PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICO ENRIQUEZ Y CRUZ, ACCUSED-APPELLANT.

G.R. No. 214503. June 22, 2016

Ponente: PEREZ, J.

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PEREZ, J.:

Before us for review is the Decision[1] of the Court of Appeals in C.A.-G.R. CR HC No. 05441 dated 14 February 2014, which denied the appeal of appellant Rico Enriquez Cruz and affirmed the Decision[2] dated 15 September 2010 of the Regional Trial Court (RTC) of the City of Makati, Branch 64 in Criminal Case Nos. 06-1802 and 06-2124, finding appellant guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

Appellant was charged with violation of Sections 5 and 15 of Article II of R.A. No. 9165, to wit:

> CRIMINAL CASE NO. 06-1802
>
> That on or about the 13[th] day of September 2006, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, give away, distribute, and deliver to another, a zero point zero three (0.03) grain of Methylamphetamine hydrochloride which is a dangerous drug in exchange of Five Hundred Pesos (Php500.00).[3]
>
> CRIMINAL CASE NO. 06-2124
>
> That on or about the 13[th] day of September 2006, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously found positive after, a confirmatory test, of using a Methylamphetamine hydrochloride (shabu) which is a dangerous drug in violation of the above-cited law.[4]

At his arraignment, appellant pleaded not guilty to the offenses charged. Joint trial ensued.

The essential facts, based on the records, are summarized as follows:

On 13 September 2006, the Station Anti-Illegal Drugs Special Operations Task Force of the Makati Police Station received information that an alias Rico Enriquez was engaged in illegal drug activities. In their watchlist, this alias Rico had been recorded both as a user and pusher. Thus, Colonel Angel Sumulong (Col. Sumulong) immediately created a buy-bust team in coordination with the Philippine Drug Enforcement Agency (PDEA).[5] Police Officer 2 Estero Ruiz was appointed as team leader and gave five (5) One Hundred Peso (PI00.00) bills to Police Officer 2 Victoriano Cruz, Jr. (PO2 Cruz), the poseur buyer.[6]

Around 5:40 p.m. that day, the buy-bust team proceeded to the target area. The buy-bust team strategically positioned themselves while the informant and PO2 Cruz proceeded to the location at Pateros corner Hormiga Streets. The informant singled out alias Rico, appellant, who was in an alley conversing with his male

companions, and approached him at which point these male companions left. Appellant and the informant went over to where PO2 Cruz remained standing. The informant introduced PO2 Cruz to appellant as a friend in need of shabu. Appellant asked how much he needed and PO2 Cruz replied, "kasang kinyentos lang" or P500.00. Appellant asked them to wait, withdrew into an alley, and returned shortly to hand PO2 Cruz a heat-sealed plastic sachet containing a white crystalline substance believed to be shabu. After giving appellant five (5) pieces of One Hundred Peso (P100.00) bills in exchange for the item, PO2 Cruz lit a cigarette, the previously arranged signal for the buy-bust team to effect arrest upon consummation of the transaction. PO2 Cruz grabbed appellant's shirt, identified himself as a police operative and informed appellant of the nature of his arrest.[7] PO2 Cruz marked the plastic sachet with "COY," and prepared an inventory thereof together with the buy-bust money and other cash recovered from appellant. The inventory[8] was signed by PO2 Cruz along with another Makati drug operative Hermina Facundo, Police Senior Inspector Joefel Siason (PSI Siason) and Barangay Captain Vic del Prado as witnesses. Appellant, however, refused to sign the same. The seized items were likewise photographed. Thereafter, the police officers, along with the appellant, returned to the police station. PO2 Cruz turned over the seized items to PO1 Randy Santos, while PSI Siason prepared the necessary documentation to request the Philippine National Police (PNP) Crime Laboratory for analysis and examination of the contraband, and to conduct a drug test on appellant.[9] The custody of the seized sachet of shabu and of appellant was then turned over to PO2 Castillo who brought both to PO1 Cavia and eventually Forensic Chemical Officer Richard Allan Mangalip (Forensic Officer) of the PNP Crime Laboratory. After examination, Forensic Officer Mangalip found the specimen submitted positive for Methylamphetamine hydrochloride.[10] The examination of appellant's urine sample also yielded positive findings for the presence of the dangerous drug.[11]

Appellant and his wife, Marilyn Enriquez, testified for the defense.

