



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 191260

Present:

- versus -

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
MENDOZA, *and*
LEONEN, *JJ.*

MELCHOR D. BRITA,
Accused-Appellant.

Promulgated:

NOV 24 2014 *HM Cabalag/Brigido*

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RESOLUTION

DEL CASTILLO, J.:

This is an appeal from the November 18, 2009 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03561 that denied the appeal filed therewith and affirmed the April 15, 2008 Decision² of the Regional Trial Court (RTC), Branch 70, Taguig City finding appellant Melchor D. Brita alias “Boboy” (appellant) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (RA) No. 9165 and sentencing him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00.

Factual Antecedents

On October 24, 2002, two separate Informations³ were filed against appellant before the RTC of Pasig City. One was for selling 0.19 gram of *shabu*, in violation of Section 5, Article II of RA 9165, as amended, and the other for illegal possession of 1.56 grams of *shabu*, in violation of Section 11, Article II of

¹ CA *rollo*, pp. 192-216; penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Portia Aliño-Hormachuelos and Fernanda Lampas Peralta.

² Records, pp. 274-279; penned by Presiding Judge Louis P. Acosta.

³ Id. at 1-2 and 10-11.

the same law. The cases were raffled to Branch 165 of the said RTC (RTC-Pasig, Branch 165).

Immediately after his arraignment on February 11, 2003 wherein he pleaded not guilty to both charges, appellant filed a Petition for Bail.⁴ During the bail hearing, the prosecution presented PO2 Archibald Tejero (PO2 Tejero) and PO3 Edgar Orias (PO3 Orias). Their testimonies⁵ revealed that in the afternoon of October 23, 2002, upon being told by a confidential informant that a certain “Boboy” (later identified as the appellant) was engaged in rampant selling of illegal drugs in Western Bicutan, Taguig, Police Inspector Eduardo Paningbatan (P/Insp. Paningbatan), Chief of the Taguig Police Station, Drug Enforcement Unit, set up a buy-bust team. PO2 Tejero was designated as the poseur-buyer and was given ₱500.00 as buy-bust money marked with “AT.”

At about 4:30 p.m. of the same day, the buy-bust team went to the house of appellant. The informant, together with PO2 Tejero, called appellant who thereupon came out of his house and approached them. After having been introduced by the informant to the appellant as a potential buyer of *shabu* worth ₱500.00, PO2 Tejero gave appellant the marked money. In return, appellant took from his right pocket a plastic sachet containing white crystalline substance and handed the same to PO2 Tejero. PO2 Tejero then executed the pre-arranged signal by lighting a cigarette. Thereupon, PO3 Orias and the rest of the team rushed to the scene. Alarmed, appellant went inside his house but was caught by the police officers. After he was placed under arrest, PO2 Tejero recovered from appellant the buy-bust money. Anent the white crystalline substance he bought from appellant, PO2 Tejero marked the plastic sachet thereof with “MDB-1.”

Meanwhile, PO3 Orias frisked appellant and found in his possession two plastic sachets containing suspected *shabu*. PO3 Orias marked the recovered plastic sachets with “MDB-2” and “MDB-3.”

Thereafter, the team brought appellant and the confiscated items to the Taguig Police Station. The seized items were turned over to P/Insp. Paningbatan, who in turn gave the same to the investigator/evidence custodian. After preparing the request for laboratory examination of the specimen, PO2 Tejero and the investigator brought the specimen to the PNP Crime Laboratory. Per Physical Science Report No. D-1542-02,⁶ the substance tested positive for methamphetamine hydrochloride or *shabu*.

In support of his Petition for Bail, appellant offered the testimonies of Maygene Fernandez (Fernandez), the daughter-in-law of appellant’s common-law

⁴ Id. at 23-27.

⁵ TSN, May 6, 2003, pp. 7-30; TSN, July 11, 2003, pp. 5-25.

⁶ Records, p. 82.

wife, and Olivia Duhaylongsod (Duhaylongsod), a neighbor. Their testimonies aimed to establish that when appellant was arrested, no buy-bust operation was actually conducted and that no *shabu* was recovered from him.

Fernandez testified that at the time of the alleged buy-bust operation, appellant was actually sleeping in a room at the second floor of their house. Suddenly, police officers entered their house. When appellant emerged from the room and saw them, he asked for a search warrant. The police officers, however, did not respond and instead immediately handcuffed appellant. Fernandez further testified that appellant was not frisked and that she did not see any sachet of drugs at the time of the incident.⁷

For her part, Duhaylongsod testified that she saw two men enter an opening in the back portion of appellant's house. She did not see appellant or his common-law wife when the men made their entry.⁸

The RTC-Pasig, Branch 165, however, did not resolve the Petition for Bail until after the prosecution rested its case⁹ and appellant filed a Demurrer to Evidence¹⁰ with prior leave.¹¹ In an Omnibus Order¹² dated December 28, 2004, RTC-Pasig, Branch 165 denied both appellant's Petition for Bail and Demurrer to Evidence as it found the evidence against appellant for the charge of violation of Section 5, Article II of RA 9165 strong. However, it dismissed the case for violation of Section 11, Article II of the same law as it found that the guilt of the accused was not proven beyond reasonable doubt.

