

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. RANDY ROLLO Y LAGASCA, DEFENDANT AND APPELLANT.

G.R. No. 211199. March 25, 2015

Ponente: PEREZ, J.

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PEREZ, J.:

On appeal is the Decision[1] of the Court of Appeals promulgated on 18 September 2013 in CA-G.R. CR-H.C. No. 04507 affirming the conviction by the Regional Trial Court (RTC) of Camiling, Tarlac, Branch 68 of appellant Randy Rollo y Lagasca 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 June 23, 2008 at around 6:30 o’clock in the evening in the Municipality of Camiling, Province of Talac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell two (2) transparent plastic sachet[s] containing white crystalline substance believed to be Methamphetamine Hydro Chloride (sic) known also as “shabu” weighing 0.021 grams, a dangerous drug without being authorized by law.[2]

When arraigned, appellant pleaded not guilty. Trial ensued.

The prosecution presented as witnesses: PO3 Rudy F. Verdadero (PO3 Verdadero), PO1 Ryan V. Ayad (PO1 Ayad), who acted as poseur-buyer; PSI Jebie Timario and Regino Dinoy. Their testimonies sought to establish the following facts:

Acting on a tip from a confidential informant that appellant was engaged in the sale of prohibited drugs, the 312 Provincial Mobile Group (PMG) of Malacampa, Camiling, Tarlac formed a buy-bust team composed of PO1 Ayad as poseur-buyer. The PMG prepared a Five Hundred Peso (P500.00) bill as marked money.[3]

At around 4:30 p.m. of 23 June 2008, the buy-bust team proceeded to the target area situated along Arellano Street, Barangay Poblacion, Camiling, Tarlac. Upon reaching the area, PO1 Ayad proceeded to talk to appellant who was then standing in front of a store, while the other members of the buy-bust team were positioned in the area. After a brief conversation, appellant handed to PO1 Ayad two plastic sachets containing white crystalline substance. In exchange, PO1 Ayad handed the pre-marked five hundred peso (P500.00) bill to appellant. Thereafter, PO1 Ayad made the pre-arranged signal of removing the handkerchief on his forehead. The back-up team emerged and introduced themselves as police officers to appellant.[4] PO3 Verdadero and PO1 Ayad requested appellant to empty his pockets and they were able to recover the buy-bust money and one heat-sealed sachet of white crystalline substance from appellant. Appellant was then arrested and brought to the police station for investigation.[5] The seized items and the marked money were turned over at the police station to SPO1 Jorge Caoagdan, who marked the two plastic sachets with the initials “RRL1” and “RRL2” in the presence of PO1 Ayad.[6] A written request for laboratory examination was prepared and the seized items were brought to the

crime laboratory for examination.

PO1 Regino Dinoy of the Tarlac Provincial Crime Laboratory testified that he received the letter request for laboratory examination, as well as the seized items from PO1 Pereja and he forwarded them to Police Inspector Jebie Timario (P/Insp. Timario), the forensic chemist.[7]

P/Insp. Timario, in her Chemistry Report No. D-193-08 TARLAC[8] found that the seized plastic sachets are positive for the presence of Methamphetamine Hydrochloride or Shabu. [9]

Appellant denied the charges against him and testified that on 23 June 2008 at around 4:00 p.m. he accompanied his friend Roel Martin (Martin) in going to Gomez Street in Barangay Poblacion to collect the payment for a battery that Martin sold to a certain Nick Agustin (Agustin). After collecting payment, Agustin asked appellant to accompany him to see some people who want to buy P500.00 worth of shabu for them. Martin and appellant went with Agustin to Arellano Street where appellant saw 4 policemen in civilian clothes in front of a store. Agustin went with the policemen to buy shabu using the policemen's vehicle. Appellant stayed behind but 15 minutes later, the 4 policemen returned and arrested him. The policemen showed him a plastic sachet of shabu and told him that the sachet belonged to him. He was brought inside a hut where he was searched and asked whom they could arrest. Ten minutes later, the policemen let appellant out of the hut and brought him to the police station.[10]

On 27 May 2010, the RTC rendered judgment 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. The trial court found that the prosecution was able to prove the existence of the elements of the crime of illegal sale of shabu through the testimonial, documentary and the object evidence presented.

