" contained in a Hope brand cigarette case to PO2 Diego who, upon examination that the case contained two (2) plastic sachets of white crystalline substance, pocketed the same and introduced himself as a police officer. Thereafter, PO2 Diego arrested [Felipe] who resisted and tried to free himself. Upon seeing the commotion from where they positioned themselves, SPO3 Balolong and SPO3 Mateo immediately went to assist PO2 Diego. They restrained [Felipe], informed him of his constitutional rights and he was taken to the Laoag Police Station where the incident was recorded in the police blotter.

The two (2) plastic sachets of "shabu" were marked by PO2 Diego with his initials "RD" at the police station and were turned-over to SPO2 Loreto Ancheta (or "SPO2 Ancheta") who recorded the receipt of said evidence in his logbook and marked the same with "LCPS" which stands for Laoag City Police Station and "GF" for [Felipe's] name. Afterwards, SPO2 Ancheta delivered the two (2) plastic sachets to the Ilocos Norte Provincial Crime Laboratory Office at Camp Captain Valentine S. Juan, Laoag City, where they were received by SPO3 Diosdado Mamotos in the presence of P/Insp. Chris Cabatic, the Forensic Chemist Officer. After a qualitative examination of the contents of two (2) plastic sachets, the same tested positive for methamphetamine hydrochloride, a prohibited drug.[3]

Evidence for the Defense

For his defense, [Felipe] averred that on January 10, 2007, at around 6:30 o'clock (sic) in the evening, he was ferrying a passenger that he picked up in front of PLDT office in Laoag City to Marcos Stadium. After his passenger alighted from the tricycle, he decided to park at the northeastern part of Rizal Park and wait for other passengers. While thereat, somebody suddenly grabbed his collar and hands. When he looked, he saw PO2 Diego with three (3) companions whom he was not able to recognize. He asked PO2 Diego why was he (sic) being held and the latter answered that he was being put under arrest. His hands were cuffed at his back by PO2 Diego's companions. He asked them again what his fault was, but the group told him that they will go to the police station. While [Felipe] was being pulled and boarded on his tricycle, he pleaded for his freedom and afterwards, shouted for help from the tricycle drivers around, but to no avail.

When [Felipe] arrived at the police station, he was allegedly locked up inside a room and SPO3 Balolong, whom he had known for a long time as he would usually convey passengers at the police headquarters, suddenly went inside and asked, "is he the one?" and immediately punched him on the abdomen. [Felipe] was then asked by SPO3 Balolong who the operator of his tricycle was and he answered that it was a certain Ian Ganitano. SPO3 [Balolong] again asked whether it was "Ian Ganitano or Virgilio Ganitano?" He answered that Virgilio Ganitano is the father of Ian Ganitano. SPO3 Balolong said that if that was the case, then [Felipe] was a follower of Virgilio Ganitano. [Felipe] answered that he was not, after which, SPO3 Balolong punched him again on the abdomen.

Thereafter, PO2 Diego allegedly handed a Hope cigarette pack to SPO3 Balolong who asked [Felipe] if he was smoking. [Felipe] answered in the affirmative and SPO3 Balolong said, "here also is a shabu. where did this come from? From Virgilio?" [Felipe] replied that he did not know about any "shabu" contained in the cigarette pack. PO2 Diego then frisked him and took away his cellular phone and wallet. The police officers then asked [Felipe] if he wanted a palit-ulo to which he asked what palit-ulo means. The police officers explained that if he gives information where Virgilio Ganitano was keeping "shabu" and from where he sourced it, they will arrest Virgilio Ganitano. instead of [Felipe]. However, [Felipe] answered that he did not know anything about the "shabu" being kept by Virgilio Ganitano. Thereafter, SPO3 Balolong led [Felipe] inside a room and the other police officers, and since they were the only ones inside the room now, [Felipe] could freely tell him everything about Virgilio Ganitano who should be charged in court. [Felipe], however, told SPC Balolong that he did not know anything about Ganitano's keeping "shabu" and had he known it, he would have told them

at the first instance. The police officers then brought [Felipe] out and placed him in a detention cell at the police headquarters and filed A the instant case against him.[4]

