



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**PEOPLE
PHILIPPINES,**

OF

THE

G.R. No. 198314

Plaintiff-Appellee,

Present:

- versus -

SERENO, *CJ.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*

**RICHARD GUINTO Y SAN
ANDRES,**

Accused-Appellant.

Promulgated:

SEP 24 2014

X -----X

DECISION

PEREZ, J.:

This is an appeal filed by herein accused Richard Guinto y San Andres (Guinto) from the Decision¹ of the Court of Appeals (CA) dated 31 January 2011, affirming the decision of conviction rendered by the Regional Trial Court (RTC) of Pasig City for violation of Section 5, Article II of R.A. No. 9165.²

¹ Penned by Associate Justice Ramon M. Bato, Jr. with Associate Justices Juan Q. Enriquez, Jr. and Florito S. Macalino, concurring; CA *rollo*, pp. 108-119.

² An Act Instituting The Comprehensive Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise Known As The Dangerous Drugs Act Of 1972, As Amended, Providing Funds Therefor, And For Other Purposes.

The Facts

The prosecution presented a buy-bust case.

As narrated by Police Officer 1 Melvin Jesus S. Mendoza (PO1 Mendoza), the operation was conducted on 20 January 2004 at around 1:00 o'clock in the morning by the members of Anti-Illegal Drugs Special Task Force (AIDSTF), Pasig City Police Station. It was prompted by an information given by a female caller received by AIDSTF's Team Supervisor Senior Police Officer 3 Leneal Matias (SPO3 Matias), who in turn, coordinated with Police Inspector Melbert Esguerra (P/Insp. Esguerra), the head of AIDSTF. According to the female caller, a certain "Chard" was selling *shabu* in a place located at 137 MC Guinto, *Barangay Pinagbuhatan*, Pasig City. Based on the information, P/Insp. Esguerra instructed the team to verify the call from their civilian informant residing also in *Barangay Pinagbuhatan*. Upon positive verification, P/Insp. Esguerra formed a buy-bust team composed of SPO3 Matias, SPO2 Braulio Basco (SPO2 Basco), PO1 Michael Familara (PO1 Familara), PO1 Alan Mapula, and PO1 Porferio Bansuelo (PO1 Bansuelo) and designated PO1 Mendoza to act as the poseur-buyer. In turn, SPO3 Matias prepared the pre-operation report and coordinated with the Philippine Drug Enforcement Agency (PDEA) on the buy-bust operation. PO1 Mendoza, as the poseur-buyer, was given two (2) pieces of marked ₱100.00 bills as buy-bust money by P/Insp. Esguerra.³

After the briefing, the team including the informant proceeded to the target area at around eleven o'clock in the evening of 19 April 2004. Upon arrival, PO1 Mendoza and the informant positioned themselves outside the house of this certain "Chard" (later identified as the accused Richard S.A. Guinto) and waited for him to step out. Meanwhile, the rest of the team stood nearby and waited for PO1 Mendoza's pre-arranged signal of raising of hand to indicate that the sale transaction was already consummated. After two hours, Guinto finally went out of the house. The informant approached Chard and introduced PO1 Mendoza as a person in need of illegal drugs worth ₱200.00. PO1 Mendoza then gave buy-bust money to Guinto as payment. Guinto, in turn, drew two (2) plastic sachets containing *shabu* and gave them to PO1 Mendoza. Guinto then put the money on his left pocket. To indicate consummation of illegal sale, PO1 Mendoza made the pre-arranged signal to the other members of the team and introduced himself to Guinto as a police officer. The other members of the team responded and arrested Guinto. Immediately, PO1 Mendoza confiscated the marked money

³ TSN, PO1 Melvin Mendoza, 19 August 2004, pp. 2-8.

from the left pocket of Guinto and marked the plastic sachet containing shabu with the markings “RSG/MJM.”⁴

Afterwards, the buy-bust team brought Guinto to Pasig City Police Station and turned him over to SPO2 Basco for investigation. PO1 Mendoza turned over the confiscated drugs to SPO2 Basco. Consequently, SPO2 Basco asked for a laboratory examination request to determine the chemical composition of the confiscated drugs.⁵ Thereafter, confiscated drug was brought by PO1 Noble to the Philippine National Police (PNP) Crime Laboratory for examination.⁶

The prosecution also presented PO1 Familara as its second witness to corroborate the statements given by PO1 Mendoza. However, several inconsistencies were apparent in his testimony.