Upon receipt of the unfavorable decision, appellant seasonably filed a Notice of Appeal[11] before the Court of Appeals. On 18 September 2013, the appellate court affirmed the judgment of the RTC.

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

It is jurisprudential that factual findings of trial courts especially those which revolve on 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. 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.[12]

Upon review of the records, we agree with the lower courts' unanimous finding that the guilt of the appellant was established beyond reasonable doubt.

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.[13]

Appellant asserts that there was no proof that the alleged sale transaction took place because the witnesses presented did not testify as to the material details of the alleged buy-bust operation, such as the details of the meeting of the informant, the alleged source of the information on the sale of illegal drugs, the initial contact made with appellant, the offer to purchase drugs, the payment and delivery of the drugs, and the actual exchange of the sachets containing shabu.

On the contrary, all the elements for illegal sale were duly established with appellant being caught in flagrante

delicto selling shabu through a buy-bust operation conducted by members of the PMG in Camiling, Tarlac.

PO3 Verdadero, in the course of his testimony during trial, affirmed his signature appearing on the Joint Affidavit of Arrest, which reads:

That on June 23, 2008 at about 3:00 o'clock in the afternoon, a concerned citizen appeared to our office and reported that a certain RANDY ROLLO Y LAGASCA is a notorious peddler of Dangerous drugs particularly Methamphetamine Hydrochloride commonly known as "Shabu" in their place at Paterno Street Poblacion "E", Camiling, Tarlac;

That acting on the said report, our Group Director directed us to commence appropriate police operation to neutralize, arrest and file appropriate charges in court against him, if evidence warrants;

That our Group Director coordinated to PDEA 3 with Coordination Form Control Number 06-08-0076 dated 231537H June 2008 and conducted buy bust operation to the target suspect;

That we planned strategies in the conduct of police operation against our subject; that we prepared proper documentation prior to our operation including markings of the buy bust money to be used consisting of one (1) Five hundred peso bill bearing serial number SH474713 and will conduct a drug buy bust operation wherein I, PO3 Rudy F. Verdadero and PO1 Ryan V. Ayad will as poseur buyers while other elements will be posted strategically at the vicinity of the said place to act as back up and perimeter security and augment our poseur buyers to effect the arrest of the suspect;

That as also planned, a prepared pre arrange signal will be used during the operation wherein I, PO1 Ryan V. Ayad will remove [the] handkerchief tied in my forehead which connotes that the transaction has been consummated;

That at about 4:30 in the afternoon of June 23, 2008 our team led by P1 RONIE G. ASTRERO proceeded at said place and arrived thereat at about 4:45 in the afternoon of the same date and we position ourselves strategically at the vicinity of our target place;

That at about 5:15 in the afternoon of the same date, we PO3 Rudy F. Verdadero and PO1 Ryan V. Ayad arrived at our target RANDY ROLLO Y LAGASCA who was then standing in front of Sari-Sari Store along Arellano Street Poblacion "E", Camiling, Tarlac[;]

That at about 6:00 o'clock in the afternoon of the same date, got a brief conversation with our subject I, PO1 Ryan V. Ayad gave the marked money to RANDY ROLLO Y LAGASCA who in turn handed to me one (1) piece of transparent plastic heat sealed sachet of Shabu;

That at this juncture, I, PO1 Ryan V. Ayad signalled our back up by removing the handkerchief tied in my forehead, thereafter, they immediately responded and subsequently held our subject RANDY ROLLO Y LAGASCA;

That we introduced ourselves to the suspect as members of 312nd PMG and at the same time showed our police identification cards to him;

That at this juncture, we PO3 Rudy F. Verdadero and PO1 Ryan V. Ayad requested RANDY ROLLO Y. LAGASCA to bring out the contents of his pocket wherein one (1) empty transparent plastic sachet containing "Shabu" residues and one (1) disposable lighter including the one (1) Five Hundred Peso bill marked money bearing serial number SH474713 were recovered;

That we apprised the suspect of his constitutional right and further informed him the reason of his arrest and the nature of his offense in a dialect known to and understood by him. At the same time, subsequently brought to our Group Headquarters together with the confiscated evidence for proper disposition;[14]

In said affidavit, the police officers made a detailed account of the preparations made prior to the buy-bust operation such as the documentation, marking on the boodle money, operational strategy and the like were detailed. PO1 Ayad also categorically stated that he gave the marked money to appellant in exchange for one (1) piece of transparent plastic heat-sealed sachet of shabu.