On September 28, 2007, the RTC, after finding that the prosecution has established all the elements of the offense charged against Felipe, rendered a Decision[5] convicting Felipe of Violation of Section 5, Article II of RA No. 9165. The dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding accused Gregorio Felipe GUILTY beyond reasonable doubt of illegal delivery of shabu and is therefore sentenced to suffer (he penalty of life imprisonment and to pay a fine of P500,000.00 The two (2) plastic sachets of shabu subject hereof, weighing 0.6411 gram(s), is hereby confiscated, the same to be disposed as the law prescribes.

SO ORDERED.[6]

Aggrieved, Felipe appealed the Decision before the CA, which was later docketed as CA-G.R. CR-ILC. No. 03038.

On December 3, 2009, the CA rendered a Decision[7] affirming in toto the decision of the RTC, the dispositive portion of which reads:

WHEREFORE, premises considered, the assailed decision of the RTC of Laoag City, Branch 13, dated September 28, 2007. is hereby AFFIRMED IN TOTO.

SO ORDERED.

In affirming the decision of the RTC, the CA ratiocinated that Felipe's contention of lack of credibility of the prosecution witnesses and his theory of frame-up was unfounded. The CA concluded that indeed, a legitimate buy-bust operation occurred, as such, there can be no question as to the guilt of Felipe. Moreover, contrary to Felipe's allegation, the CA found that the proper procedure in the custody and disposition of the seized drugs was followed by the police officers who were involved in its handling.

Felipe now comes before this Court for relief.

In a Resolution dated July 2, 2010, the Court required the parties to file their respective supplemental briefs, if they so desire. In their respective Manifestations, the parties waived the filing of their supplemental briefs and, instead, adopted their respective briefs filed before the CA.

Hence, Felipe raises the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE LACK OF PROOF THAT THE ACCUSED-APPELLANT KNOWINGLY SOLD AND DELIVERED THE DANGEROUS DRUGS.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT BASED ON THE HIGHLY INCREDIBLE TESTIMONIES OF THE PROSECUTION WITNESSES.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH THE CHAIN OF CUSTODY OF THE DRUG SPECIMENS.[10]

Felipe posits that he was merely convicted based on the inference that an alleged valid buy-bust operation was conducted. Felipe maintains that it was incredulous to believe the testimony of P02 Diego that he handed the pack of cigarettes which contained the "shabu" to him, considering that he did not know who PO2 Diego was. Also, the fact that he did not receive any buy-bust money from P02 Diego and that the alleged operation purportedly went down at a public place, which is highly improbable and contrary to logic, supported his allegation that no buy-bust operation occurred. Felipe also argues that he was framed-up and arrested to be used by the police to apprehend a certain Virgilio Ganitano, a suspected "shabu" peddler.

Moreover, Felipe contends that the chain of custody of the alleged illegal drugs was highly questionable, considering that it was not marked at place of the arrest, but only when they reached the Laoag City Police Station.

On the other hand, the State, represented by the Office of the Solicitor General (OSG), maintains that the trial court and the CA correctly found

Felipe guilty beyond reasonable doubt of the crime charged and that his conviction should be sustained by this Court.

Simply stated, the issue in this case is whether or not the prosecution has proven the guilt of Felipe for illegal sale of dangerous drugs beyond reasonable doubt.

We rule in the affirmative.

Generally, the Court will not disturb the findings of the trial court on the credibility of witnesses, as it was in the better position to observe their candor and behavior on the witness stand. Evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court; it had the unique opportunity to observe the witnesses and their demeanor, conduct, and attitude, especially under cross-examination. Its assessment is entitled to respect unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.[11]

Although not constrained to blindly accept the findings of fact of trial courts, appellate courts can rest assured that such facts were gathered from witnesses who presented their statements live and in person in open court. In cases where conflicting sets of facts are presented, the trial courts are in the best position to recognize and distinguish spontaneous declaration from rehearsed spiel, straightforward assertion from a stuttering claim, definite statement from tentative disclosure, and to a certain degree, truth from untruth.[12]

In the case at bar, no compelling reason exists to reverse the findings of fact of the trial court. There is no showing in the records and transcripts of any apparent inconsistencies in the prosecution witnesses' account of the events which transpired and led to the arrest of Felipe. Their testimonies were frank, candid, and clear, which left no doubt as to their veracity and truthfulness.