When asked during his direct examination on who gave the buy-bust money to PO1 Mendoza, PO1 Familara answered that it was SPO3 Matias.⁷ Likewise, the pre-arranged signal was differently described as scratching of the nape instead of raising of hand.⁸ He also testified that their asset arrived at around one o’clock in the morning to accompany them to Pinagbuhatan.⁹ Another inconsistency which surfaced was when PO1 Familara testified that upon the consummation of illegal sale, he went to the place of the arrest and saw PO1 Mendoza arresting Guinto. PO1 Mendoza then positively identified Guinto as the one who sold one (1) plastic sachet of illegal drug instead of two (2) sachets.¹⁰

Finally, the last witness presented by the prosecution was Police Officer 2 Richard Noble (PO2 Noble).¹¹ He corroborated the statements given by his fellow police officers but again, presented an inconsistency as to the time of the asset’s arrival compared to the one narrated by PO1 Familara. A conflict came out as to the time of the team’s arrival to the target area and as to how long they waited for the accused to go out. In his direct, he testified that the asset arrived at the police station before eleven o’clock in the evening prior to the buy-bust operation.¹² Afterwards, they had a briefing on the operation. He recalled that they waited for around 15

⁴ Id. at 9-13.

⁵ TSN Mendoza, 18 August 2005, pp. 6-7.

⁶ Id. at 7 and 16.

⁷ TSN Familara, 5 December 2005, p. 4.

⁸ Id.

⁹ Id.

¹⁰ Id. at 6.

¹¹ Referred to as PO1 Noble in 18 August 2005 TSN.

¹² TSN Noble, 23 January 2006, p. 4.

to 20 minutes before the accused came out¹³ while PO1 Mendoza testified that they waited for the accused for two hours. When asked again by the Court on the time of their arrival, he answered that it was at around one o'clock in the morning.¹⁴

The defense interposed denial.

Guinto narrated that at the time of the arrest at 10:00 o'clock in the evening of 19 January 2004, he was in their house cooking with his family. Several men suddenly entered the house, grabbed his arm and searched the premises. When asked why the men entered their home, the men did not give them any reason. Afterwards, Guinto was brought to the police headquarters and investigated by the police.¹⁵

Jane P. Guinto (Jane), the wife of the accused Guinto, corroborated the statements of her husband. She recalled that several armed male persons entered their house while she and her family were cooking to celebrate fiesta the next day. The men were not authorized to search nor arrest the person of his husband and failed to introduce themselves to them. Thereafter, these male persons frisked her husband, handcuffed him and brought to the police station. Meanwhile, Jane left her two children under the care of her aunt to follow her husband. It was there at the station where the police officers tried to extort money from her in the amount of ₱50, 000.00.¹⁶

Finally, John Mark P. Guinto (John Mark), one of the two children of Guinto, affirmed the narration of his parents on material points. He testified that he and his younger brother were watching television at the time of the illegal arrest of his father. His parents were then cooking when some uniformed police officers arrested his father and brought him to the police station. However, he testified that he went to their neighbor's house and hid there out of fear, contrary to the statement of his mother that she brought them to her aunt.¹⁷

Guinto was eventually charged with Illegal Sale of Dangerous Drugs punishable under Section 5 of Article II of R.A. No. 9165:

¹³ Id. at 5.

¹⁴ Id. at 12.

¹⁵ TSN, Direct of Richard S.A. Guinto, 8 February 2007, pp. 2-5.

¹⁶ TSN, Jane Guinto, 5 July 2007, pp. 2-7.

¹⁷ TSN, John Mark P. Guinto, 22 November 2007, pp. 2-5.

On or about January 20, 2004 in Pasig City and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO1 Melvin Santos Mendoza, a police poseur buyer, two (2) heat-sealed transparent plastic bag each containing two centigrams (0.02 gram) of white crystalline substance, which were found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of said law.¹⁸

When arraigned, he pleaded not guilty to the offense charged.

