



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 181250**
 Plaintiff-Appellee,

Present:

- versus -

BERSAMIN, *Acting Chairperson*,
 DEL CASTILLO,
 ABAD,*
 VILLARAMA, JR., and
 PERLAS-BERNABE, JJ.

EMMALYN DELA CERNA
 y **QUINDAO, alias "INDAY" and**
REGIE MEDENCELES y ISTIL,
 Accused,

Promulgated:

REGIE MEDENCELES y ISTIL,
 Accused-Appellant.

18 JUL 2012 -

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DECISION

BERSAMIN, J.:

This appeal seeks to reverse and set aside the September 5, 2007 decision¹ of the Court of Appeals (CA) in CA-G.R. CR-IIC No. 00953, which affirmed the conviction of Regie Medenceles y Istil for illegal sale of *methylenedioxymethamphetamine*, popularly known as ecstasy, a dangerous drug, as penalized under Section 5, Article II, of Republic Act No. 9165 (*Comprehensive Dangerous Drugs Act of 2002*).

On September 10, 2002, the City Prosecutor's Office of Mandaluyong City charged Emmelyn Q. Dela Cerna, alias *Inday*, and Medenceles with violation of Section 5 of Republic Act No. 9165 in the Regional Trial Court in Mandaluyong City (RTC), alleging thus:

* Vice Justice Teresita J. Leonardo-De Castro, who is on wellness leave, per Special Order No. 1252 issued on July 12, 2012.

¹ CA *rollo*, pp. 125-142; penned by Associate Justice Arturo G. Tayag (retired) with Associate Justice Rodrigo V. Cosico (retired) and Associate Justice Hakim S. Abdulwahid concurring.

That on or about the 28th day of August 2002, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not having been lawfully authorized to sell, trade, administer, dispense, deliver, give away to another, or distribute any dangerous drug, conspiring and confederating with one another, did, then and there willfully, unlawfully, and feloniously sell, trade, deliver or distribute to National Bureau of Investigation Senior Agent GREGORIO S. ZUNIGA, JR., a poseur buyer, two hundred (200) pieces of light blue color tablets which were found positive to test for Methylenedioxymethamphetamine, commonly known as “Ecstasy”, a dangerous drug, for the amount of P80,000.00, Philippine Currency, in violation of the above-cited law.

CONTRARY TO LAW.²

Both accused pleaded *not guilty* to the foregoing information at their arraignment on September 25, 2005.³

The Court of Appeals (CA) summarized the evidence of the parties in its assailed decision, as follows:

At the trial, the prosecution presented the following witnesses: Forensic Chemist Juliet Gelacio-Mahinhim; SI Federico O. Criste; Winmar Lovie U. De Ramos, SA Gregorio Zuniga, Jr.; SA Rosauro Bautista; Forensic Chemist Emilia S. Rosaldez; and Senior Inspector Divinagracia. Their testimonies, woven together, disclosed the following facts:

On 28 August 2002, National Bureau of Investigation (NBI) agents Federico Criste, Gregorio Zuniga, Jr., Winmar Louie de Ramos received a briefing from their team leader, Rosauro Bautista about a buy bust operation that would be conducted that afternoon in Mandaluyong City. They were to proceed to McDonald’s at Vargas St., Mandaluyong City, at the back of Shoemart (SM) Megamall. SA Gregorio S. Zuñiga was to act as poseur buyer who would buy more or less 200 pieces of ecstasy pills worth P80,000.00 from a certain Inday. Early that morning, Forensic Chemist Emilia A. Rosaldez dusted with fluorescent powder the two (2) P100 bills which were placed on top of the two (2) sets of boodle money to be used for the buy bust. She also wrote down the serial numbers of the P100 bills, V059146 and FU239560.