Appellant denied the charges against him. He countered that on the date and time of the alleged entrapment operation, he was at his house having a snack with his family when four armed civilian clothes entered their house. Appellant was placed under arrest and handcuffed in his family's presence without being informed of the reasons therefor. He was then brought to the armed men's office in Makati City where he was allegedly mauled but had no bodily bruises as proof. He was taken to the laboratory to give out a urine sample for testing; and to the Ospital ng Makati, also for testing.[12]

Appellant's wife, Marilyn Enriquez, corroborated appellant's defenses of denial and frame-up. She averred that the men who entered their house, pointed a gun to her husband, handcuffed him and had allegedly told him that he was being invited to the police station for questioning. When she followed his husband and the men at the police station, she was informed that her husband had been arrested for selling illegal drugs.[13]

On 15 September 2010, finding that the prosecution established all the elements of the crime charged, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of illegal sale of drugs. The dispositive portion of the RTC Decision reads:

> WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused RICO ENRIQUEZ y CRUZ, GUILTY of the charge for violation of Section 5, Article II of RA 9165 and is sentenced to life imprisonment and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00).
>
> Having been found positive for the use of methylamphetamine, accused is likewise directed to undergo rehabilitation for at least six (6) months in a Government Rehabilitation Center subject to the provisions of Article VIII of RA 9165.[14]

On 14 February 2014, the Court of Appeals affirmed the RTC decision. The Court of Appeals gave credence to the consistent testimonies of the prosecution to support the presumption that the police officers regularly

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performed the buy-bust operation. The Court of Appeals also noted that the appellant failed to substantiate his defenses.

Hence, this final review.

In our Resolution[15] dated 19 November 2014, we required the parties to file their respective supplemental briefs. Both parties manifested that they had already exhausted their arguments before the Court of Appeals and, thus, would no longer file any supplemental brief.[16]

We perused the arguments raised by the parties and find them the same as those that were before the appellate court. We reach the same conclusion. We sustain the judgment of conviction against appellant. We agree that the prosecution has proven beyond reasonable doubt that appellant was selling dangerous drugs without lawful authority, in violation of Section 5, Article II of R.A. No. 9165.

The presence of the following elements required for all prosecutions for illegal sale of dangerous drugs has been duly established in the instant case: (1) proof that the transaction or sale took place; and (2) the presentation in court of the corpus delicti or the illicit drug as evidence.[17] Appellant was apprehended, indicted and convicted by way of a buy-bust operation, a form of entrapment whereby ways and means are resorted to for the purpose of trapping and capturing the lawbreakers in the execution of their criminal plan.[18] The commission of the offense of illegal sale of dangerous drugs, like shabu, merely requires the consummation of the selling transaction which happens the moment the buyer receives the drug from the seller. The crime is consummated at once at the point when the police officer has gone through the operation as a buyer whose offer was accepted by the accused, followed by the delivery of the dangerous drugs to the former.[19]

Appellant was caught red-handed delivering one heat sealed plastic sachet containing white crystalline substance to PO2 Cruz, the poseur buyer, in exchange for P500.00. PO2 Cruz positively identified appellant in open court to be the same person who sold to him the item which upon examination was confirmed to be methylamphetamine hydrochloride or shabu. Upon presentation thereof in open court, P02 Cruz duly identified it to be the same object sold to him by appellant.[20]

Prosecutions involving illegal drugs depend largely on the credibility of the police officers or drug operatives who conducted the buy-bust operation. There is general deference to the assessment on this point by the trial court as it had the opportunity to directly observe the witnesses, their demeanor, and their credibility on the witness stand. This Court's independent examination of the records shows no compelling reason to depart from this rule.[21]

The Court finds that belief and acceptance were properly accorded to the testimonies of the prosecution witnesses, who are law enforcers. When police officers have no motive to testify falsely against the accused, courts are inclined to uphold the presumption of regularity in the performance of their duties. In this case, no evidence has been presented to suggest any improper motive on the part of the police enforcers in arresting appellant. We accord great respect to the findings of the trial court on the matter of credibility of the witnesses in. the absence of any palpable error or arbitrariness in its findings.[22]

Against the positive testimonies of the prosecution witnesses, appellant's plain denial of the offenses charged and defense of frame-up, unsubstantiated by any credible and convincing evidence fail. These twin defenses of denial and frame-up have been viewed with disfavor due to the ease of their concoction and the fact that they have become common and standard defense ploys in prosecutions for illegal sale and possession of dangerous drugs.[23] Appellant also claims that he was mauled but curiously he has no evidence to prove the allegation. Interestingly, appellant has previously been charged but acquitted of the offense of selling dangerous drugs also in Makati City. The previous case in addition to the instant case reasonably support the prosecution's contention that

he is not as innocent as he asserts himself to be and that he is in actual fact an active participant in the illegal sale of dangerous drugs.

