

THIRD DIVISION

[G.R. No. 174773, October 02, 2007]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARILYN MIRANDA Y RAMA, ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

For review is the Decision,^[1] dated 30 June 2006 of the Court of Appeals in CA-G.R. CR H.C. No. 00395, which affirmed the Decision of the Regional Trial Court (RTC) of Nueva Vizcaya, Branch 37, in Criminal Case No. 1826, finding appellant guilty of violation of Section 5, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.^[2]

The Information dated 16 February 2004, charged appellant and her co-accused Imeldo Caoile^[3] as follows:

That on January 12, 2004, around 7:00 o'clock in the evening in Barangay Calitlitan, Municipality of Aritao, Province of Nueva Vizcaya, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, caught in flagrante elicto (sic), did then and there willfully, unlawfully and feloniously sell, deliver and give away to a law enforcement agent who posed as a buyer of .25 gram methamphetamine hydrochloride (shabu), a dangerous drug, contained in four small size heat-sealed transparent plastic sachets to the damage and prejudice of the Republic of the Philippines.^[4]

When arraigned on 5 March 2004, both appellant and Caoile pleaded not guilty to the charge.^[5]

The prosecution's version is based mainly on the testimony of PO1 Henry Valenzuela (PO1 Valenzuela), a member of the Provincial Anti-Illegal Drug Special Operation Task Force assigned at the police station in Alfonso Castañeda, Nueva Vizcaya. According to him, in the afternoon of 24 January 2004,^[6] he was at the Aritao police station together with Police Senior Inspector Prudencio Dela Cruz (PSI Dela Cruz), PO3 Manolo Lapeña (PO3 Lapeña), SPO2 Rogelio Orero (SPO2 Orero), and PO1 Rodelia Vergara (PO1 Vergara) discussing the conduct of the "buy-bust" operation within the town of Aritao. During the meeting, PSI Dela Cruz designated him as the poseur buyer and gave him a P500.00 bill for use as buy-bust money.

From the Aritao police station, they proceeded to *Barangay Bone* for the execution of the first buy-bust operation which was directed against a certain Reynaldo Mazo (Mazo). Apparently, the operation was a success as they were able to apprehend Mazo and to bring him to the police station. While being interviewed by PSI Dela

Cruz, Mazo allegedly revealed the identities of the other people involved in the drug trade in the area. And so, their team planned another buy-bust operation. This time, the subject of their operation was herein appellant who lived in *Barangay Calitlitan* of the same town. Their team arrived at appellant's house at around seven o'clock in the evening. Upon their arrival, Mazo, who they brought along for the purpose of the buy-bust operation, introduced PO1 Valenzuela to appellant. Mazo told appellant that PO1 Valenzuela needed to buy *shabu*. Appellant then sought the permission of Caoile for the transaction. The latter allegedly agreed and so appellant went inside a room. When she returned, she pulled heat-sealed sachets from her pocket and handed them to Mazo who, in turn, gave appellant the marked P500.00 bill.^[7] Mazo then turned over to PO1 Valenzuela the items he got from appellant. Convinced that what appellant had given them was *shabu*, PO1 Valenzuela gave the pre-arranged signal to his companions who were then within the vicinity of appellant's house. PO1 Vergara and Police Chief Zaidee Daculog (Police Chief Daculog), entered the house and identified themselves as police officers. PO1 Vergara proceeded to frisk appellant and subjected her to a body search, but the procedure did not produce any contraband. For his part, PO1 Valenzuela went up to Caoile to prevent the latter from giving any aid to appellant. PO3 Lapeña also helped Police Chief Daculog in searching for more illegal drugs in the living room of appellant's house. Again, the search yielded nothing.

Appellant was then taken to the Aritao police station. It was there that PO1 Vergara put the markings on the four plastic sachets allegedly sold by appellant. Another police officer, PO1 Magdalena Alicum (PO1 Alicum), took over the preparation of the request for laboratory examination and transfer of the confiscated items to the provincial office of the PNP crime laboratory. When the prosecutor presented four marked plastic sachets, PO1 Valenzuela identified them to be the ones they recovered from appellant in the course of the buy-bust operation.