Around 5 o’clock in the afternoon, the group proceeded to Mcdonald’s at Vargas St., Mandaluyong City and parked their vehicle 15 to 20 meters away from their target. Winmar U. De Ramos acted as a perimeter guard while Federico O. Criste and SI Divinagracia were designated as arresting officers. Zuniga, Jr., the poseur buyer met the informant who informed him that the deal was made. They then proceeded to the second floor of Mcdonald’s and when they got there, a

² Records, p. 1.

³ Id. at 99.

woman, three (3) meters away from them, waved them. The informant with Zuniga approached the woman, and when they got near her, the woman handed a box similar to that of a cough syrup paper box to the man seated beside her. The man then handed to Zuniga the white box which was 3 inches tall by 1 ½ to 2 inches in diameter, while Zuniga handed to the man two stacks of boodle money. Thereafter, Zuniga introduced himself as an NBI agent, and after apprising the two of their constitutional rights, arrested the woman and the man, who turned out to be appellants Emmalyn Dela Cerna y Quidao a.k.a. "Inday" and Regie Mendenceles, respectively.

For their part, appellants vehemently denied the charges leveled against them. According to the appellant DE LA CERNA, while they were eating at McDonald's at St. Francis Branch, they were approached by about ten (10) persons who frisked and brought them to the NBI office. One of the agents showed her medicine tablets from the table and placed fluorescent powder on her two palms, then she was placed in such a way that her feet were near on electrical wire, for five (5) minutes, during which, she was hurt.

Further, appellant Medenceles stated that these agents placed a plastic bag on his head, and despite the fact that no items was recovered from him, the present case was filed against him. He did not file a case against the agents who hurt him as they threatened him.⁴

On April 20, 2005, the RTC found the two accused guilty as charged, disposing:

WHEREFORE, considering all the foregoing, both accused, EMMALYN DELA CERNA y QUINDAO @ Inday and REGIE MENDENCELES y ISTIL, are hereby found GUILTY beyond reasonable doubt for violation of Section 5, Article 2, of Republic Act No. 9165 and both are hereby sentenced to suffer the penalty of DEATH and pay the fine of ONE MILLION and FIVE HUNDRED THOUSAND PESOS (P1,500,000.00).

The transparent plastic bag containing 37.4007 grams of Methylenedioxymethamphetamine (MDMA) or commonly known as "Ecstasy" is hereby deemed forfeited in favor of the government to be disposed of in accordance with existing rules.

Finally, the OIC, Branch Clerk of Court, is directed to submit the two hundred tablets of Methylenedioxymethamphetamine (MDMA), also known as ECSTACY, to the proper government agency provided by law, immediately.

SO ORDERED.⁵

⁴ *Rollo*, pp. 3-5.

⁵ *Records*, p. 218.

On appeal, the CA affirmed the conviction of both accused but reduced the death penalty to life imprisonment,⁶ viz:

WHEREFORE, in the light of the foregoing, the assailed judgment dated 20 April 2005 of the Regional Trial Court of Mandaluyong City, Branch 213, is *AFFIRMED* with modifications, that the penalty of death be reduced to life imprisonment.

SO ORDERED.

Only Medenceles appealed.⁷ Thereby, the conviction of Dela Cerna became final.

Issues

Medenceles contends that the CA erred in convicting him of the charge because he was implicated only because he was in the company of Dela Cerna during the buy-bust; and insists that a real drug pusher would not approach just anyone in order to sell drugs.⁸

Ruling

We affirm the conviction of Medenceles.

To obtain a conviction for the illegal sale of a dangerous drug, like ecstasy, the State must prove the following, namely: (a) the identity of the buyer and the seller, the object of the sale and the consideration; and (b) the delivery of the thing sold and the payment thereof. What is decisive is the proof that the sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence.⁹

⁶ Id. at 19.

⁷ CA *rollo*, p. 145.

⁸ Id. at 81-84.

