

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROLANDO LAYLO Y CEPRES, APPELLANT.

G.R. No. 192235. July 06, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is an appeal assailing the Decision[1] dated 28 January 2010 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03631. The CA affirmed the Decision[2] dated 16 September 2008 of the Regional Trial Court (RTC) of Binangonan, Rizal, Branch 67, in Criminal Case No. 06-017, convicting appellant Rolando Laylo y Cepres (Laylo) of violation of Section 26(b), Article II (Attempted Sale of Dangerous Drugs)[3] of Republic Act No. 9165[4] (RA 9165) or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

On 21 December 2005, two separate Informations against appellant Laylo and Melitona Ritwal (Ritwal) were filed with the RTC of Binangonan, Rizal, Branch 67, docketed as Criminal Case Nos. 06-017 and 06-018, respectively. The information against Laylo states:

Criminal Case No. 06-017

That on or about the 17[th] day of December, 2005, in the Municipality of Binangonan, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to sell any dangerous drug, did then and there willfully, unlawfully, and knowingly attempt to sell, deliver, and give away shabu to PO1 Angelito G. Reyes, 0.04 gram of white crystalline substance contained in two (2) heat-sealed transparent plastic sachets which were found positive to the test for Methylamphetamine Hydrochloride, also known as shabu, a dangerous drug, thus commencing the commission of the crime of illegal sale but did not perform all the acts of execution which would produce such crime by reason of some cause or accident other than the accused's own spontaneous desistance, that is, said PO1 Angelito G. Reyes introduced himself as policeman, arrested the accused and confiscated the two (2) above-mentioned sachets from the latter.

CONTRARY TO LAW.[5]

Upon arraignment, both accused pleaded not guilty. Joint trial on the merits ensued. However, during the trial, Ritwal jumped bail and was tried in absentia. Thus, Ritwal was deemed to have waived the presentation of her evidence and the case was submitted for decision without any evidence on her part.

The prosecution presented two witnesses: Police Officer 1 (PO1) Angelito G. Reyes (PO1 Reyes) and PO1 Gem A. Pastor (PO1 Pastor), the poseur-buyers in the attempted sale of illegal drugs.

The prosecution summed up its version of the facts: In the afternoon of 17 December 2005, PO1 Reyes and PO1 Pastor, both wearing civilian clothes, were conducting anti-drug surveillance operations at Lozana Street,

Calumpang, Binangonan, Rizal. While the police officers were in front of a sari-sari store at around 5:40 p.m., appellant Laylo and his live-in partner, Ritwal, approached them and asked, "Gusto mong umiskor ng shabu?" PO1 Reyes replied, "Bakit mayroon ka ba?" Laylo then brought out two plastic bags containing shabu and told the police officers, "Dos (P200.00) ang isa." Upon hearing this, the police officers introduced themselves as cops. PO1 Reyes immediately arrested Laylo. Ritwal, on the other, tried to get away but PO1 Pastor caught up with her. PO1 Pastor then frisked Ritwal and found another sachet of shabu in a SIM card case which Ritwal was carrying.

PO1 Reyes and PO1 Pastor marked the three plastic sachets of shabu recovered from Laylo and Ritwal and forwarded them to the Philippine National Police Crime Laboratory for forensic testing. Forensic Chemist Police Inspector Yehla C. Manaog conducted the laboratory examination on the specimens submitted and found the recovered items positive for methylamphetamine hydrochloride or shabu, a dangerous drug.

The police officers charged Laylo for attempted sale of illegal drugs and used the two plastic sachets containing shabu as basis while Ritwal was charged for possession of illegal drugs using as basis the third sachet containing 0.02 grams of shabu.

The defense, on the other hand, presented different versions of the facts. The witnesses presented were: appellant Laylo; Laylo's three neighbors namely Rodrigo Panaon, Jr., Marlon de Leon, and Teresita Marquez.

Laylo testified that while he and his common-law wife, Ritwal, were walking on the street, two men grabbed them. The two men, who they later identified as PO1 Reyes and PO1 Pastor, dragged them to their house. Once inside, the police officers placed two plastic sachets in each of their pockets. Afterwards, they were brought to the police station where, despite protests and claims that the drugs were planted on them, they were arrested and charged.

To corroborate Laylo's testimony, the defense presented Laylo's three neighbors. Marlon de Leon (de Leon), also a close friend of the couple, testified that he was taking care of the Laylo and Ritwal's child when he heard a commotion. He saw men, whom de Leon identified as assets, holding the couple and claimed that he saw one of them put something, which he described as "plastic," in the left side of Laylo's jacket.

Rodrigo Panaon, Jr. (Panaon) narrated that on 17 December 2005, at around 5:00 or 6:00 p.m., he was on his way home when he saw Laylo arguing with three men in an alley. He overheard Laylo uttering, "Bakit ba? Bakit ba?" Later, Panaon saw a commotion taking place at Laylo's backyard. The three men arrested Laylo while the latter shouted, "Mga kapitbahay, tulungan ninyo kami, kami'y dinadampot." Then Panaon saw someone place something inside the jacket of Laylo as he heard Laylo say, "Wala kayong makukuha dito."