Based on the Pre-Trial Order,¹⁹ the prosecution and defense stipulated that Forensic Chemist Annalee R. Forro (Forro) of the PNP Crime Laboratory conducted an examination on the samples submitted and they yielded positive results for methamphetamine hydrochloride commonly known as *shabu*.

The Ruling of the Trial Court

The trial court on 8 October 2008 rendered a Decision²⁰ finding Guinto guilty beyond reasonable doubt of the offense charged and imposed upon him the penalty of life imprisonment and a fine of ₱500,000.00 for violation of Section 5, Article II of R.A. No. 9165 with all the accessory penalties under the law. It held that all the elements to constitute illegal sale was present to convict the accused of the offense. Likewise, it affirmed the testimonies of the police officers on the conducted buy-bust operation and the presumption of regularity in the performance of their duties as against the claim of unsubstantiated denial of Guinto.

The Ruling of the Court of Appeals

The appellate court affirmed the ruling of the trial court. It ruled that all the elements of illegal sale of dangerous drug were proven as testified by the police officers PO1 Mendoza and PO1 Familara. It found credible the straightforward and categorical statements of the prosecution witnesses on what transpired during the buy-bust operation.²¹ Further, it held that the prosecution has proven as unbroken the chain of custody of evidence and the regularity of performance of the police officers who conducted the operation. Finally, it affirmed that the non-compliance of the strict

¹⁸ Records p. 1.

¹⁹ Id. at 17-18.

²⁰ Id. at 164-170.

²¹ CA Decision; CA *rollo*, pp. 108-119.

procedure in Section 21 (a), Article II of the Implementing Rules and Regulations of R.A. No. 9165 did not invalidate the seizure and custody of the seized items as the integrity and evidentiary value of the seized items are properly preserved by the operatives.²²

Our Ruling

After a careful review of the evidence, we reverse the finding of the trial courts. We find that the prosecution failed to prove the identity of the *corpus delicti*. This is fatal in establishing illegal sale. Moreover, the conflicting statements of the policemen on material points tarnished the credibility of the testimony for the prosecution.

Primarily assailed by the accused are the inconsistent statements of the apprehending police officers with respect to the circumstances of his illegal arrest and the broken chain of custody which would warrant his acquittal.

We are convinced.

In illegal sale of dangerous drugs, the prosecution must establish the identity of the buyer and the seller, the object and consideration of the sale and the delivery of the thing sold and the payment therefor.²³ Hence, to establish a concrete case, it is an utmost importance to prove the identity of the narcotic substance itself as it constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction. It is therefore imperative for the prosecution to first establish beyond reasonable doubt the identity of the dangerous drug before asserting other arguments.²⁴

In this case, the prosecution failed to prove that each and every element that constitutes an illegal sale of dangerous drug was present to convict the accused. Upon evaluation of the testimonies of PO1 Familara and PO1 Mendoza, it is apparent that there is an inconsistency on the identity and number of plastic sachets bought from the accused. In his statement, PO1 Familara recalled that upon arrival at the place of arrest, PO1

²² Id. at 114-118.

²³ *People v. Unisa*, G.R. No. 185721, 28 September 2011, 658 SCRA 305, 324; *People v. Manlangit*, G.R. No. 189806, 12 January 2011, 639 SCRA 455, 463.

²⁴ *People v. Gatlabayan*, G.R. No. 186467, 13 July 2011, 653 SCRA 803, 815, citing *People v. Frondoza*, G.R. No. 177164, 30 June 2009, 591 SCRA 407, 417.

Mendoza told him that he was able to buy one plastic sachet of *shabu* from Guinto. On the other hand, PO1 Mendoza recalled that he was able to buy two plastic sachets instead of one. The pointed inconsistency is not a minor one that can be brushed aside as the discrepancy taints the very *corpus delicti* of the crime of illegal sale. A vital point of contention, the prosecution's evidence places in reasonable doubt the identification of the dangerous drug that was presented in court.

We likewise see that the conflicting statements of the police officers defeat the presumption of the regularity of their performance of duties ordinarily accorded by the lower courts.

We find several inconsistencies on points material to the credibility of the buy-bust operation.

