

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RONALDO BAYAN Y NERI, ACCUSED-APPELLANT.

G.R. No. 200987. August 20, 2014

Ponente: PEREZ, J.

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PEREZ, J.:

On appeal is the Decision[1] of the Court of Appeals promulgated on 19 July 2011 affirming the conviction by the Regional Trial Court[2] (RTC) of Quezon City, Branch 82, of appellant Ronaldo Bayan y Neri for violation of Section 5, Article II of Republic Act No. 9165 and sentencing him to suffer life imprisonment and to pay a P500,000.00 fine.

Appellant was charged following a “buy-bust” operation.

The accusatory portion of the Information against appellant reads:

That on or about the 5th day of July 2003, in Quezon City, Philippines, the said accused, not authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did then and there, willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point zero three (0.03) grams of Methamphetamine Hydrochloride known as Shabu, a dangerous drug. [3]

When arraigned, appellant pleaded not guilty. Trial ensued.

The prosecution presented as witnesses PO2 Emeterio Mendoza, Jr. (PO2 Mendoza), who acted as poseur-buyer, and PO3 Ferdinand de Guzman (PO3 de Guzman), a back-up operative who assisted PO2 Mendoza. Their testimonies sought to establish the following facts:

Police operatives from the Station Drug Enforcement Unit (SDEU) of the Novaliches Police Station conducted a buy-bust operation on 5 July 2003 based on a tip from an informant that a certain Ronaldo Bayan and Irene Bayan (Irene) were engaged in illegal drug trade in Barangay Capri, Novaliches, Quezon City. The team leader, PO3 de Guzman, narrated that the buy-bust team conducted a surveillance at Barangay Capri where they were able to confirm that an illegal drug activity was ongoing in the house of appellant. PO2 Mendoza prepared the pre-operation report which was submitted to the Philippine Drug Enforcement Agency.[4] PO2 Mendoza was assigned as the poseur-buyer while PO3 de Guzman acted as one of his backups. At about 7:40 p.m. of the same day, the team proceeded to the target place. The buy-bust team was strategically positioned in the area while the informant and PO2 Mendoza went directly to the house of appellant. When appellant opened the door, the informant introduced PO2 Mendoza to appellant as the buyer of shabu. Appellant’s live-in partner, Irene, was likewise present during the introduction. PO2 Mendoza readily gave the 100-peso bill to appellant in exchange for the small plastic sachet containing shabu. Immediately after the exchange, PO2 Mendoza placed his hand on appellant’s shoulder, introduced himself as a police officer and arrested appellant. Irene meanwhile tried to escape but PO3 de Guzman was able to arrest her. PO3 de Guzman recovered from Irene’s possession dried marijuana leaves wrapped in a newspaper. Appellant and Irene were brought to the police station where PO2 Mendoza put his markings “EM” on the plastic sachet he received from appellant. Thereafter, they brought the

plastic sachet to the crime laboratory.[5]

The forensic chemist issued an Initial Laboratory Report which revealed that the heat-sealed transparent plastic sachet with markings “EM” containing 0.03 gram of white crystalline substance was found positive for shabu.[6]

In his defense, appellant denied the charge against him. He claimed that he and Irene were walking on their way home when they were blocked by five men at the corner of Guyabano Street and Amparo Capri Street. Appellant recognized one of them as Isagani Mateo, who frequently displaces them whenever they sell in the market. The five men frisked, handcuffed, and brought them to Station 4, Novaliches, Quezon City. Thereat, they were asked to remove their clothes and they were frisked again. Appellant saw a sachet of shabu and marijuana on top of a table. They were forced by one of the policeman to point to the objects under threat of physical harm, while their photographs were being taken. They were also asked to sign a document which they were not able to read. Later that night, they were brought to the fiscal’s office for inquest without the presence of counsel.[7]

On 20 February 2007, the RTC rendered a Decision finding appellant guilty of violation of Section 5, Article II of Republic Act No. 9165 and sentencing him to suffer life imprisonment and to pay a P500,000.00 fine. Irene was likewise found guilty for violation of Section 11, Article II of Republic Act No. 9165 and was sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day as minimum to thirteen (13) years as maximum and to pay a fine in the amount P300,000.00.[8] The trial court gave credence to the testimonies of the members of the buy-bust team.

After receiving a copy of the trial court's Decision, the two accused seasonably filed a Notice of Appeal[9] before the Court of Appeals. On 19 July 2011, the appellate court acquitted Irene for violation of Section 11, Article II of Republic Act No. 9165 but appellant’s conviction was affirmed in toto.