As recounted by PO3 Verdadero in his testimony:

PROS. GUARDIANO:

Q:

After the planned, what did you do if any?

A:

After having that plan we proceeded to the place/area upon the person of Randy Rollo while the group back up posted as perimeter security near the vicinity of the suspect, sir.

Q:

Did you reach the place of Randy Rollo?

A:

Yes, sir.

Q:

You said, “we”, who was your companion?

A:

PO1 Ryan Ayad, sir.

Q:

What was the specific task of Ryan Ayad?

A:

He acted as poseur buyer that time, sir.

Q:

There is a pre-arranged signal, am I correct?

A:

Yes, sir.

Q:

What is the signal, Mr. witness?

A:

During that incident, PO1 Ayad signaled our back up by removing [the] handkerchief tied on his forehead, sir.

Q:

What is that mean?

A:

[T]hat the transaction has been consummated, sir.

Q:

After that, what happened?

A:

We introduced ourselves as policeman, sir.

Q:

To whom that signal is addressed to?

A:

To me, sir – sa akin.

Q:

When you said, you introduced yourselves to the suspect-accused?

A:

Yes, sir.

Q:

In effect, why you introduced yourselves to this suspect?

A:

Yes, sir in order to apprehend him, sir.

Q:

And you arrested this person?

A:

Yes, sir.

Q:

Who was that person again whom you arrested?

A:

Randy Rollo Y Lagasca, sir.

Q:

If he is inside the Courtroom, can you point to him?

A:

Yes, sir.

Q:

May I know the name of that person pointed to by the accused?

x x x x x x x x

PROS. GUARDIANO:

May I manifest that the person pointed to by the witness is the same person charged and arraigned in this case, your Honor.

THE COURT:

Manifestation duly Noted.

PROS. GUARDIANO:

Q:

What did you discover from the accused?

A:

One (1) plastic heat sealed sachet of shabu, sir.

Q:

From whom did this shabu come from?

A:

PO1 Ayad, sir.

Q:

What thing did you discover from Randy Rollo, from his possession?

A:

Marked money Five Hundred peso bill sir.

Q:

Are you referring to this photograph of Php500 peso bill with Serial Number SH474713?

A:

Yes sir, this is the one.[15]

PO1 Ayad corroborated the testimony of PO3 Verdadero that he was with the latter when they arrested appellant for illegal sale of drugs.

The result of the laboratory examination, as testified to by the forensic chemist, confirmed the presence of methamphetamine 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 avers that the police officers failed to strictly abide by the procedures for the custody and disposition of the confiscated drugs as provided in Section 21 of Republic Act No. 9165. In particular, appellant points out that

the markings of the seized items were done in the police station; that there was no physical inventory made or photographs of the seized items; and that there were no representatives from the media and the Department of Justice (DOJ).

Section 21, paragraph 1, Article II of Republic Act No. 9165 provides for the custody and disposition of the confiscated illegal drugs, to wit:

(1) The apprehending 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.

This rule was elaborated in Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165, viz.:

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 arrest; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the 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.

Jurisprudence dictates that a testimony that included the marking of the seized items at the police station and in the presence of the accused was sufficient in showing compliance with the rules on chain of custody. Marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team. [16]

The failure of the prosecution to show that the police officers conducted the required physical inventory in the place where the subject shabu was seized does not automatically render accused's arrest illegal or the items seized from him inadmissible. A proviso was added in the implementing rules that "non-compliance with these requirements under justifiable grounds, as long as the integrity and the 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." Pertinently, it is the preservation of the integrity and evidentiary value of the seized items which must be proven to establish the corpus delicti.[17]

Appellant then maintains that the integrity of the seized drug was compromised in that there were inconsistencies in the testimonies of the police officers as to the quantity of sachets were recovered from appellant and the identity of the person who physically delivered the specimen to the crime laboratory.