Among those are the inconsistencies on the pre-arranged signal, length of time the police officers spent in waiting for the accused and the exact time of the arrest.

Aside from those alleged by defense, this Court found several more evident inconsistencies, which when put together, erodes the presumption of regularity of performance of duty.

We discuss.

First, as already pointed out, as to identity of the *corpus delicti* of the crime.

PO1 Mendoza and PO1 Familiara fatally contradicted each other's testimony as to the number of sachets bought from Guinto. In his direct testimony, PO1 Mendoza positively identified that the accused gave two plastic sachets in exchange of the ₱200 marked money.²⁵ However, the same identification was refuted when PO1 Familiara testified that PO1 Mendoza informed him that he (Mendoza) successfully bought one plastic sachet of *shabu* from Guinto.²⁶

Second, as to where the marked money was recovered after the buy-bust operation.

²⁵ TSN Mendoza, 19 August 2004, pp. 11-12.

²⁶ TSN Familiara, 5 December 2005, p. 6.

According to PO1 Mendoza, he was able to obtain possession of the buy-bust money from the left front pocket of Guinto as transcribed in his direct testimony dated 19 August 2004. However, in his direct testimony dated 18 August 2005, Mendoza testified that he was able to recover the buy-bust money from the right hand of Guinto, as opposed from his previous narration that he recovered the money from Guinto's left pocket.²⁷

Third, conflicting circumstances before the arrest.

In his first testimony, PO1 Mendoza recalled that upon their arrival at the target area at around eleven o'clock in the evening, the team waited for almost two hours for the accused to come out from his house.²⁸ However, PO1 Familara testified that they arrived at the target area at around one o'clock in the morning of 20 January 2004.²⁹ Witness PO1 Noble, on the other hand, recalled that they left for the area at around eleven in the evening³⁰ and waited for 15 to 20 minutes³¹ for Guinto to come out but contradicted his former statement and testified that they arrived at around one o'clock in the morning.³²

Fourth, as to the pre-arranged signal.

PO1 Mendoza testified that the agreed upon signal will be the raising of hand to signify the consummation of illegal sale.³³ Again, it was contradicted by PO1 Familara's statement that what was agreed upon during the meeting was the scratching of the nape as the pre-arranged signal of PO1 Mendoza.³⁴

Finally, the source of the buy-bust money.

During his direct examination, PO1 Mendoza was asked on who gave him the buy-bust money. In his answer, he identified that it was P/Insp. Esguerra³⁵ as the source. On the contrary, PO1 Familara identified SPO3

²⁷ TSN Mendoza, 18 August 2005, p. 4,

²⁸ TSN Mendoza, 19 August 2004, p. 9.

²⁹ TSN Familara, 5 December 2005, p. 5.

³⁰ TSN Noble, 23 January 2006, p. 3

³¹ Id. at 5.

³² Id. at 12.

³³ TSN Mendoza, 19 August 2004, p. 10

³⁴ TSN Familara, 5 December 2005, p. 4.

³⁵ TSN Mendoza, 19 August 2004, p. 6.

Matias as the one who gave PO1 Mendoza the marked money during their meeting.³⁶

We find support in several jurisprudential rulings.

In *People v. Roble*,³⁷ the Court ruled that generally, the evaluation of the trial court of the credibility of the witnesses and their testimonies is entitled to great weight and generally not disturbed upon appeal. However, such rule does not apply when the trial court has overlooked, misapprehended, or misapplied any fact of weight or substance. In this present case, the contradictions, numerous and material, warrant the acquittal of accused-appellant.³⁸

Similarly, one of the means used by the Court in determining the credibility of the prosecution witnesses is the objective test. Following this test, in order to establish the credibility of prosecution witnesses regarding the conduct of buy-bust operation, prosecution must be able to present a complete picture detailing the buy-bust operation—from the initial contact between the poseur-buyer and the pusher, the offer to purchase, the promise or payment of the consideration, until the consummation of the sale by the delivery of the illegal subject of sale. The manner by which the initial contact was made, the offer to purchase the drug, the payment of the buy-bust money, and the delivery of the illegal drug must be the subject of strict scrutiny by courts to insure that law-abiding citizens are not unlawfully induced to commit an offense.³⁹ In light of these guiding principles, we rule that the prosecution failed to present a clear picture on what really transpired on the buy-bust operation.