For its part, the defense presented Caoile, appellant's boyfriend, as its first witness. He testified that on 12 January 2004, he went to appellant's house and found her resting on the bed. After taking a brief rest, the two of them went outside to buy meat at a nearby store. Upon their return, he immediately went to the kitchen to prepare their food, while appellant sat on the hammock. Thereafter, Mazo arrived together with another man whom he identified as PO1 Valenzuela. According to him, Mazo was an acquaintance, as the latter's family was a customer of the store he used to work for. He claimed that it was appellant who talked to Mazo and the unidentified man while he remained in the kitchen and was unaware of what the conversation was all about. All of a sudden, more men barged inside appellant's house and started searching the living room and the bedroom. PO1 Valenzuela then told him that they had recovered *shabu*. Another police officer started frisking his front pocket but he slapped the latter's hand as he thought evidence might be planted against him. His back pocket was likewise searched and again, he slapped the police officer's hand. He claimed that he opted to tear up his back pocket and that he even offered to remove all his clothing to prove that he did not have any illegal drugs in his possession.

The police then invited appellant to the municipal police headquarters and he insisted on coming along to make sure that "nothing will happen" to her. Instead of heading straight to the headquarters, they first passed by the house of SPO2 Orero at Bone South where they were told to sit at the terrace while the police officers took a rest. From there, they proceeded to the Aritao police station.

Caoile added that he and appellant were not the only ones who were taken to the police headquarters that night for according to him, two individuals, Sarmiento and Valdez, were with them as well as Mazo himself.^[8]

Appellant also testified in her defense and her testimony corroborated that of Caoile. She claimed that she knew Mazo because he was one of the customers at the videoke bar where she used to work. Contrary to the statement of PO1 Valenzuela that Mazo negotiated the sale of *shabu* with her on the evening of her arrest, appellant insisted that PO1 Valenzuela merely asked her if she was aware of Mazo's drug-related activities. After she denied any knowledge of said activities, about five men wearing short pants barged into her house and started conducting a search until one of them declared that he had found *shabu*.

After the trial, the court *a quo* rendered its decision finding appellant guilty as charged, while Caoile was acquitted on the ground of reasonable doubt. The dispositive portion of the decision states:

WHEREFORE, the court finds the accused Marilyn Miranda guilty beyond reasonable doubt of violation of Section 5, Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002, and hereby imposes upon her the penalty of life imprisonment plus a fine of Five hundred thousand pesos (P500,000.00), and to pay the costs. Considering the insufficiency of evidence, the court hereby acquits Imeldo Caoili on reasonable doubt. He is hereby ordered released unless he is being held for some other valid cause or causes.

The methamphetamine hydrochloride subject of this case is hereby declared forfeited in favor of the government, to be destroyed in accordance with the aforesaid law. The clerk of court is directed to coordinate with the Philippine Drug Enforcement Agency for this purpose.

^[9]

In convicting appellant, the trial court declared that –

The court believes, and so holds, that the specimen positively tested for methamphetamine hydrochloride by forensic chemist Alfredo Quintero was the same taken from the accused. Chemistry Report No. D-003-2004 not only indicated the names of the suspects, Imeldo Caoili and Marilyn Miranda but also the markings "RCV" written on the specimen examined. These initials were written by PO1 Rodelia C. Vergara in the presence of PO1 Valenzuela. The latter also testified that the sachets were delivered to the crime laboratory and even identified the receipts evidencing such delivery. More importantly, he identified the sachets in court and the accused had the opportunity to cross-examine him on this point (Peo. v. Babac, 204 SCRA 968). Finally, the presumption of regularity in the performance of official duties applies to this case, especially in the absence of any proof of any ulterior motive for the public officers to testify against the accused. The court therefore entertains no doubt that the sachets marked "RCV" were the very ones given by the accused Miranda to Mazo and Valenzuela during the buy-bust operation.

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On 19 October 2004, appellant filed a Notice of Appeal,^[11] which was granted by the trial court in its Order,^[12] dated 22 October 2003, thereby elevating the case to the Court of Appeals.