The appellate court held that the prosecution established the consummation of the sale through the testimony of the poseur-buyer.

Appellant appealed his conviction before this Court, adopting the same arguments in his Brief before the Court of Appeals.

Appellant maintains that the prosecution failed to prove beyond reasonable doubt the guilt of appellant due to the glaring inconsistencies in the testimonies of the prosecution’s witnesses. Appellant points out that PO2 Mendoza spoke of an alleged informant while PO3 de Guzman mentioned a concerned citizen who called the police station to inform them of an illegal drug trade. Appellant asserts that the prosecution failed to present the buy-bust money as proof of the illegal sale of shabu. Appellant argues that since the buy-bust money was the consideration of the alleged sale, failure to adduce it in evidence is tantamount to failure to establish the elements of the crime.

Appellant’s arguments deserve scant consideration. Jurisprudence dictates that minor inconsistencies do not affect the credibility of the witness. We have held that “discrepancies and inconsistencies in the testimonies of witnesses referring to minor details, and not in actuality touching upon the central fact of the crime, do not impair their credibility. Testimonies of witnesses need only corroborate each other on important and relevant details concerning the principal occurrence. In fact, such minor inconsistencies may even serve to strengthen the witnesses’ credibility as they negate any suspicion that the testimonies have been rehearsed.”[10]

Failure to present the buy-bust money is not fatal to the prosecution’s cause. It is not indispensable in drug cases since it is merely corroborative evidence, and the absence thereof does not create a hiatus in the evidence for the prosecution provided the sale of dangerous drugs is adequately proven and the drug subject of the transaction is presented before the court. Neither law nor jurisprudence requires the presentation of any money used in the buy-bust operation.[11]

In every prosecution for illegal sale of shabu, the following elements must be sufficiently proved: (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.[12] Indeed, all these elements were duly established. Appellant was caught in flagrante delicto selling shabu through a buy-bust operation conducted by the operatives of SDEU of the Novaliches Police Station.

The poseur-buyer, PO2 Mendoza, positively testified that the sale took place and appellant was the author thereof, thus:

Q:

What happened after you were tasked as poseur-buyer?

A:

We proceeded to the subject of our operation.

Q:

Where was that?

A:

No. 17 Guyabano Street, Barangay [Capril], Novaliches, Quezon City.

Q:

What time was that, what time did you arrive there?

A:

About 7:40.

COURT:

7:40 in the evening?

A:

Yes, your Honor.

PROS. ANTERO:

What happened when you arrived there?

A:

The informant introduced me to Ronaldo Bayan.

Q:

Where did you get contact with the subject?

A:

At No. 17 Guyabano Street.

Q:

How were you introduced to the subject by the informant?

A:

I was introduced as buyer of shabu.

Q:

To whom?

A:

Ronaldo Bayan, sir.

Q:

Is this Ronaldo Bayan inside this courtroom?

A:

Yes, sir.

Q:

Can you point to him?

INTERPRETER:

The witness is going to a man in yellow shirt who answered by the name of?

ACCUSED:

RONALDO BAYAN.

INTERPRETER:

RONALDO BAYAN.

COURT:

Who were present when you were introduced by the informant to Ronaldo Bayan?

A:

The live-in partner, Irene Bayan, me, the informant and Ronaldo Bayan, your Honor.

PROS. ANTERO:

Is this Irene Bayan inside this courtroom?

A:

Yes, sir.

Q:

Can you point to her?

INTERPRETER:

The witness is [pointing] to a woman who answered by the name of?

ACCUSED 2:

IRENE BAYAN.

INTERPRETER:

Irene Bayan.

PROS. ANTERO:

What happened after you were introduced to Ronaldo Bayan by the informant?

A:

I gave the P100.00, sir.

A:

Ronaldo Bayan, sir.

Q:

You gave it to whom?

A:

To Ronaldo Bayan, sir.

Q:

What did this Ronaldo Bayan do after you handed him this P100.00?

A:

He gave me shabu, sir.

COURT:

Where was it contained?

A:

Small plastic sachet, your Honor.

PROS. ANTERO:

He gave you a small plastic sachet?

A:

Yes, sir.

Q:

What happened after he gave you a small plastic sachet?

A:

I introduced myself as policeman.

Q:

What happened after you introduced yourself as a policeman?

A:

I placed my hand on his shoulder and introduced myself as a policeman and told him of his mistake and of his rights.[13]

Appellant produced the plastic sachet containing shabu and handed it to the poseur-buyer in exchange for P100.00. This transaction was witnessed by PO3 de Guzman who acted as one of the back-ups.

