



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 188310

Present:

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

- versus -

Promulgated:

MERCIDITA T. RESURRECCION,
Accused-Appellant.

JUN 13 2013

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DECISION

LEONARDO-DE CASTRO, J.:

On appeal is the Decision¹ dated January 27, 2009 of the Court of Appeals in CA-G.R. CR.-H.C. No. 02530, which affirmed the Decision² dated August 28, 2006 of the Regional Trial Court (RTC), Branch 135, of the City of Makati in Criminal Case Nos. 06-993 and 06-994, finding accused-appellant Mercidita T. Resurreccion guilty beyond reasonable doubt of the illegal sale and possession of dangerous drugs, thus, violating Article II, Sections 5 and 11 of Republic Act No. 9165, otherwise known as the Dangerous Drugs Act of 2002.

The Informations against accused-appellant read:

Criminal Case No. 06-993

That on or about the 16th day of May, 2006, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously sell, distribute and transport Methylamphetamine Hydrochloride, weighing zero point zero two (0.02)

¹ Rollo, pp. 2-7; penned by Associate Justice Arcangelita M. Romilla-Lontok with Associate Justices Rebecca De Guia-Salvador and Romeo F. Barza, concurring.

² CA rollo, pp.13-18; penned by Judge Francisco B. Ibay.

gram, which is a dangerous drug, in consideration of five hundred (Php500.00) pesos, in violation of the above-cited law.³

Criminal Case No. 06-994

That on or about the 16th day of May, 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 have in her possession, direct custody and control [of] Methamphetamine Hydrochloride (Shabu) weighing zero point zero two (0.02) gram, zero point zero two (0.02) gram, zero point zero two (0.02) gram, zero point zero two (0.02) gram, zero point zero two (0.02) gram, zero point zero two (0.02) gram, zero point zero two (0.02) gram, zero point zero two (0.02) gram, zero point zero two (0.02) gram, zero point zero two (0.02) gram, totaling zero point twenty-four (0.24) gram[s] which is a dangerous drug, in violation of the above-cited law.⁴

When arraigned, accused-appellant pleaded not guilty to both charges.⁵

The prosecution presented as witnesses Police Officer (PO) 2 Julius B. Lique⁶ (Lique), a member of the Station Anti-Illegal Drugs Special Operations Task Force (SAID-SOTF), Makati Police Station; and Jeffrey Esperat Abellana⁷ (Abellana), an operative from the Makati Anti-Drug Abuse Council (MADAC). In addition, the prosecution offered the following object and documentary evidence: (a) Affidavit of Arrest⁸ dated May 17, 2006 of PO2 Lique; (b) *Sinumpaang Salaysay*⁹ dated May 17, 2006 of Abellana; (c) Request for Laboratory Examination¹⁰ dated May 16, 2006 of suspected *shabu* contained in 13 heat-sealed plastic sachets marked “JBL” and “MERCY-1” to “MERCY-12[,]” prepared by Police Senior Inspector (PSINSP) Joefel F. Siason (Siason), Team Leader of the Makati City SAID-SOTF; (d) Physical Science Report No. D-375-06S¹¹ dated May 16, 2006 of the Southern Police District, Philippine National Police (PNP) Crime Laboratory Office, stating that the aforesaid specimens submitted for chemical analysis tested positive for Methamphetamine Hydrochloride; (e) Pre-Operational Report/Coordination Sheet¹² dated May 16, 2006 of PSINSP Siason, revealing that accused-appellant was the subject of a surveillance and buy-bust operation conducted by a team composed of PSINSP Siason, PO2 Lique, PO1 Voltaire Esguerra (Esguerra), Abellana,

³ Records, p. 2.

⁴ Id. at 4.

⁵ Id. at 29.

⁶ TSN, June 21, 2006.

⁷ TSN, June 26, 2006.

⁸ Records, pp. 49-51.

⁹ Id. at 52-53.

¹⁰ Id. at 55.

¹¹ Id. at 54.

