



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 200507

Present:

-versus-

CARPIO, J.,
Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

PETER LINDA y GEROLAGA,
Accused-Appellant.

Promulgated:

JUN 26 2013 *H. M. Cabalag*

X-----X

DECISION

PEREZ, J.:

Before us for final review is the conviction of accused-appellant for illegal sale of *shabu*. The Court of Appeals affirmed *in toto*¹ the decision of the trial court² sentencing him to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The Facts

In an Information³ dated 27 February 2008 docketed as Criminal Case

¹ CA rollo, pp. 71-86. Decision dated 14 June 2011 in CA-G.R. CR-HC No. 03888. Penned by Associate Justice Agnes Reyes-Carpio with Associate Justices Sesinando E. Villon and Priscilla J. Baltazar-Padilla concurring.

² Records, pp. 28-32. Decision dated 15 April 2009 in Criminal Case No. 08-259718. Penned by Judge Alejandro G. Bijasa, Regional Trial Court, Branch 2, Manila.

³ *Id.* at 1. The accusatory portion of the Information reads:

No. 82-259718, accused-appellant was charged with violation of Section 5, Article II, Republic Act No. 9165⁴ before the Regional Trial Court of Manila to which he pleaded not guilty.⁵

During pre-trial, Forensic Chemist Elisa G. Reyes (Reyes) brought with her the specimen she examined and other pertinent documents. These were marked as follows: Letter Request for Laboratory Examination (Exh. “A”) stamped received by the Crime Laboratory (Exh. “A-1”); specimen with the following initials “PGL” (Exh. “B”) together with a brown envelope (Exh. “B-1”); and Final Chemistry Report (Exh. “C”) containing her Findings and Conclusions (Exh. “C-1”) with the corresponding signatures appearing at the bottom of the Report (Exh. “C-2”). The parties thereafter stipulated on the qualification of Reyes, the genuineness and due execution of the documents, and the specimen, which she herself brought to the court. Further, the prosecution had the following marked in evidence: Affidavit of Apprehension (Exh. “D”) with the signatures of the arresting officers (Exh. “D-1”); the Coordination Form (Exh. “E”) and a machine copy of the buy bust money (Exh. “F”).⁶

On trial, the prosecution presented PO2⁷ Archie Bernabe⁸ (PO2 Bernabe) of the District Anti-Illegal Drugs-Special Operations Task Group (DAID-SOG), Manila Police District. The defense, on the other hand, relied on the sole testimony of accused-appellant.⁹

The prosecution summarized its version of the incident in the

“That on or about February 22, 2008, in the City of Manila, Philippines, the said accused, without being authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there wilfully, unlawfully and knowingly sell one (1) heat-sealed transparent plastic sachet containing zero point zero two zero (0.020) gram of white crystalline substance known as shabu, containing methylamphetamine hydrochloride, a dangerous drug.”

⁴ Section 5, Article II, R.A. 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 (P500,000.00) to Ten million pesos (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, or shall act as a broker in any of such transactions.

“x x x x”

⁵ Records, pp.13-14. Pre-Trial Order dated 14 March 2008.

⁶ *Id.* at 13.

⁷ He was referred to as PO1 Archie Bernabe instead of PO2 Archie Bernabe in some of the documents on pages 3, 5, 7, 17 and 19 of the records.

⁸ TSN, 5 March 2009.

⁹ TSN, 19 March 2009.

following manner:

On February 22, 2008, the team of SPO1 Rodolfo Ramos received a reliable information from a confidential informant regarding the illegal drug activity of x x x [accused-appellant] along Ma. Orosa Street, Malate, Manila. Thus, SPO1 Ramos ordered his team to conduct a buy-bust operation on appellant and designated PO2 Archie Bernabe as poseur-buyer, who was given two (2) P100 bills as buy-bust money. The money was then marked as “DAID” and a coordination with the Philippine Drug Enforcement Agency (PDEA) was made.

After the preparation, the team, together with the confidential informant, proceeded to the target area. Upon arrival, appellant approached PO2 Bernabe and the informant who is known to appellant. The informant and the appellant talked to each other while PO2 Bernabe stayed two (2) meters away. Afterwards, the informant called PO2 Bernabe and introduced him to appellant as a friend who is buying “shabu.” PO2 Bernabe told the appellant that he was buying the illegal drug worth “P200.” Appellant answered “wala pong problema” and accepted the buy-bust money tendered by PO2 Bernabe. The former then handed to the latter one transparent plastic sachet containing white crystalline substance with the resemblance of “shabu.” Thereafter, PO2 Bernabe arrested appellant and introduced himself as police officer. The other members of the team arrived at the scene. PO2 Bernabe informed appellant of his constitutional rights and marked the plastic sachet with the letters “PGL” from the initials of the appellant. The former frisked appellant and recovered the marked money from the latter. When the substance was examined by Forensic Chemist Elisa G. Reyes, the white crystalline substance tested positive for methyldamphetamine hydrochloride.¹⁰