Furthermore, the prosecution was able to preserve the integrity and evidentiary value of the said illegal drugs. The prosecution was able to sufficiently establish the following circumstances showing an unbroken chain of custody over the shabu that was seized from herein accused-appellant: (1) PO2 Mendoza, who acted as the poseur-buyer during the buy-bust operation, was the one who received the transparent plastic sachet containing shabu from the appellant;[14] (2) the said transparent plastic sachet was then brought by PO2 Mendoza to the police station where he placed his initials "EM";[15] (3) thereafter, said sachet was brought to the crime laboratory for examination;[16] and (4) the laboratory examination was conducted by Police Inspector Abraham Verde Tecson.[17]

The result of the laboratory examination confirmed the presence of methylamphetamine hydrochloride on the white crystalline substance inside the plastic sachet confiscated from appellant. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummated the buy-bust transaction.

Appellant's defense, which is predicated on a bare denial, deserves scant consideration in light of the positive testimonies of the police officers. The defense of frame-up or denial in drug cases requires strong and convincing evidence because of the presumption that the law enforcement agencies acted in the regular performance of their official duties.[18] Bare denials of appellant cannot prevail over the positive testimonies of the three police officers.[19] Moreover, there is no evidence of any improper motive on the part of the police officers who conducted the buy-bust operation to falsely testify against appellant.

Generally, factual findings of trial courts especially those which revolve matters of credibility of witnesses deserve to be respected when no glaring errors bordering on a gross misapprehension of the facts, or where no speculative, arbitrary and unsupported conclusions, can be gleaned from such findings.[20] The evaluation of the credibility of witnesses and their testimonies are best undertaken by the trial court because of its unique opportunity to observe the witnesses' deportment, demeanor, conduct and attitude under grilling examination.[21]

We do not find any cogent reason to reverse the lower courts.

In fine, it has been established by proof beyond reasonable doubt that appellants sold shabu. Under Section 5, Article II of Republic Act No. 9165, the penalty of life imprisonment to death and fine ranging from P500,000.00 to P1,000,000.00 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. Hence, the trial court, as affirmed by the Court of Appeals, correctly imposed the penalty of life imprisonment and a fine of P500,000.00.

WHEREFORE, the Decision dated 19 July 2011 of the Court of Appeals affirming the conviction of appellant Ronaldo Bayan y Neri by the RTC of Quezon City, Branch 82 for violation of Section 5, Article II of Republic Act No. 9165 and sentencing him to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of P500,000.00 is hereby AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Velasco, Jr.,[*] Del Castillo, and Perlas-Bernabe, JJ., concur.

[*] Per Special Order No. 1757 dated 20 August 2014.

[1] Penned by Associate Justice Rodil V. Zalameda with Associate Justices Normandie B. Pizarro and Romeo F. Barza, concurring. Rollo, pp. 2-14.

[2] Presided by Judge Severino B. De Castro, Jr. Records, pp. 179-189.

[3] Id. at 2.

[4] TSN, 7 December 2004, pp. 4-5.

[5] Id. at 10-11; TSN, 22 March 2006, pp. 3-11.

[6] Records, p. 14.

[7] TSN, 27 June 2006, pp. 3-6; TSN, 22 January 2007, pp. 3-7.

[8] Records, pp. 186-187.

[9] CA rollo, p. 30.

[10] People v. Velasquez, G.R. No. 177224, 11 April 2012, 669 SCRA 307, 318-319 citing People v. Tuan, G.R. No. 176066, 11 August 2010, 628 SCRA 226, 242.

[11] People v. Salak, G.R. No. 181249, 14 March 2011, 645 SCRA 269, 285.

[12] People v. Montevirgen, G.R. No. 189840, 11 December 2013; People v. Blanco, G.R. No. 193661, 14 August 2013; People v. Hambora, G.R. No. 198701, 10 December 2012, 687 SCRA 653, 658.

[13] TSN, 22 March 2006, pp. 6-9.

[14] Id. at 232.

[15] Id. at 234.

[16] Id. at 235.

[17] Records, p. 14.

[18] People v. Dela Rosa, G.R. No. 185166, 26 January 2011, 640 SCRA 635, 656.

[19] People v. Torres, G.R. No. 191730, 5 June 2013.

[20] Quelnan v. People, 553 Phil. 618, 637 (2007).

[21] People v. Alunday, 586 Phil. 120, 128 (2008).

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