In *People v. Unisa*⁴⁰ this Court held that “in cases involving violations of the Dangerous Drug 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.”

True, the absence of ill motive or ill will is ordinarily considered by this Court as proof that the statements of the police officers is credible. As

³⁶ TSN Familara, 5 December 2005, p. 4.

³⁷ G.R. No. 192188, 11 April 2011, 647 SCRA 593.

³⁸ Id. at 602-603, citing *People v. Casimiro*, 432 Phil. 966, 974-975 (2002).

³⁹ *People v. Clara*, G.R. No. 195528, 4 July 2013, 702 SCRA 273, 292, citing *People v. Ong*, 568 Phil. 114, 122 (2008); *People v. Doria*, 361 Phil. 595, 621 (1999).

⁴⁰ G.R. No. 185721, 28 September 2011, 658 SCRA 305, 336, citing *People v. Gaspar*, G.R. No. 192816, 6 July 2011, 653 SCRA 673, 688; *People v. De Guzman*, 564 Phil. 282, 293 (2007).

maintained by the People, through the Office of the Solicitor General, in the absence of any improper motive, presumption of regularity of performance of duty prevails. However, it must be similarly noted that the presumption of regularity in the performance of duty of public officers does not outweigh another recognized presumption - the presumption of innocence of the accused until proven beyond reasonable doubt.⁴¹

In several occasions, the Court had declared that the presumption of regularity of performance of duties must be harmonized with the other interest of the State which is the interest of adherence to the presumption of innocence of the accused.

However in case of conflict between the presumption of regularity of police officers and the presumption of innocence of the accused, the latter must prevail as the law imposes upon the prosecution the highest degree of proof of evidence to sustain conviction.⁴²

In conclusion, this case exemplifies the doctrine that conviction must stand on the strength of the Prosecution's evidence, not on the weakness of the defense. Evidence proving the guilt of the accused must always be beyond reasonable doubt. If the evidence of guilt falls short of this requirement, the Court will not allow the accused to be deprived of his liberty. His acquittal should come as a matter of course.⁴³

The present case shows that the prosecution fell short in proving with certainty the culpability of the accused and engendered a doubt on the true circumstances of the buy-bust operation. *In dubio pro reo*. When moral certainty as to culpability hangs in the balance, acquittal on reasonable doubt inevitably becomes a matter of right.⁴⁴

WHEREFORE, the appeal is **GRANTED**. The 31 January 2011 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03844 affirming the judgment of conviction dated 8 October 2008 of the Regional Trial Court, Branch 164 of Pasig City is hereby **REVERSED** and **SET ASIDE**. Accused-appellant **RICHARD GUINTO y SAN ANDRES** is hereby

⁴¹ *People v. Clara*, supra note 38, at 295, citing *People v. Robelo*, G.R. No. 184181, 26 November 2012, 686 SCRA 417, 428; *Dimacuha v. People*, 545 Phil. 406, 420 (2007); *People v. Serrano*, G.R. No. 179038, 6 May 2010, 620 SCRA 327, 338.


⁴² *Id.*

⁴³ *Reyes v. Court of Appeals*, G. R. No. 180177, 18 April 2012, 670 SCRA 148, 164-165.


⁴⁴ *Zafra v. People*, G.R. No. 190749, 25 April 2012, 671 SCRA 396, 409, citing *Malillin v. People*, 576 Phil. 576, 593 (2008).


ACQUITTED and ordered immediately released from detention unless his continued confinement is warranted for some other cause or ground.

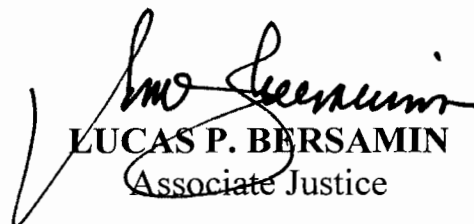
SO ORDERED.



JOSE PORTUGAL REREZ
Associate Justice

WE CONCUR:


MARIA LOURDES P.A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFIED TRUE COPY:

EDGAR O. ARICHETA
Division Clerk of Court
First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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