Concerning the supposed failure to comply with the procedures prescribed by Section 21 of R.A. No. 9165, jurisprudence has it that non-compliance with these procedures does not render void the seizures and custody of drugs in a buy-bust operation.[24] What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items because the same will be utilized in ascertaining the guilt or innocence of the accused.[25] The chain of custody requirement ensures the preservation of the integrity and evidentiary value of the seized items in order to remove unnecessary doubts concerning the identity of the evidence.[26]

In addition to the inventory made of the seized items, the prosecution was able to prove an unbroken chain of custody of the illegal drug from its seizure and marking to its submission to the PNP Crime Laboratory for analysis, to the identification of the same during the trial of the case.[27] Indeed no photographs of the illegal drug were presented in court despite PO2 Cruz's assertion that they have been taken although he explained that they went missing. Yet we find that the integrity and the evidentiary value of the dangerous drug seized from appellant were duly proven by the prosecution to have been properly preserved. The identity, quantity and quality of the same were untarnished. As long as the chain of custody is unbroken, even though the procedural requirements of Section 21 of R.A. No. 9165 were not faithfully observed, the guilt of the appellant will not be affected.[28]

Notably, appellant raised the buy-bust team's alleged non-compliance with Section 21, Article II of R.A. No. 9165 only on appeal. Failure to raise this issue during trial is fatal to the cause of appellant.[29] It has been ruled that when a party desires the court to reject the offered evidence, he must so state in objection form. Without such objection, he cannot raise the question for the first time on appeal.[30]

R.A. No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 prescribes life imprisonment to death and a fine ranging from P500,000.00 to P10,000,000.00 as penalties for violations of Section 5, Article II thereof. The passage of Republic Act No. 9346 proscribes the imposition of the death penalty,[31] thus the appellate court correctly affirmed the penalty of life imprisonment and fine of P500,000.00 prescribed by the RTC.

WHEREFORE, premises considered, the appeal is DISMISSED for lack of merit. The Decision dated 14 February 2014 of the Court of Appeals in CA-G.R. CR-HC No. 05441 affirming the conviction of appellant Rico Enriquez y Cruz by the Regional Trial Court, Branch 64, of Makati City in Criminal Case No. 06-1802 for violation of Section 5, Article II of Republic Act No. 9165, sentencing him to suffer the penalty of life imprisonment and pay a fine of P500,000.00 is hereby AFFIRMED.

SO ORDERED.

Sereno,[*] C. J., Velasco, Jr., (Chairperson), Peralta, and Reyes, JJ., concur.

July 14, 2016

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on June 22, 2016 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 14, 2016 at 10:35 a.m.

Very truly yours,

(SGD)WILFREDO V. LAPITAN
Division Clerk of Court

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[*] Additional Member per Raffle dated 13 June 2016.

[1] Rollo, pp. 2-17; Penned by Associate Justice Ramon R. Garcia with Associate Justices Rebecca De Guia-Salvador and Danton Q. Bueser concurring.

[2] Records, pp. 201-205; Penned by Presiding Judge Gina M. Bibat-Palamos.

[3] Records (Crim. Case No. 06-1802), p. 1.

[4] Records (Crim. Case No. 06-2124), p. 2.

[5] Records (Crim. Case No. 06-1802), p. 161; By way of a Pre-Operalional Report/Coordination Sheet dated 13 September 2006; Exhibit "E."

[6] TSN, 11 June 2008, pp. 4-9.

[7] TSN, 11 June 2008, pp. 10-12.

[8] Records Crim. Case No. 06-1802), p. 165; Exhibit "J."

[9] Id. at 169 and 171; Exhibits "M" and "O."

[10] Id. at 168; Per Physical Science Report No. D-626-06S; Exhibit "L."

[11] Id. at 170; Per Physical Science Report DT-922-06S; Exhibit "N."

[12] TSN, 26 May 2010, pp. 2-21.

[13] TSN, 1 September 2010, pp. 2-13.

[14] Records (Crim. Case No. 06-1802), p. 205.

[15] Rollo, pp. 24-25.

[16] Id. at 26, 28 and 32-33.

[17] People v. Almeida, 463 Phil. 637, 647 (2003).

[18] Cruz v. People, 597 Phil. 722, 728 (2009).

[19] People v. Unisa, 674 Phil. 89, 108 (2011).

[20] TSN, II June 2008, pp. 13-17.

[21] People v. Alivio, 664 Phil. 565, 574 (2011).

[22] People v. Buenaventura, 677 Phil. 230, 240 (2011).

[23] People v. Udtojan, 669 Phil. 461, 475 (2011).

[24] See People v. Daria, 615 Phil. 744, 758 (2009).

[25] People v. Amansec, 678 Phil. 831, 856 (2011) citing People Campomanes, 641 Phil. 610, 622, 623 (2010).

[26] People v. Dela Rosa, 655 Phil. 630, 650 (2011).

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[27] TSN, 14 June 2007, pp. 6-11.

[28] People v. Manlangit, 654 Phil. 427, 442 (2010).

[29] People v. Torres, 710 Phil. 398, 412 (2013).

[30] People v. Sta. Maria, 545 Phil. 520, 534 (2007).

[31] People v. Concepcion, 578 Phil. 957, 979-980 (2008).

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