It bears stressing that what is material to the prosecution for illegal sale of drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti. In other words, the essential elements of the crime of illegal sale of prohibited drugs are: (1) the accused sold and delivered a prohibited drug to another; and (2) he knew that what he had sold and delivered was a prohibited drug.[13] In the present case, as aptly found by the RTC and affirmed by the CA, all these elements were satisfactorily proven by the prosecution, viz.:

In the case at bar, We find that the prosecution was able to establish the fact of sale, starting from the time that SP03 Balolong received the information from their "police asset" up to the time that the buy-bust team proceeded to the target location at Riza) Park where the actual sale happened. Noteworthy is the fact that even

before the actual delivery of the prohibited drugs to the poseur-buyer, the "police asset" confirmed first with appellant, through text messages, the intended delivery of the said drugs with a value of P6,000.00. Thus, as far as the sale is concerned, the same was already perfected earlier through a confirmed text message by appellant. The agreement between him and P02 Diego to meet later on at the agreed place was only for purposes of confirming the sale by the delivery of the prohibited drugs.[14]

Furthermore, Felipe's reliance on the alleged inexistence of the buy-bust money to disprove the fact of sale is misplaced. This Court had previously ruled that the use of dusted money is not indispensable to prove the illegal sale of drugs. In fact, the absence of marked money does not create a hiatus in the evidence for the prosecution provided that the prosecution has adequately proven the sale.[15]

Also, Felipe's contention that he was framed-up deserves scant consideration. The defense of denial and frame-up has been invariably viewed by this Court with disfavor, for it can easily be concocted and is a common and standard defense ploy in prosecutions for violation of the Dangerous Drugs Act. In order to prosper, the defense of denial and frame-up must be proved with strong and convincing evidence.

As found by the trial court, the defense has failed to show sufficient basis to support Felipe's contention, to wit:

More significantly, the claims of the accused that he was just arrested without any reason at all and that the police just planted the shabu against him are simply incredible. If the police did so, then rhyme and reason dictate that they had some sinister and greedy motives against the accused. But the accused never asserted any reason why the police would have just arrested him and then planted the shabu against him. He did not claim that the policemen tried to extort from him or that they had a previous grudge to grind against him. He did not say that they did it for promotion or out of over zealotness in the performance of their duty as police officers. What is clear on record is that he never had any quarrel with the policemen, PO2 Randy Diego and SP03 Balolong. In this connection, the Court cannot even believe the claim of the accused that he knows PO2 Diego. Again, it was so easy for him to have laid such a claim. Aside from his self-serving testimony that he had seen and known P02 Diego at the DPS where he would register whenever he conveyed a passenger (out of city limits) at nighttime, there is no other evidence to prove that P02 Diego was indeed assigned at one time or another at the DPS. As the Court would take notice from his many court appearances, P02 Diego had always been assigned at the Intelligence and Investigation section of the Laoag City Police Station. In fact, he testified that he has been assigned in that section for more or less three years.[16]

It is a settled rule that in cases involving violations of the Comprehensive Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner.[17] This presumption can only be overturned through clear and convincing evidence that show either of two things: (1) that they were not properly performing their duty; or (2) that they were inspired by any improper motive.[18] In the absence of clear and convincing evidence of the foregoing, as in the case at bar, this Court cannot accept the defense of bare denial and, instead, apply the presumption of regularity in the performance of official duties by the law enforcement officers.

Finally, Felipe's argument that the prosecution failed to show compliance with Section 21 of RA No. 9165 and its implementing rules regarding the custody and disposition of the evidence against him, does not hold water.