¹² Id. at 57.

and Norman Bilason (Bilason); (f) Certificate of Coordination¹³ dated May 16, 2006 issued by the Philippine Drug Enforcement Agency (PDEA) certifying that the Makati City SAID-SOTF coordinated with PDEA as regards the buy-bust operation against accused-appellant; (g) Spot Report¹⁴ dated May 16, 2006 of the Makati City SAID-SOTF detailing the results of the buy-bust operation; (h) Acknowledgement Receipt¹⁵ dated May 16, 2006 of the Makati City SAID-SOTF certifying the turn-over of possession of the specimens confiscated from accused-appellant from PO2 Lique to PO2 Rafael Castillo (Castillo); (i) MADAC Certification¹⁶ dated May 17, 2006 affirming that accused-appellant was included in the watch list of personalities suspected of selling prohibited drugs in Barangay Bangkal, Makati City; (j) Photocopies of three One Hundred Peso (₱100.00) bills¹⁷ used in the buy-bust operation; and (k) thirteen heat-sealed plastic sachets of suspected *shabu* and a plastic film canister confiscated from accused-appellant.¹⁸

The prosecution's evidence supported the following version of events:

After receiving information that accused-appellant was illegally peddling *shabu* near a small bridge along P. Binay St. in Barangay Bangkal, Makati City, the Makati City SAID-SOTF constituted a team to conduct a buy-bust operation. PSINSP Siason headed the team composed of PO2 Lique, PO1 Esguerra, Abellana, Bilason, plus a police informant. PO2 Lique acted as the poseur-buyer. He used the marked bills as the buy-bust money which were pre-marked "JBL." After all the preparations, the team executed the said operation.

At around six o'clock in the evening of May 16, 2006, the team proceeded to the area where accused-appellant was reportedly often seen. The team then spotted accused-appellant approaching a store. The informant introduced PO2 Lique to accused-appellant as his friend who wanted to buy *shabu*. PO2 Lique then handed the marked bills to accused-appellant who handed to PO2 Lique in exchange a heat-sealed plastic sachet of suspected *shabu*. PO2 Lique held accused-appellant's right shoulder to signal the consummation of the transaction. Abellana immediately came to PO2 Lique's aid in apprehending accused-appellant. PO2 Lique introduced himself as a police officer, apprised accused-appellant of her constitutional rights, and thereafter ordered accused-appellant to empty her pockets. When accused-appellant refused, PO2 Lique himself frisked accused-appellant's pockets and found and confiscated a small film canister containing 12 more heat-sealed plastic sachets of suspected *shabu*.

¹³ Id. at 58.

¹⁴ Id. at 59.

¹⁵ Id. at 60.

¹⁶ Id. at 61.

¹⁷ Id. at 62.

¹⁸ Id. at 36; Exhibits K to K-14.

PO2 Lique marked all the seized items from accused-appellant at the place of her arrest. The sachet of suspected *shabu* sold to PO2 Lique was marked with “JBL,” the canister with “MERCY[,]” and the other 12 confiscated sachets of suspected *shabu* with “MERCY 1” to “MERCY 12[.]” Accused-appellant was then brought to the Makati City Police Station. PO2 Lique turned over all the items seized from accused-appellant to the duty investigator, PO2 Castillo. PSINSP Siason requested in writing that the 13 sachets of suspected *shabu* be chemically examined by the PNP Crime Laboratory Office. The contents of all the sachets tested positive for Methylamphetamine Hydrochloride.

Accused-appellant¹⁹ and her 17-year old daughter, Cristine Joyce Resurreccion (Cristine),²⁰ testified for the defense.

According to the defense, accused-appellant was a stay-at-home mother while her husband worked as a jeepney driver. At around 6:45 in the evening of May 16, 2006, accused-appellant and five of her eight children were at home. Accused-appellant was about to change her clothes after washing the laundry, when several men with guns, who later turned out to be police officers, arrived looking for *shabu*. Accused-appellant told the police officers that there was no such thing in their house. However, a police officer forcibly handcuffed accused-appellant. The police officers turned the pockets of accused-appellant’s shorts inside-out but did not find anything illegal. The police officers were only able to find Forty Pesos (₱40.00) and a bracelet in accused-appellant’s possession. Accused-appellant’s children, frightened when the police officers barged into their house, were crying and embracing their mother.

