

## THIRD DIVISION

[ G.R. No. 186139, October 05, 2009 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
LEONARDO RUSIANA Y BROQUEL, ACCUSED-APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

This is an appeal from the Decision dated December 28, 2007 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02347, which affirmed the March 31, 2006 Decision in Criminal Case No. 02-0678 of the Regional Trial Court (RTC), Branch 275 in Las Piñas City. The RTC convicted accused-appellant Leonardo Rusiana of violation of Section 5, Article II of Republic Act No. (RA) 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

An Information was filed against accused-appellant, alias "Unad," as follows:

That on or about the 12<sup>th</sup> day of August 2002, in the City of Las Piñas, 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 knowingly sell, deliver, give away to another, distribute or transport 0.04 gram of Methylamphetamine Hydrochloride, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.<sup>[1]</sup>

Upon his arraignment, accused-appellant pleaded not guilty to the offense charged.

#### **The Prosecution's Version of Facts**

During trial, the prosecution presented PO2 Jerome Mendoza and PO2 Wilson Paule as witnesses. It dispensed with the testimony of Forensic Chemist Abraham Tecson when it was stipulated that he would testify in accordance with Exhibits "C," "D," "G," "H," and "H-1," qualified by the fact that he had no personal knowledge as to where and from whom the subject drugs were recovered.<sup>[2]</sup> PO2 Rufino Dalagdagan's testimony was likewise dispensed with, since the Investigation Report (Exhibit "B") was admitted by the parties during the pre-trial.

PO2 Mendoza testified that at about 9:00 in the evening on August 12, 2002, he was at his office with fellow officers Tuldanes, Castor, Paule, and Dantes. Someone arrived and informed PO2 Paule of a certain Unad's illegal drug activities. PO2 Paule reported the information to Police Inspector Raquion. The resulting buy-bust team created was composed of Police Inspector Dantes, PO2s Tuldanes, Paule, Castor,

Dolleton, and Mendoza, with Paule assigned as poseur-buyer. Inspector Raquion handed a PhP 100 bill, as buy-bust money, to PO2 Paule.

The team proceeded to Manukan in Las Piñas past 9:00 p.m. PO2 Paule and the informant went to Unad's house. The informant called Unad, who met with them outside. PO2 Paule exchanged the marked PhP 100 bill with suspected *shabu* from Unad. PO2 Paule then introduced himself as a police officer, which made Unad try to resist. He was caught by PO2 Paule while running back to his house and was frisked. The marked money and another six (6) plastic sachets were found on his person. Two other men were found in his house, one of whom threw a sachet. The man was likewise arrested. Back at the office, all six sachets were marked by the investigator on duty, PO2 Dalagdagan, with the initials "LBR" and numbered from 1 to 6.<sup>[3]</sup>

PO2 Paule, who acted as poseur-buyer, corroborated PO2 Mendoza's testimony. He testified that he was the one who cornered Unad when he tried to resist and recovered the plastic sachets and buy-bust money from him.<sup>[4]</sup>

### **Version of the Defense**

The defense witnesses comprised accused-appellant, Susan Camposano, Aileen Badoy, and Celso Ramirez.

According to accused-appellant, he was home on the night of the supposed buy-bust operation against him. He was tending the store and watching television with his three children when Police Officers Paule, Mendoza, and Dalagdagan introduced themselves. They poked their guns and told him they were searching for *shabu*. He was familiar with the three police officers as he had previously been detained on a carnapping charge that was eventually dismissed. He denied that the three were able to buy *shabu* from him.<sup>[5]</sup>

Camposano, accused-appellant's mother-in-law, testified that she was likewise home on the night of the alleged buy-bust operation. At one point during the evening, she followed her grandchildren, who were delivering food to accused-appellant's house. While there, she saw two persons named "Susie" and "Padre" as well as four police officers. She then witnessed accused-appellant being held and beaten. Two of the officers also broke down the door to the bedroom and stole the VHS player and some hats on the wall. The officers instructed her to leave and later handcuffed accused-appellant along with "Susie" and "Padre."

Badoy, Camposano's 15-year old grandchild, and Ramirez, accused-appellant's stepson, corroborated Camposano's testimony.