It was clearly established that two (2) sachets were recovered from appellant: the first sachet was bought by the poseur buyer from appellant and the second sachet was recovered from appellant when he was asked to empty his pockets. With regard to the person who delivered the specimen, the name of PO1 Pereja appeared to have received it based on the request for laboratory drugs examination. [18]

Furthermore, inconsistencies in the testimony of witnesses, when referring only to minor details and collateral matters, do not affect either the substance of their declaration, their veracity, or the weight of their testimony.

Such minor inconsistencies even enhance their veracity as the variances erase any suspicion of a rehearsed testimony.[19]

In resolving the chain of custody rule, we quote with approval the pertinent ruling of the Court of Appeals, thus:

Indeed, to erase all doubts as to the identity of the seized drugs, it is important to adhere to the so-called chain of custody rule where the prosecution should establish the following links: first, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; second, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; third, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and fourth, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.

In this case, the prosecution was able to sufficiently establish every link in the chain of custody, as well as the integrity of the corpus delicti. As testified to by PO3 Verdadero and PO1 Ayad, after the arrest and confiscation of the items, they immediately brought Accused-Appellant to Camp Makabulos, Tarlac City where the investigator at the station, SPO1 Jorge Caoagdan marked the seized items with the initials “RRL1” and “RRL2” in the presence of PO1 Ayad. From the investigating officer, the seized items were turned over to the forensic chemist PSI Jebie Timario [for] laboratory examination. After examination, PSI Timario also placed her own markings on the said seized items. On the witness stand, PSI Timario declared that the items shown to her were the same items which she received from Pereja in the presence of Police Officer Dinoy. Lastly, PO3 Verdadero testified that the items presented in court were the very same items that they seized during the buy-bust operation.

The foregoing facts clearly established that there was substantial compliance with the law, and the integrity of the drugs seized from Accused-Appellant was well preserved. The chain of custody of the drugs subject matter of the case was shown not to have been broken. Absent any missing link in the chain of custody of the seized drug items and absent any showing that substantial or relevant facts bearing on the elements of the crime have been misapplied or overlooked, [w]e can only accord full credence to such factual assessment of the Regional Trial Court which had the distinct advantage of observing the demeanor and conduct of the witnesses at the trial.[20]

Finally, appellant’s defense of alibi and denial cannot prevail over the prosecution witnesses’ positive testimonies, coupled with the presentation in court by the prosecution of the corpus delicti. [21]

In fine, it has been established by proof beyond reasonable doubt that appellant 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 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. 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 18 September 2013 of the Court of Appeals in CA-G.R. CR-H.C. No. 04507 affirming the conviction of appellant Randy Rollo y Lagasca by the Regional Trial Court of Camiling, Tarlac, Branch 68, 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.

Sereno, C.J. (Chairperson), Leonardo De-Castro, J., Bersamin, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 2-15; Penned by Associate Justice Noel G. Tijam with Associate Justices Romeo F. Barza and

Ramon A. Cruz, concurring.

[2] Records, p. 1.

[3] Id. at 3; Joint Affidavit of Arrest.

[4] TSN, 11 December 2009, p. 6.

[5] Records, pp. 3-4.

[6] TSN, 5 February 2009, pp. 4-5.

[7] TSN, 9 July 2009, pp. 4-9.

[8] Records, p. 12.

[9] TSN, 21 May 2009, pp. 4-5.

[10] TSN, 12 November 2009, pp. 2-8.

[11] Rollo, p. 16.

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

[13] *People v. Montevirgen*, G.R. No. 189840, 11 December 2013, 712 SCRA 459, 467; *People v. Lorenzo*, 633 Phil. 393, 402 (2010).

[14] Records, pp. 3-4.

[15] TSN, 11 December 2009, pp. 5-7.

[16] *People v. Ocfemia*, G.R. No. 185383, 25 September 2013, 706 SCRA 312, 333-334.

[17] *People v. Presas*, 659 Phil. 503, 516-517 (2011).

[18] Records, p. 10.

[19] *People v. Fang*, G.R. No. 199874, 23 July 2014; *People v. Monceda*, G.R. No. 176269, 13 November 2013, 709 SCRA 355, 709-710.

[20] Rollo, pp. 12-13.

[21] *People v. Gani*, G.R. No. 198318, 27 November 2013, 711 SCRA 78, 93.

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