The defense, on the other hand, countered that:

On 22 February 2008, Peter Linda was doing nothing when suddenly, several persons entered the house and went upstairs looking for his parents, Lorenzo Linda and Marlita Linda. He told them that his parents were no longer living there. Afterward[s], he was told to go with the police. At the precinct, he was asked again the whereabouts of his parents but he reiterated his earlier reply. He was then frisked but nothing was recovered from him. He was not informed of the charges, only knowing it in court.¹¹

After trial, the court convicted accused-appellant of the crime charged.¹² On appeal, the Court of Appeals affirmed the decision *in toto*.¹³

¹⁰ CA *rollo*, pp. 72-73. Decision dated 14 June 2011 of the Court of Appeals quoting the Brief for the Plaintiff-Appellee, *id.* at 46-47.

¹¹ *Id.* at 73 quoting the Brief for the Accused-Appellant, *id.* at 25.

¹² Records, pp. 28-32. Decision dated 15 April 2009.
The dispositive portion of the Decision reads:

Before us, both parties manifested that they will no longer file their respective supplemental briefs.¹⁴ We, thus, re-examine the arguments of the defense before the Court of Appeals, to wit: (1) that the chain of custody was broken; (2) that it is hard to believe that one would readily sell drugs to a stranger; (3) that since the warrantless arrest is invalid, the item seized is inadmissible in evidence; and (4) that notwithstanding that the defense of denial is inherently weak, it must be given credence when the prosecution fails to prove his guilt beyond reasonable doubt.¹⁵

Our Ruling

The appeal is bereft of merit.

We first ascertain the credibility of the testimony of the prosecution witness.

Settled are the rule that “findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings,”¹⁶ and that “the determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, is accorded full weight and credit as well as great respect, if not conclusive effect.”¹⁷

Here, we see no reason to deviate from the findings of the trial court and the Court of Appeals. Corroborated by supporting documents,¹⁸ PO2

WHEREFORE, from the foregoing, judgment is hereby rendered, finding accused, Peter Linda y Gerolaga, **GUILTY**, beyond reasonable doubt of the crime charged, he is hereby sentenced to life imprisonment and to pay a fine of P500,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs.

The specimen is forfeited in favor of the government and the Branch Clerk of Court, accompanied by the Branch Sheriff, is directed to turn over with dispatch upon receipt the said specimen to the Philippine Drug Enforcement Agency (PDEA) for proper disposal in accordance with the law and rules.

¹³ CA rollo, p. 85. Decision dated 14 June 2011.

¹⁴ Rollo, pp. 28-31. Manifestation (In Lieu of Supplemental Brief) dated 7 May 2012 filed by Office of the Solicitor General. *Id.* at 32-35. Accused-Appellant’s Manifestation (In Lieu of Supplemental Brief) dated 3 April 2012.

¹⁵ CA rollo, pp. 25-28. Brief for the Accused-Appellant.

¹⁶ *People v. Presas*, G.R. No. 182525, 2 March 2011, 644 SCRA 443, 449 citing *People v. Pagkalinawan*, G.R. No. 184805, 3 March 2010, 614 SCRA 202 further citing *People v. Julian-Fernandez*, 423 Phil. 895, 910 (2001).

¹⁷ *People v. Sabadlab*, G.R. No. 186392, 18 January 2012, 663 SCRA 426, 440-441 citing *People v. Mayingque*, G.R. No. 179709, 6 July 2010, 624 SCRA 123, 140.

¹⁸ Records, pp. 3-8. Exhibits “A,” “C” to “F.”

Bernabe rendered a clear and direct narration of the details of the buy-bust operation from the moment SPO1 Rodolfo Ramos organized the team, upon receipt of the information from the confidential informant, to the time the *shabu* was marked¹⁹ and turned over to the crime laboratory for

¹⁹ Pertinent portions of his testimony reads:

ASST. CITY PROS. YAP:

Q Police Officer Bernabe, could you tell the Court where were you on February 22, 2008?

THE WITNESS:

A We were conducting a buy bust operation, sir.

Q Where?

A Along Ma. Orosa Street, Malate, Manila, sir.

Q Tell us, who ordered you to be there at Ma. Orosa?

A Our team leader, sir, he designated me as poseur buyer.