⁹ *People v. Naquita*, G.R. No. 180511, July 28, 2008, 560 SCRA 430, 449; *People v. Del Monte*, G.R. No. 179940, April 23, 2008, 552 SCRA 627, 637-638; *People v. Santiago*, G.R. No. 175326, November 28, 2007, 539 SCRA 198, 212.

The State convincingly and competently established the foregoing elements of the offense charged.

Poseur-buyer NBI Agent Zuniga, Jr. testified that the two accused sold ecstasy to him for ₱80,000.00 during a legitimate buy-bust operation;¹⁰ and that he recovered the buy-bust money in Dela Cerna's hand right after the sale.¹¹ Based on the certification issued by Forensic Chemist Juliet Gelacio-Mahilum, who had subjected the confiscated tablets to physical, chemical and chromatographic examinations as well as to instrumental analysis, the 200 ecstasy tablets with a total weight of 37.4007 grams were found to be positive for the presence of *methylenedioxymethamphetamine*, a dangerous drug.¹² Also presented in court as evidence were the 200 ecstasy tablets, the marked buy-bust money, and the certification from Forensic Chemist Emilia S. Rosaldes confirming that Dela Cerna's left and right hands tested positive for yellow fluorescent powder, the powder dusted on the buy-bust money prior to the buy-bust operation.¹³

NBI Agent Bautista, the buy-bust team leader, corroborated Agent Zuniga, Jr.'s recollections, attesting that he witnessed Agent Zuniga, Jr.'s act of handing over the buy-bust money to Dela Cerna who was then accompanied by Mecendeles;¹⁴ and that Agent Zuniga, Jr. thereafter signaled to the rest of the buy-bust team in order for them to arrest both accused.¹⁵

Both the RTC and the CA regarded as credible the testimonies of poseur buyer Agent Zuniga, Jr. and Agent Bautista on what transpired during the buy-bust operation. We concur with both lower courts, and hold that, indeed, the testimonies of the NBI agents as entrapping and arresting officers inspire belief and credence considering that the accused did not

¹⁰ TSN, June 10, 2003, p. 11.

¹¹ Id. at 14.

¹² Records, p. 29.

¹³ Records, pp. 178-180.

¹⁴ TSN, June 24, 2003, pp. 9-10.

¹⁵ Id.

impute any ill-motive to them for testifying against them as they did. The RTC judge's evaluation of the credibility of witnesses and their testimonies is accorded the highest respect because she had the unique opportunity to directly observe the demeanor of the witnesses and had been thereby enabled to determine whether the witnesses were speaking the truth or prevaricating.¹⁶ That evaluation, which the CA affirmed, is now binding on the Court because the appellant has not called attention to facts or circumstances of weight that might have been overlooked, misapprehended, or misinterpreted that, if considered, would materially affect the disposition of the case.¹⁷

Medenceles' insistence that he was implicated only because he had happened to be in the company of Dela Cerna during the buy-bust operation was unworthy of consideration because the established facts contradicted it. The records show that he acted in conspiracy with Dela Cerna. This conclusion of conspiracy between them was based on the firm testimony of poseur buyer Agent Zuniga, Jr. to the effect that both accused were of one mind in selling ecstasy to him. It appears, indeed, that prior to the buy-bust operation, both of the accused sat together inside the McDonald's Restaurant; that in transacting with the poseur buyer, Dela Cerna handed a white paper box containing the 200 ecstasy tablets to Medenceles, her boyfriend, who, in turn, handed the tablets to Agent Zuniga, Jr. in exchange for the marked buy-bust money that Agent Zuniga, Jr. handed over to Dela Cerna; and that the buy-bust money was later recovered from Dela Cerna upon the arrest of the two accused.¹⁸ No other logical conclusion can be drawn from the accused's acts in unison except that they did have a common purpose and community of interest during the transaction with the poseur buyer. There is no question that conspiracy may be deduced from the mode, method, and manner in which the offense was perpetrated, or inferred from

¹⁶ *People v. Pascual*, G.R. No. 173309, January 23, 2007, 512 SCRA 385, 392.