The police officers brought accused-appellant outside and boarded her into a blue Revo. While accused-appellant was inside the vehicle, another man approached the police officers and handed them a wrapped item. The police officers were forcing accused-appellant to admit ownership of the wrapped item, but accused-appellant resisted. The police officers made accused-appellant alight from the vehicle. One of them brought out something from the wrapped item and put it on top of the vehicle. The police officers wanted accused-appellant to admit she owned these things but accused-appellant maintained that she did not.

The men tightened accused-appellant’s handcuffs, hurting her. They again boarded accused-appellant on the Revo and brought her to police headquarters. At the headquarters, the police officers asked for accused-appellant’s personal information (such as her name and address). The police officers next asked accused-appellant if the evidence on hand were really taken from her; and accused-appellant answered that the items were not hers. Lastly, accused-appellant was asked to take off her earrings, ring, and

¹⁹ TSN, July 19, 2006.

²⁰ TSN, August 9, 2006.

bracelet, and together with her Forty Pesos (₱40.00), put them in one plastic bag.

Accused-appellant was detained for one night. The following day, she was brought for inquest.

Meanwhile, with her father out of the house and her mother arrested on the night of May 16, 2006, Cristine called her uncle (her father's brother) for help. Her uncle came over to the house to help look for accused-appellant. Cristine and her uncle asked around at Makati City Hall where accused-appellant could be and a janitor told them that those arrested for selling illegal drugs are brought to the MADAC office at J.P. Rizal. When Cristine and her uncle arrived at Precinct 1, J.P. Rizal, accused-appellant was not there. Cristine and her uncle waited until Cristine was finally able to see accused-appellant.

In its Decision promulgated on August 28, 2006, the RTC found accused-appellant guilty beyond reasonable doubt of the crimes charged. The trial court gave full weight and credence to the evidence presented by the prosecution and disregarded accused-appellant's defenses of denial and frame-up. The verdict reads:

WHEREFORE, it appearing that the guilt of accused MERCIDITA RESURRECCION y TORRES for violation of Sections 5 and 11 of RA 9165, was proven beyond reasonable doubt, as principal, with no mitigating or aggravating circumstances, she is hereby sentenced:

1. In Criminal Case No. 06-993, to suffer life imprisonment and pay a fine ₱500,000.00; and
2. In Criminal Case No. 06-994, to suffer imprisonment for an indeterminate term of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and to pay a fine ₱300,000.00.
3. To pay the costs.²¹

Consequently, accused-appellant was committed to the custody of the Correctional Institution for Women in Mandaluyong City.²²

Accused-appellant appealed her conviction before the Court of Appeals. In its Decision dated January 27, 2009, the Court of Appeals affirmed *in toto* the RTC judgment.

Hence, the instant appeal.

²¹ CA rollo, pp. 17-18.

²² Rollo, p. 15.

No supplemental briefs were filed by the parties before the Court. Hence, the Court will consider the very same arguments raised in the parties' briefs before the Court of Appeals.

Accused-appellant assigned the following errors on the part of the RTC:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE CONFLICTING TESTIMONIES OF THE PROSECUTION WITNESSES AND IN TOTALLY DISREGARDING THE VERSION OF THE DEFENSE.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.²³

The Court sustains accused-appellant's conviction.

In the prosecution for the crime of illegal sale of prohibited drugs, the following elements must concur: (1) the identities of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment thereof. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually occurred, coupled with the presentation in court of the substance seized as evidence.²⁴

With respect to illegal possession of dangerous drugs, its elements are the following: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug. Possession of dangerous drugs constitutes *prima facie* evidence of knowledge or *animus possidendi* sufficient to convict an accused in the absence of a satisfactory explanation of such possession.²⁵

Both the RTC and the Court of Appeals found that the prosecution was able to prove beyond reasonable doubt all the foregoing elements of the crimes charged against accused-appellant.