After trial, the RTC decided against accused-appellant. The dispositive portion of its Decision reads:

WHEREFORE, judgment is rendered finding Leonardo Rusiana y Broquel @ Unad GUILTY beyond reasonable doubt of Violation of Sec. 5, Art. II. of R.A. 9165 and hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of P500,000.00 and to pay the cost.

SO ORDERED.<sup>[6]</sup>

In his appeal before the CA, accused-appellant claimed that the trial court erred in giving credence to the evidence of the prosecution. He averred that the prosecution was not able to prove his guilt beyond reasonable doubt.

### **Ruling of the CA**

The appellate court affirmed the challenged decision of the RTC. The CA agreed with the RTC that the elements in the crime of illegal sale of drugs were adequately proved. It gave no merit to accused-appellant's argument that the chain of custody over the evidence was broken. It likewise found the defense of frame-up lacking in merit, as accused-appellant was not able to show convincing evidence that the police officers involved in the buy-bust did not perform their duties in a regular and proper manner, or that they were harboring ill motives against him. The dispositive portion reads:

WHEREFORE, premises considered, the March 31, 2006 Decision of the Regional Trial Court of Las Piñas, in Criminal Case No. 02-0678, is hereby AFFIRMED. Pursuant to Section 13(c), Rule 124 of the 2000 Rules of Criminal Procedure as amended by A.M. No. 00-5-03-SC dated September 28, 2004, which became effective on October 15, 2004, this judgment of the Court of Appeals may be appealed to the Supreme Court by notice of appeal filed with the Clerk of Court of the Court of Appeals.

SO ORDERED.<sup>[7]</sup>

On January 16, 2008, accused-appellant filed his Notice of Appeal of the CA Decision.

On March 11, 2009, this Court required the parties to submit supplemental briefs if they so desired.

On May 18, 2009, the People, represented by the Solicitor General, manifested that it was no longer filing a supplemental brief.

On June 3, 2009, accused-appellant filed his Supplemental Brief<sup>[8]</sup> raising an additional assignment of error.

### **Issues**

#### **I**

WHETHER THE COURT A QUO GRAVELY ERRED IN GIVING CREDENCE TO THE EVIDENCE OF THE PROSECUTION WHICH FAILED TO OVERTURN THE

## II

WHETHER THE COURT A QUO GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

### **This Court's Ruling**

In calling for an acquittal, the defense claims that there were gaps in the chain of custody of the *shabu* allegedly seized from accused-appellant, raising doubts as to the ownership of the *shabu*. It asserts that the non-presentation of PO2 Dalagdagan as prosecution witness resulted in the identity of the prohibited drug being insufficiently established. Citing PO2 Paule and Mendoza's testimonies, the defense claims that since the apprehending officers were not the ones who placed the markings on the *shabu* immediately after its seizure, there is doubt as to whether this was the one presented during trial. The prosecution also allegedly relied on its self-serving statements in establishing the link between accused-appellant and the *shabu* that was recovered. Since the frame-up of accused-appellant is, according to the defense, a probability, the presumption of regularity in the performance of official functions could not overthrow the presumption of innocence to which accused-appellant is entitled.

The appeal is, thus, centered on the contention that the integrity of the subject *shabu* was not ensured and its identity was not established with moral certainty.

### **Sufficiency of Evidence**

Jurisprudence dictates that conviction can be had in a prosecution for illegal sale of regulated or prohibited drugs if the following elements are present: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment for it. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* of the crime.<sup>[9]</sup> We hold that these elements have been satisfied by the prosecution's evidence.

Trial courts are our eyes. They have the distinct advantage of observing the demeanor and conduct of witnesses during trial. Absent any showing that certain facts of relevance and substance bearing on the elements of the crime have been overlooked, misapprehended, or misapplied by a trial court, we must defer to its findings.<sup>[10]</sup> As found by the trial court and affirmed by the CA, the police officers who testified gave a straightforward narration of the buy-bust operation. We see no circumstance contradicting this finding.

### **Chain of Custody Requirement**

In *People v. Cortez*,<sup>[11]</sup> this Court held that although ideally the prosecution should offer a perfect chain of custody in the handling of evidence, "substantial compliance with the legal requirements on the handling of the seized item" is sufficient. Behind