¹⁷ *People v. Domingo*, G.R. No. 184958, September 17, 2009, 600 SCRA 280, 293; *Gerasta v. People*, G.R. No. 176981, December 24, 2008, 575 SCRA 503, 512.

¹⁸ TSN, June 10, 2003, pp. 9-14.

the acts of the accused when such acts point to a joint purpose and design, concerted action, and community of interests.¹⁹ Conspiracy between them having been competently established, Dela Cerna and Medenceles were liable as co-principals irrespective of what each of them actually did.²⁰

Medenceles' claim of undue incrimination for a very serious crime could not at all be true. If it was, he should have vindicated himself by filing an administrative or criminal complaint against the buy-bust team members. That step would have been expected of him had he been truly innocent. But he did not.²¹ His inaction betrayed the unworthiness of his claim.

Nor should we give substance to Medenceles' argument that a real drug pusher would not have casually approached just anyone in order to sell drugs. The records indicate that Agent Zuniga, Jr. was not just anyone because the informant, whom both accused were familiar with, accompanied the poseur buyer. Prior to the actual transaction, the informant and the accused had agreed to meet at the venue of the arrest so that the accused could sell the ecstasy to the poseur buyer. Under the circumstances, the poseur buyer was not a stranger to the accused. At any rate, such a defense has been discredited by the Court several times. In *People v. Requiz*,²² for instance, the Court observed:

If pushers peddle drugs only to persons known to them, then drug abuse would certainly not be as rampant as it is today and would not pose a serious threat to society. We have found in many cases that drug pushers sell their prohibited articles to any prospective customer, be he a stranger or not, in private as well as in public places, even in the daytime. Indeed, drug pushers have become increasingly daring, dangerous and, worse, openly defiant of the law. Hence, 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 and the acts constituting sale and delivery of the prohibited drugs.

¹⁹ *Aquino v. Paiste*, G.R. No. 147782, June 25, 2008, 555 SCRA 255, 260.

²⁰ *People v. Santiago*, *supra* note 9, at 217.

²¹ TSN, January 18, 2005, p. 8.

²² G.R. No. 130922, November 19, 1999, 318 SCRA 635, 646-647.

Section 5, Article II of Republic Act No. 9165 provides:

Section 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 (₱500,000.00) to Ten million pesos (₱10,000,000.00) 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 such transactions.

Although the law punishes the unauthorized sale of dangerous drugs, such as ecstasy, regardless of quantity and purity, with life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10,000,000.00, the CA properly corrected the penalty prescribed by the RTC in view of the intervening effectivity of Republic Act No. 9346²³ prohibiting the imposition of the death penalty in the Philippines. The retroactive application of Republic Act No. 9346 is already settled.²⁴

WHEREFORE, we **AFFIRM** the decision promulgated on September 5, 2007; and **DIRECT** appellant to pay the costs of suit.

SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice
Acting Chairperson, First Division

WE CONCUR:

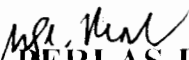

MARIANO C. DEL CASTILLO
Associate Justice

²³ *An Act Prohibiting The Imposition of Death Penalty in The Philippines, repealing Republic Act 8177 otherwise known as An Act Designating Death By Lethal Injection, Republic Act 7659 otherwise known as the Death Penalty Law and all other laws, executive orders and decrees* (The law was signed on June 24, 2006).

²⁴ *E.g., People v. Tubonghanua*, G.R. No. 171271, August 31, 2006, 500 SCRA 727; *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.


ROBERTO A. ABAD
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


ESTELA M. BERLAS-BERNABE
Associate Justice

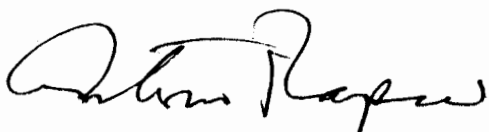
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CAPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)