Generally, the Court will not disturb the weight and credence accorded by the trial court to witnesses' testimonies, especially when

²³ CA rollo, p. 42.

²⁴ *People v. Castro*, G.R. No. 194836, June 15, 2011, 652 SCRA 393, 408.

²⁵ *Id.* at 411.

affirmed by the Court of Appeals. As the Court explained in *People v. Naelga*²⁶:

At the outset, it should be pointed out that prosecutions involving illegal drugs largely depend on the credibility of the police officers who conducted the buy-bust operation. Considering that this Court has access only to the cold and impersonal records of the proceedings, it generally relies upon the assessment of the trial court. This Court will not interfere with the trial court's assessment of the credibility of witnesses except when there appears on record some fact or circumstance of weight and influence which the trial court has overlooked, misapprehended, or misinterpreted. This rule is consistent with the reality that the trial court is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. Thus, factual findings of the trial court, its calibration of the testimonies of the witnesses, and its conclusions anchored on its findings are accorded by the appellate court high respect, if not conclusive effect, more so when affirmed by the Court of Appeals, as in this case. (Citations omitted.)

In this case, the vivid and detailed testimonies of prosecution witnesses PO2 Lique and MADAC operative Abellana were not only credible by themselves, but were corroborated by numerous documentary and object evidence. The sum of the evidence for the prosecution shows that following the conduct of a surveillance, the Makati City SAID-SOTF planned and executed a buy-bust operation against accused-appellant on May 16, 2006. During the operation, accused-appellant was caught *in flagrante delicto* selling 0.02 grams of *shabu* for Three Hundred Pesos (₱300.00) and possessing a total of 0.24 grams of *shabu*, without any legal authority to do so.

Accused-appellant is trying to make an issue of the alleged inconsistency between PO2 Lique's sworn affidavit and his testimony before the RTC. In his sworn affidavit, PO2 Lique averred that accused-appellant voluntarily emptied her pockets and handed over to the police the canister containing the 12 heat-sealed plastic sachets of *shabu*. When he testified before the trial court, PO2 Lique narrated that accused-appellant had refused to obey the order for her to empty her pockets so that PO2 Lique himself checked accused-appellant's pockets wherein he found the said canister, which he immediately confiscated. The inconsistency is trifling and does not affect any of the elements of the crime charged. Regardless of who emptied accused-appellant's pockets, the important fact was that the canister was actually found inside accused-appellant's pockets and in her possession. Inconsistencies and discrepancies in the testimony referring to minor details and not upon the basic aspect of the crime do not diminish the witnesses' credibility. More so, an inconsistency, which has nothing to do with the elements of a crime, is not a ground to reverse a conviction.²⁷

²⁶ G.R. No. 171018, September 11, 2009, 599 SCRA 477, 489-490.

²⁷ *People v. Villahermosa*, G.R. No. 186465, June 1, 2011, 650 SCRA 256, 275-276.

The Court similarly views accused-appellant's defenses of denial and frame-up very doubtful. The testimonies of police officers who conducted the buy-bust are generally accorded full faith and credit, in view of the presumption of regularity in the performance of public duties. Hence, when lined against an unsubstantiated denial or claim of frame-up, the testimony of the officers who caught the accused red-handed is given more weight and usually prevails. In order to overcome the presumption of regularity, there must be clear and convincing evidence that the police officers did not properly perform their duties or that they were prompted with ill motive,²⁸ none of which exists in this case.

Moreover, the prosecution had duly established the chain of custody of the sachets of *shabu* from the time they were seized from accused-appellant, kept in police custody, transferred to the laboratory for examination, and presented in court, in substantial compliance with Section 21(1) of Republic Act No. 9165.