Subsequently, the parties filed a Joint Motion for Transfer/Re-Raffle¹³ which was granted by RTC-Pasig, Branch 165 in an Order¹⁴ dated October 12, 2005. Accordingly, the case was re-raffled to RTC-Taguig, Branch 70. RTC-Taguig, Branch 70, after finding that the evidence of the prosecution was not that strong, reconsidered and set aside the RTC-Pasig, Branch 165's Omnibus Order of December 28, 2004 and allowed appellant to post bail in an Order¹⁵ dated October 31, 2006.

⁷ TSN, April 19, 2004, pp. 15-19; TSN, June 21, 2004, pp. 6-8.

⁸ TSN, March 22, 2004, pp. 18-22; TSN, April 19, 2004, pp. 5-8.

⁹ The prosecution adopted the evidence it presented during the bail hearing as its evidence in chief; see Order dated July 12, 2004, records, p. 115.

¹⁰ Id. at 127-138.

¹¹ See Order dated July 12, 2004, id. at 115.

¹² Id. at 157-172; penned by Judge Marietta A. Legaspi of RTC-Branch 165, Pasig City.

¹³ Id. at 187; the parties alleged that the crime charged was allegedly committed in Taguig and that appellant and his witnesses as well as the prosecution witnesses are from Taguig. Hence, they prayed that the case be transferred to a Court stationed in Taguig so as to save on transportation and time in going to RTC-Pasig, Branch 165 which was located in Marikina City.

¹⁴ Id. at 189.

¹⁵ Id. at 220; penned by Judge Pablito M. Roxas.

Meanwhile, appellant, for his defense, proffered denial. He claimed that there was no buy-bust operation and that he was – merely a victim of frame-up.

In a Decision¹⁶ dated April 15, 2008, RTC-Taguig, Branch 70 adjudged appellant guilty beyond reasonable doubt of violating Section 5, Article II of RA 9165 and sentenced him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00. It gave credence to the testimonies of the police officers who were presumed to have performed their duties in a regular manner. RTC-Taguig, Branch 70 ruled that the positive testimonies of the prosecution witnesses, coupled with the object evidence consisting of the seized substance that tested positive for *shabu*, sufficiently established the elements of illegal sale of dangerous drugs.

On appeal, the CA affirmed the said RTC Decision through a Decision¹⁷ dated November 18, 2009.

Hence, the present appeal.

Appellant claims that the presumption of innocence cannot be overcome by the disputable presumption of regularity in the performance of official duty. Besides, there is reason to doubt the credibility of the police officers as prosecution witnesses since there were inconsistencies in their testimonies. He further argues that the grant of bail in his favor means that the evidence of guilt is not strong. He also questions the chain of custody of the seized specimen.

The contentions of appellant deserve scant consideration.

The Court agrees with the CA that the testimonies of PO2 Tejero and PO3 Orias established beyond reasonable doubt appellant's culpability. Their narrations of what really transpired in the afternoon of October 23, 2002, from the moment the confidential informant disclosed to their chief the illegal activities of appellant up to the time of his arrest, deserve great respect and credence as the same emanated from the direct account of law enforcement officers who enjoy the presumption of regularity in the performance of their duties. It should be noted that "[u]nless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or [did] not properly [perform] their duty, their testimonies on the operation deserve full faith and credit."¹⁸ Moreover, while appellant is correct that the presumption of regularity should not by itself prevail over the presumption of innocence, still, he must be able to present a viable defense. Here, what appellant interposed is merely denial and a claim of frame-up. "[F]or the claim of frame-up to prosper, the defense must be able to present clear and convincing evidence to overcome [the] presumption of

¹⁶ Id. at 274-279.

¹⁷ CA *rollo*, pp. 192-216.

¹⁸ *People v. Lim*, 615 Phil. 769, 782 (2009).

regularity,”¹⁹ which it failed to do. Hence, the Court finds no error on the part of the courts below in upholding the presumption of regularity in the performance of duty of the police officers who conducted the buy-bust operation.