Section 21 of the Implementing Rules and Regulations of RA No. 9165 provides:

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[19]

As can be gleaned from the language of Section 21 of the Implementing Rules, it is clear that the failure of the law enforcers to comply strictly with it is not fatal. It does not render Felipe's arrest illegal nor the evidence adduced against him inadmissible.[20] What is essential is "the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused." [21]

In the case at bar, the requirements of the law were substantially complied with and the integrity of the drugs seized from Felipe were safeguarded. More importantly, the chain of custody of the prohibited drugs taken from Felipe was sufficiently established not to have been broken. The factual antecedents of the case reveal that after Felipe handed the pack of cigarettes which contained the two (2) sachets of shabu to PO2 Diego, the latter immediately arrested Felipe. Together with Felipe, the prohibited drugs seized from him were immediately brought to the Laoag City Police Station and, upon arriving thereat, PO2 Diego marked the items with his initials and, thereafter, turned them over to the evidence custodian, SPO2 Ancheta, who also marked the evidence and recorded its receipt in his logbook. Thereafter, SPO2 Ancheta delivered the two (2) plastic sachets to the Ilocos Norte Provincial Crime Laboratory Office, Laoag City, where they were received by SPO3 Diosdado Mamotos in the presence of P/Insp. Chris Cabatic, the Forensic Chemist Officer. After a qualitative examination of the contents of the two (2) plastic sachets, the same tested positive for methamphetamine hydrochloride. Thus, an unbroken chain of custody of the seized drugs had been established by the prosecution from the buy-bust team, to the investigating officer, and to the forensic chemist. There is no doubt that the items seized from Felipe at the crime scene were also the same items marked by the arresting officers, sent to the Crime Laboratory, and later on tested positive for methamphetamine hydrochloride.

With respect to the penalty, the Court affirms the penalty imposed by the RTC and the Court of Appeals. Section 5, Article II of RA No. 9165, provides:

SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

WHEREFORE, the Decision dated December 3, 2009 of the Court of Appeals in CA-G.R. CR-H.C. No. 03038, finding appellant Gregorio Felipe y Calingangan guilty beyond reasonable doubt of the crime charged in Criminal Case No. 13251-13 for violation of Section 5, Article II of Republic Act No. 9165, is AFFIRMED.

SO ORDERED.

Carpio,(Chairperson), Nachura, Abad and Mendoza, JJ., concur.

[1] Penned by Associate Justice Sesmando E. Villon, with Associate Justices Estela M. Perlas- Bernabe and Michael P. Eibinias, concurring; rollo, pp. 2-10.

[2] CA rollo, pp. 9-10.

[3] Rollo, pp. 3-4.

[4] Id. at 4-5.

[5] CA rollo, pp. 36-45.

[6] Id. at 45.

[7] Rollo, pp. 2-10.

[8] Id. at 22.

[9] Id. at 28-29: 32-33.

[10] CA rollo, pp. 77-78.

[11] People v. Tormis, G.R. No. 183456, December 18, 2008, 574 SCRA 903.

[12] People v. Willie Mideuilla, y Alaboso, Ricky Delos Santos y Milarpes and Roberto Delos Santos y Milarpes, G.R. No. 386470, September 27, 2010.

[13] People v. Pendatun, 478 Phil. 201, 232 (2004), citing People v. Cercado, 385 SCRA 277 (2002); People v. Parts, 434 Phil. 148, 159 (2002).

[14] Rollo, p. 7.

[15] Lapuz v. People, 476 Phil. 517, 524 (2004); People v. Saludes, 451 Phil. 719, 726 (2003); People v. Gireng, 311 Phil. 12,21 (1995), citing People v. Pascual, 208 SCRA 393 (1992) and People v. Hoble, 211 SCRA 675 (1992).

[16] CA rollo, p. 44.

[17] People v. Tamayo, G.R. No. 187070, February 24, 2010, 613 SCRA 556, 564.

[18] People v. Padasin, 445 Phil. 448, 456 (2003).

[19] Emphasis supplied.

[20] People v. Pagkalinawan, G.R. No. 184805, March 3, 2010, 614 SCRA 202, 218, citing People v. Naquita, 560 SCRA 430, 448 (2008).

[21] Id.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.