Q Who was the team leader?

A SPO1 Rodolfo Ramos, sir.

Q What was the nature of the operation?

A Buy bust operation, sir.

Q Now, who was the subject person?

A One alias Peter, sir.

Q What was this Peter reported[ly] doing then per information?

A The confidential informant [C.I.] furnished information regarding the illegal selling of shabu of one alias Peter somewhere in Ma. Orosa St., Malate, Manila, sir.

x x x x

Q Being the poseur buyer, what did you do prior to the jump-off, Mr. Witness?

A We prepared the buy bust money and the necessary documents, sir.

x x x x

Q So, what other documents did you make, Mr. Witness?

x x x x

A Coordination to [Philippine Drug Enforcement Agency] PDEA, sir.

x x x x

Q As far as you can recall, when was this coordination made?

x x x x

A Same date, sir, on February 22.

Q What time?

A On or about 9:00 p.m., sir.

x x x x

Q With these requirements, what did the team do further, Mr. Witness?

A After preparing all the necessary documents and the buy bust money, we proceeded to the place, sir.

x x x x

Q Now, tell us what happened, Mr. Witness?

A When we arrived at the area, our subject person saw us and approached us, sir.

Q What happened when he approached you?

A The suspect approached us because he knew the C.I., and then, the suspect and the C.I. talked to each other, sir.

x x x x

Q So, what happened to their conversation?

A After a short while the confidential informant called me and introduced me to the suspect, sir.

Q How many were you then?

A The C.I. and myself, sir.

Q How [did] the C.I. [introduce] you to the suspect?

A I was introduced as a friend who will buy shabu, sir.

x x x x

Q What happened next when you were introduced as a friend of the C.I.?

A I told to the (sic) suspect that I will buy worth P200.00 of shabu, sir.

examination.²⁰ Absent any showing of ill-motive or bad faith on the part of the arresting officers, as in this case where accused-appellant testified that he did not know any of the members of the team,²¹ the doctrine of presumption of regularity in the performance of official duty finds application. This, we explained in *People v. Tion*:²²

x x x Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies on the buy-bust operation deserve full faith and credit. **Settled is the rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers, for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary suggesting ill motive on the part of the police officers or deviation from the regular performance of their duties.** The records do not show any allegation of improper motive on the part of the buy-bust team. Thus, the presumption of regularity in the performance of duties of the police officers must be upheld.²³ (Citations omitted; emphasis supplied)

x x x x
Q What was the reply of the suspect?
A He uttered the words, “Wala pong problema.”
Q So, what did you do next?
A I handed the buy bust money to the suspect, sir.
Q Did he receive the same, the buy bust money?
A Yes, sir.
Q So, what happened?
A After receiving the money, he handed to me the one (1) transparent plastic sachet, sir.

x x x x
Q So, what happened next, Mr. Witness?
A After I received the illegal substance, I immediately effected the arrest of the suspect and introduced myself as police officer, sir.
Q So, what did you do further, Mr. Witness?
A After arresting the suspect my companions arrived. Then, I informed him of his constitutional rights. Afterwards, I put a marking on the evidence recovered as a result of the buy bust operation, sir.
Q Where?
A At the place, sir.

x x x x
Q What standard operating procedure did you do after the arrest?

x x x x
A I frisked the suspect, sir.
Q What was the result?
A I recovered the buy bust money, sir.
TSN, 5 March 2009, pp. 3-10.

²⁰ Records, p. 3. The Joint Affidavit of Apprehension, which PO2 Bernabe identified in court, reads in part:

“6. That, thereafter, the above-named suspect was brought at the office for investigation while the evidence recovered was submitted [to] the MPDCLO for laboratory examination.”

²¹ TSN, 19 March 2009, p. 3.

²² G.R. No. 172092, 16 December 2009, 608 SCRA 299.

²³ *Id.* at 316-317.

By upholding the credibility of the testimony of the witness for the prosecution on the circumstances leading to the arrest of the accused-appellant, we cannot give credence to the contrary version of the defense that the warrantless arrest was made inside the house of the accused-appellant after the arresting officers failed to find his parents, whom he admitted were also involved in drug-related illegal activities.²⁴ The argument of the defense that the warrantless arrest was invalid and that the item seized is inadmissible in evidence must, therefore, fail.