Anent the alleged inconsistencies²⁰ pointed out by appellant, the same were too trivial and inconsequential. They did not deal with the central fact of the crime. It has been repeatedly held that “a few discrepancies and inconsistencies in the testimonies of witnesses referring to minor details and not actually touching upon the central fact of the crime do not impair their credibility.”²¹

Appellant asserts that the grant of bail bolsters his claim that the evidence of the prosecution is not strong enough to prove his guilt. The Court is not convinced. “[A] grant of bail does not prevent [the trial court, as] the trier of facts, x x x from making a final assessment of the evidence after full trial on the merits.”²² As the Court ruled in *People v. Baldoz*,²³ “[s]uch appreciation [of evidence] is at best preliminary and should not prevent the trial judge from making a final assessment of the evidence before him after full trial. It is not an uncommon occurrence that an accused person granted bail is convicted in due course.”²⁴

Finally, appellant makes much of the fact that the police operatives failed to comply with the requirements of the law with regard the handling of evidence, specifically the absence of the required physical inventory and photograph of the evidence confiscated pursuant to Section 21, par. 1, Article II of RA 9165 as implemented by Section 21(a), Article II of its Implementing Rules and Regulations.²⁵ However, it must be pointed out that it was only during appeal that

¹⁹ *People v. Agulay*, 588 Phil. 247, 278 (2008).

²⁰ Appellant points out that (1) PO2 Tejero testified that they went inside the house of appellant while PO3 Orias stated that the transaction happened at the gate at the back of appellant’s house and that they did not enter the opening found therein; (2) PO2 Tejero stated that the buy-bust team boarded one Anfra vehicle and coordinated with the *Barangay* and two *Barangay Tanods* but PO3 Orias narrated that he did not see any *barangay* official when they arrested appellant; (3) PO2 Tejero testified that it was a certain police officer Fabroa who frisked appellant while PO3 Orias claimed that he was the one who recovered from appellant two sachets of *shabu*; See Appellant’s Brief, CA rollo, pp. 55-114.

²¹ *People v. Lim*, supra note 18 at 789.

²² *People v. Sandiganbayan (Special Division)*, 556 Phil. 596, 611 (2007).

²³ 421 Phil. 597 (2001).

²⁴ Id. at 616-617.

²⁵ Section 21 *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment*. – x x x

(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 seizures; 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.

appellant raised these alleged breaches in the custody and handling of the seized evidence. During trial, the item object of the sale was duly marked, subjected to rigid examination, and eventually offered as evidence. Yet, at no instance did appellant manifest or even hint that there were lapses in its safekeeping which affected its admissibility, integrity and evidentiary value. Indeed, such failure to raise this issue during trial is fatal to the case of the defense as held by this Court in *People v. Sta. Maria*²⁶ and in subsequent cases.²⁷ Besides, mere lapses in procedures need not invalidate a seizure if the integrity and evidentiary value of the seized items can be shown to have been preserved.²⁸ In this regard, the Court quotes with favor the CA's disquisition on chain of custody, viz:

Appellant sold one (1) sachet of shabu to PO2 Archibald Tejero in the buy-bust operation. PO2 Tejero, after the arrest of appellant, marked the sachet "MDB-1" before turning it over to Police Inspector Eduardo Paningbatan. Back at the station, Police Inspector Paningbatan prepared the necessary documents for the transmittal of the sachet, particularly the letter-request for laboratory examination. He then handed the request and the sachet to PO1 Saez who, together with PO2 Archibald Tejero, delivered them to the PNP Crime Laboratory. At the laboratory, the sachet was received by Police Inspector Lourdeliza Gural, who found the sachet positive for point nineteen (.19) [gram] of Methylamphetamine hydrochloride or *shabu*. The same sachet was identified in open court by PO2 Tejero.²⁹

Hence, like the courts below, the Court finds that the prosecution was able to adequately show the unbroken chain of custody/possession of the seized item from the moment the sale was consummated, until it was tested in the crime laboratory, and up to the time it was offered in evidence. Clearly, its integrity and evidentiary value have not been compromised at any stage.

WHEREFORE, premises considered, the appeal is **DISMISSED**. The Decision of the Court of Appeals dated November 18, 2009 in CA-G.R. CR-H.C. No. 03561 is hereby **AFFIRMED**.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

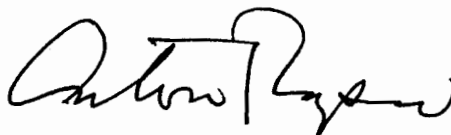
²⁶ 545 Phil. 520, 534 (2007).

²⁷ *People v. Hernandez*, 607 Phil. 617, 638 (2009); *People v. Lazaro, Jr.*, G.R. No. 186418, October 16, 2009, 604 SCRA 250, 274-275 and *People v. Desuyo*, G.R. No. 186466, July 26, 2010, 625 SCRA 590, 609.

²⁸ *People v. Naquita*, 582 Phil. 422, 441-442 (2008).

²⁹ CA rollo, p. 212.

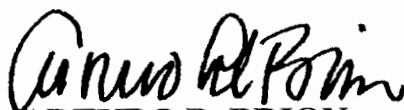
WE CONCUR:



ANTONIO T. CARPIO

Associate Justice

Chairperson



ARTURO D. BRION

Associate Justice



JOSE CEDRAL MENDOZA

Associate Justice



MARVIC M.V.F. LEONEN

Associate Justice

ATTESTATION

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



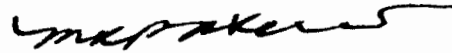
ANTONIO T. CARPIO

Associate Justice

Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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