Teresita Marquez (Marquez) testified that while she was fetching water from the well on 17 December 2005, at around 5:00 or 6:00 p.m., she heard Laylo's son shouting, "Amang, Amang." Marquez then saw the child run to his father, who was with several male companions. Then someone pulled Laylo's collar and frisked him. Marquez overheard someone uttering, "Wala po, wala po." Marquez went home after the incident. At around 9:00 in the evening, Ritwal's daughter visited her and borrowed money for Laylo and Ritwal's release. Marquez then accompanied Ritwal's daughter to the municipal hall, where a man demanded P40,000.00 for the couple's release.

In its Decision dated 16 September 2008, the RTC found Laylo and Ritwal guilty beyond reasonable doubt of violations of RA 9165. The RTC gave credence to the testimonies of the police officers, who were presumed to have performed their duties in a regular manner. The RTC stated that Reyes and Pastor were straightforward and candid in their testimonies and unshaken by cross-examination. Their testimonies were unflawed by inconsistencies or contradictions in their material points. The RTC added that the denial of appellant Laylo is weak and self-serving and his allegation of planting of evidence or frame-up can be easily concocted. Thus,

Laylo's defense cannot be given credence over the positive and clear testimonies of the prosecution witnesses. The dispositive portion of the decision states:

We thus find accused Rolando Laylo GUILTY beyond reasonable doubt of violating Section 26(b) of R.A. No. 9165 and sentence him to suffer a penalty of life imprisonment and to pay a fine of P500,000.00. We also find accused Melitona Ritwal GUILTY beyond reasonable doubt of violating Section 11 of R.A. No. 9165 and illegally possessing a total of 0.02 grams of Methylamphetamine Hydrochloride or shabu and accordingly sentence her to suffer an indeterminate penalty of 12 years and one day as minimum to 13 years as maximum and to pay a fine of P300,000.00.

Let the drug samples in this case be forwarded to the Philippine Drug Enforcement Agency (PDEA) for proper disposition. Furnish PDEA with a copy of this Decision per OCA Circular No. 70-2007.

SO ORDERED.[6]

Laylo filed an appeal with the CA. Laylo imputed the following errors on the RTC:

I. THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE OFFENSE CHARGED DESPITE THE PROSECUTION WITNESS' PATENTLY FABRICATED ACCOUNTS.

II. THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE OFFENSE CHARGED WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

III. THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE APPREHENDING OFFICERS' FAILURE TO PRESERVE THE INTEGRITY OF THE ALLEGED SEIZED SHABU.[7]

The Ruling of the Court of Appeals

In a Decision dated 28 January 2010, the CA affirmed the decision of the RTC. The dispositive portion of the decision states:

WHEREFORE, premises considered, the appeal is DISMISSED for lack of merit. The challenged decision of the court a quo is AFFIRMED. Costs against the accused-appellant.

SO ORDERED.[8]

Hence, this appeal.

The Ruling of the Court

The appeal lacks merit.

The elements necessary for the prosecution of illegal sale of drugs are: (1) the identity of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment.[9]

In the present case, PO1 Reyes narrated in court the circumstances of the illegal sale:

PROS. ARAGONES:

Q: What time did you proceed to that place of surveillance?

A: 5:40 p.m., Ma'am.

Q: And what happened when you and PO1 Gem Pastor went there?

A: When we were making standby at a nearby store there was a man talking with a woman, the man asked me if we want to have a shot of shabu.

Q: What was your reply?

A: "Bakit, meron ka ba?"

Q: How did that other person react to that question, what did he tell you, if any?

A: "Gusto mong umiskor ng shabu?"

Q: What happened after that?

A: I replied, "Bakit meron ka ba?" then he showed me two small plastic bags containing shabu, Ma'am.

Q: How big is that bag, Mr. Witness?

A: Small, Ma'am.

Q: Can you tell us the size?

A: (Demonstrating) Almost one inch the size of a cigarette, Ma'am.

COURT: It was in a plastic not in foil?

A: Yes, your Honor.

PROS. ARAGONES:

Q: After showing you two plastic bags, what happened?

A: I introduced myself as a police officer then I caught this man and confiscated the two small plastic bag containing shabu.

Q: How about the lady?

A: My partner caught the woman because she was intending to run away and he got from her right hand Smart SIM card case containing one small plastic.[10]

PO1 Pastor corroborated the testimony of PO1 Reyes:

PROS. ARAGONES:

Q: Mr. Witness, while you were conducting surveillance on December 17, 2005, what happened?

A: While we were conducting surveillance at Lozana Street, Calumpang, Binangonan, Rizal, while we were at the store, two (2) persons approached us, one male and one female, Ma'am.

Q: Who were those persons? Did you come to know the name of those persons?

A: At that time I don't know the names but when they were brought to the police station I came to know their names, Ma'am.

Q: What are the names of these two persons?

A: Rolando Laylo and Melitona Ritwal, Ma'am.

Q: At that time they approached you during the time you were conducting surveillance at Lozana Street, what happened?

A: The male person approached PO1 Reyes and asked if "iiskor", Ma'am.