Proceeding from the above, we find that the essential requisites for illegal sale of *shabu* were all present in the instant case. These are: “(a) the identities 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 for the thing.”²⁵ The prosecution has likewise complied with the following material requirements: (1) proof that the transaction or sale actually took place and (2) presentation in court of the *corpus delicti* as evidence.”²⁶

Thus, PO2 Bernabe testified that after he was introduced by the confidential informant to accused-appellant as a friend who wanted to buy *shabu*, he offered to buy and accused-appellant agreed to sell him drugs worth two hundred pesos (₱200.00). When accused-appellant received the marked money, he gave PO2 Bernabe a sachet of white crystalline substance, which, after its marking at the crime scene and upon submission to the laboratory, tested positive for *shabu*. Both the item subject of the sale and the marked money were presented in court.

The defense now argues that the prosecution failed to establish with moral certainty the identity of the item seized because the chemist who examined the specimen did not take the witness stand. Neither did anyone allegedly testify on how the said specimen was delivered to the court.

The contentions are likewise unmeritorious.

There is no iota of doubt that the integrity and evidentiary value of the seized item were preserved. The Letter-Request for Laboratory Examination shows that it was PO2 Bernabe who personally delivered to the crime

²⁴ TSN, 19 March 2009, p.5.

²⁵ *People v. Bautista*, G.R. No. 177320, 22 February 2012, 666 SCRA 518, 529 citing *People v. Naquita*, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 449; *People v. del Monte*, G.R. No. 179940, 23 April 2008, 552 SCRA 627, 637-638; *People v. Santiago*, G.R. No. 175326, 28 November 2007, 539 SCRA 198, 212.

²⁶ *Id.* at 529-530.

laboratory the specimen that he earlier marked.²⁷ Moreover, specifically stated in the Pre-Trial Order²⁸ issued by the trial court was the fact that Reyes herself, the very chemist that examined the specimen, brought the same to the court. And, while the court dispensed with her testimony, the parties already stipulated on the material points she was supposed to testify on. Clearly, the chain of custody was not broken.

We likewise reject the position of the defense that a drug peddler would not readily sell his wares to a stranger as we know for a fact that “drug pushing has been committed with so much casualness even between total strangers.”²⁹

The last argument of accused-appellant, that is, that “[i]t matters not that the defense is weak, what matters is that the prosecution prove the guilt of an accused beyond reasonable doubt,”³⁰ must also fail. *First*, the evidence for the prosecution was, in fact, sufficient to establish the guilt of accused-appellant beyond reasonable doubt. *Second*, the defense of denial, when not substantiated by clear and convincing evidence as in this case, is negative and self-serving, and cannot prevail over the affirmative statements of a credible witness.³¹

All considered, we find that the prosecution has sufficiently established the guilt of the accused-appellant beyond reasonable doubt.

The penalties imposed by the trial court and the Court of Appeals are, likewise, in order.

Under Section 5, Article II of Republic Act No. 9165, the quantity of *shabu* is not material in the determination of the corresponding penalty therefor. A person found guilty thereof shall suffer the penalty of life imprisonment and a fine ranging from Five Hundred Thousand (₱500,000.00) pesos to Ten Million Pesos (₱10,000,000.00).

The Indeterminate Sentence Law³² provides that “if the offense is punished by any other law, the court shall sentence the accused to an

²⁷ Records, p. 5.

²⁸ *Id.* at 13.

²⁹ *People v. Bautista*, *supra* note 25 at 537.

³⁰ CA rollo, p. 28. Brief for the Accused-Appellant.

³¹ *People v. De Vera*, G.R. No. 112006, 7 July 1997, 275 SCRA 87, 93 citing *People v. Belga*, G.R. Nos. 94376-77, 11 July 1996, 258 SCRA 583, 594 (1996); *Abadilla v. Tabiliran, Jr.*, A.M. No. MTJ-92-716, 25 October 1995, 249 SCRA 447.

³² Act No. 4103.

indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.”³³

Considering the absence of any mitigating circumstance, the penalty of life imprisonment and a fine of Five Hundred Thousand Pesos (₱500,000.00) were, thus, correctly imposed. These are within the period and range of the fine prescribed by law.³⁴

WHEREFORE, the Decision dated 14 June 2011 of the Court of Appeals in CA-G.R. CR-HC No. 03888 is **AFFIRMED**, and, thereby the 15 April 2009 Decision of the Regional Trial Court in Criminal Case No. 08-259718 is hereby **AFFIRMED in toto**.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

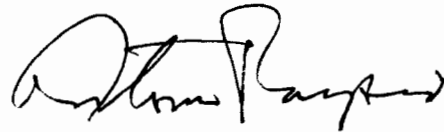

ESTELA M. PERLAS-BERNABE
Associate Justice

³³ Section 1, Act No. 4103, as amended.

³⁴ *People v. Sabadlab*, *supra* note 17 at 441.

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.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were 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