Contrary to the assertions of accused-appellant, PO2 Lique categorically testified that all the items seized from the possession of accused-appellant were photographed, inventoried, and marked at the place where she was apprehended, thus:

Q What happened after you discovered that aside from the one sold to you she [accused-appellant] has several plastic sachets, what did you do with all those items that you recovered and given to you?

A I marked them at the scene, sir.

Q The one sold to you what markings did you put on it?

A JBL, sir.

x x x x

Q What about the other plastic sachets that you said were inside the plastic film container at the time, what markings did you put on them?

A I marked them Mercy-1, Mercy-2, Mercy-3, Mercy-4 to Mercy-12, sir.

Q Did you also mark the plastic container?

A Yes, sir.

Q What markings did you put?

A Mercy, sir.

x x x x

Q After you marked and recovered the money and arrested the accused what did you do with the accused?

A After that we brought the suspect and the evidence confiscated to our office, sir.

²⁸

Ampatuan v. People, G.R. No. 183676, June 22, 2011, 652 SCRA 615, 633.

X X X X

Q When you recovered those items allegedly taken from the accused did you take any photographs of those items?

A Yes, sir.

X X X X

Q What is your proof that you took photographs of those items?

A None yet, they are not yet developed, sir.²⁹

Although no photograph of the seized items was submitted in evidence, the same does not render void and invalid the confiscation and custody of the seized items as long as their integrity and evidentiary value had been properly preserved by the apprehending officers,³⁰ as in this case.

Lastly, the Court sustains the penalties imposed by the RTC, as affirmed by the Court of Appeals.

Article II, Section 11 of Republic Act No. 9165 provides that the penalty for illegal possession of *shabu*, with a total weight of 0.24 grams, is twelve (12) years and one (1) day to twenty (20) years, and a fine ranging from Three Hundred Thousand Pesos (₱300,000.00) to Four Hundred Thousand Pesos (₱400,000.00). Applying the Indeterminate Sentence Law, the accused shall be sentenced to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by law and the minimum term shall not be less than the minimum prescribed by the same. Thus, in Criminal Case No. 06-994, the penalties imposed upon accused-appellant of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum, and a fine of Three Hundred Thousand Pesos (₱300,000.00), are in order.

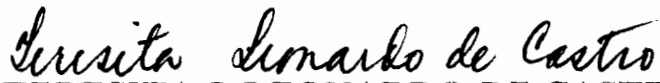
The penalty for illegal sale of *shabu*, regardless of the quantity and purity involved, under Article II, Section 5 of Republic Act No. 9165, shall be life imprisonment to death and a fine ranging from Five Hundred Thousand Pesos (₱500,000.00) to Ten Million Pesos (₱10,000,000.00). Hence, in Criminal Case No. 06-993, the sentence imposed upon accused-appellant of life imprisonment and a fine of Five Hundred Thousand Pesos (₱500,000.00), are also correct.

WHEREFORE, in view of all the foregoing, the appeal of accused-appellant Mercidita T. Resurreccion is **DENIED** and the Decision dated January 27, 2009 of the Court of Appeals in CA-G.R. CR.-H.C. No. 02530 is **AFFIRMED**.

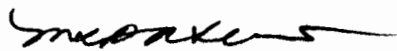
²⁹ TSN, June 21, 2006, pp. 10-12; 19-20.

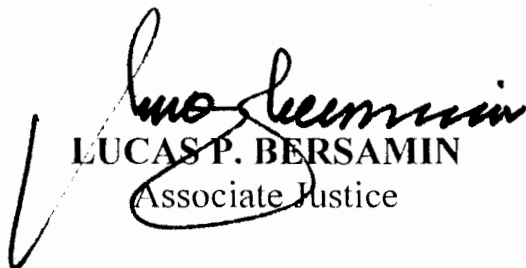
³⁰ Section 21(a) of the Implementing Rules and Regulations of Republic Act No. 9165.

SO ORDERED.



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


MARIA LOURDES P. A. SERENO
Chief Justice