Q: What was the reply of PO1 Reyes?

A: He answered "Bakit meron ka ba?"

Q: When that answer was given by Reyes, what did that male person do?

A: He produced two (2) small plastic sachets containing allegedly shabu and he said "dos ang isa."

COURT: What do you mean by "dos ang isa"?

A: Php 200.00, Your Honor.

PROS. ARAGONES:

Q: Where were you when that male person produced two (2) small plastic sachets?

A: I was beside PO1 Reyes, Ma'am.

Q: After he showed the plastic sachets containing drugs, what happened next?

A: We introduced ourselves as policemen, Ma'am.

Q: After you introduced yourselves, what happened next?

A: PO1 Reyes arrested the male person while I arrested the female person, Ma'am.

Q: Why did you arrest the woman?

A: At that time, she was about to run I confiscated from her a SIM card case, Ma'am.

COURT: What was the contents of the SIM card case?

A: One (1) piece of alleged shabu, Your Honor.[11]

From the testimonies given, PO1 Reyes and PO1 Pastor testified that they were the poseur-buyers in the sale. Both positively identified appellant as the seller of the substance contained in plastic sachets which were found to be positive for shabu. The same plastic sachets were likewise identified by the prosecution witnesses when presented in court. Even the consideration of P200.00 for each sachet had been made known by appellant to the police officers. However, the sale was interrupted when the police officers introduced themselves as cops and immediately arrested appellant and his live-in partner Ritwal. Thus, the sale was not consummated but merely attempted. Thus, appellant was charged with attempted sale of dangerous drugs. Section 26(b), Article II of RA 9165 provides:

Section 26. Attempt or Conspiracy. - Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

x x x

(b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;

x x x

Here, appellant intended to sell shabu and commenced by overt acts the commission of the intended crime by showing the substance to PO1 Reyes and PO1 Pastor.[12] The sale was aborted when the police officers identified themselves and placed appellant and Ritwal under arrest. From the testimonies of the witnesses, the prosecution was able to establish that there was an attempt to sell shabu. In addition, the plastic sachets were presented in court as evidence of corpus delicti. Thus, the elements of the crime charged were sufficiently established by evidence.

Appellant claims that he was a victim of a frame up. However, he failed to substantiate his claim. The witnesses presented by the defense were not able to positively affirm that illegal drugs were planted on appellant by the police officers when they testified that "they saw someone place something inside appellant's jacket." In *Quinicot v. People*, [13] we held that allegations of frame-up and extortion by police officers are common and standard defenses in most dangerous drugs cases. They are viewed by the Court with disfavor, for such defenses can easily be concocted and fabricated.

Appellant asserts that it is unbelievable that he would be so foolish and reckless to offer to sell shabu to strangers. In *People v. de Guzman*, [14] we have ruled that peddlers of illicit drugs have been known, with ever increasing

casualness and recklessness, to offer and sell their wares for the right price to anybody, be they strangers or not. What matters is not the existing familiarity between the buyer and the seller, or the time and venue of the sale, but the fact of agreement as well as the act constituting the sale and delivery of the prohibited drugs.

Further, appellant did not attribute any ill-motive on the part of the police officers. The presumption of regularity in the performance of the police officers' official duties should prevail over the self-serving denial of appellant.[15]

In sum, we see no reason to disturb the findings of the RTC and CA. Appellant was correctly found to be guilty beyond reasonable doubt of violating Section 26(b), Article II of RA 9165.

WHEREFORE, we DISMISS the appeal. We AFFIRM the Decision dated 28 January 2010 of the Court of Appeals in CA-G.R. CR-H.C. No. 03631.

SO ORDERED.

Leonardo-De Castro,[*] Brion, Perez, and Sereno, JJ., concur.

[*] Designated acting member per Special Order No. 1006 dated 10 June 2011.

[1] Rollo, pp. 2-13. Penned by Justice Amelita G. Tolentino with Justices Arturo G. Tayag and Elihu A. Ybañez, concurring.

[2] CA rollo, pp. 6-8. Penned by Presiding Judge Dennis Patrick Z. Perez.

[3] Section 26. Attempt or Conspiracy. - Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

x x x

(b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical; x x x

[4] An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise Known as the Dangerous Drugs Act of 1972, As Amended, Providing Funds Therefor, and for Other Purposes. Approved on 23 January 2002 and took effect on 7 June 2002.

[5] CA rollo, pp. 40-41.

[6] CA rollo, p. 8.

[7] Id. at 116-117.

[8] Rollo, p. 12.

[9] People v. Llamado, G.R. No. 185278, 13 March 2009, 581 SCRA 544, citing People v. Ong, G.R. No. 175940, 6 February 2008, 544 SCRA 123.

[10] CA rollo, pp. 82-83.

[11] Id. at 83-85.

[12] People v. Adam, 459 Phil. 676 (2003).

[13] G.R. No. 179700, 22 June 2009, 590 SCRA 458.

[14] G.R. No. 177569, 28 November 2007, 539 SCRA 306.

[15] People v. Lazaro, Jr., G.R. No. 186418, 16 October 2009, 604 SCRA 250.

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