On 30 June 2006, the Court of Appeals promulgated the herein assailed Decision affirming the appellant's conviction, thus:

WHEREFORE, the appealed Decision of the Regional Trial Court of Nueva Vizcaya (Branch 37), dated October 9, 2004, is **AFFIRMED**. Costs against the appellant.^[13]

The Court of Appeals reiterated the oft-cited rule that factual findings of the trial court especially on the credibility of witnesses are accorded great weight and respect because of the trial court's unequalled opportunity to observe the demeanor and conduct of the witnesses. In this case, PO1 Valenzuela's testimony with regard to the buy-bust operation was found to be convincing, credible, and sufficient to support a finding of guilt beyond reasonable doubt. The Court of Appeals also held that when a police officer, such as PO1 Valenzuela, was not moved by ill motive to testify falsely against an accused, courts are inclined to uphold the presumption of regularity in the performance of his duty.

The Court of Appeals likewise brushed aside appellant's argument that the evidence's chain of custody was not established for it was not shown that what were allegedly sold to the poseur-buyer and taken from appellant were the same ones actually forwarded to the crime laboratory. The Court of Appeals held that –

We note that while the marking of the sachets in this case was not done by the arresting officers in strict compliance with Section 21, Article II of R.A. No. 9165 (The Comprehensive Dangerous Drugs Act of 2002), there is no doubt that the plastic sachets of shabu with the markings "RCV," referring to the initials of arresting officer PO1 Rodelio C. Vergara (PO1 Vergara), contained the same specimens recovered from the appellant. PO1 Valenzuela affirmed that this (sic) markings were made by PO1 Vergara in his presence. He also specifically narrated the incident from the time appellant turned over the plastic sachets to him until the time they were marked by PO1 Vergara in his presence and finally when the same was referred to the forensic chemist for qualitative examination. As correctly noted by the trial court, PO1 Valenzuela witnessed the delivery of the sachets of shabu to the Crime Laboratory and even identified the receipts evidencing such delivery. There is no question, therefore, that the identity of the prohibited drug in this case was certainly safeguarded.^[14]

Because of the adverse ruling of the Court of Appeals, appellant now seeks the review of her case by this Court. On 29 November 2006, we required the parties to submit their respective supplemental briefs if they so desired.^[15]

On 23 January 2007, appellant filed her Manifestation stating that she was adopting her Appellant's Brief dated 21 June 2005 filed before the Court of Appeals as her supplemental brief.^[16]

Appellant makes a lone assignment of error:

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.^[17]

Appellant argues that the prosecution failed to establish the elements of the crime she was charged with. She points out that other than the testimony of the alleged poseur-buyer, the prosecution failed to present any other evidence that the alleged buy-bust transaction took place. Moreover, she contends that the only subject of the police operation on that day was Mazo, while the operation involving her arose only out of what Mazo had supposedly told the police officers. To bolster her claim of innocence, she also draws our attention to the fact that the warrantless search of her house conducted by the police did not yield any incriminating evidence against her. She also contends that while the alleged buy-bust operation transpired at around seven o'clock in the evening, the excerpt from the police blotter showed that it was only at around nine o'clock of the same night when the alleged marked money used by the police was recorded therein. Appellant also argues that the chain of custody of the four sachets of *shabu* purportedly recovered from her was not established and that the prosecution failed to prove that the plastic sachets forwarded to the crime laboratory for examination were indeed the ones she "sold" to PO1 Valenzuela. Thus, appellant contends that the police failed to prove that the contraband items were first weighed before they were turned over to the crime laboratory.

In its Supplemental Brief, the Office of the Solicitor General (OSG) counters that the chain of custody over the confiscated drug was duly established by the prosecution. It argues that the issue of the faithful handling of the *shabu* was never raised during the trial of this case and that appellant is belatedly raising such issue on appeal. And even if said question would be considered, the OSG opines that it should not affect the outcome of the case, for the chain of custody was proven in that PO1 Valenzuela testified regarding the conduct of the buy-bust, his transfer of the possession of the *shabu* to PO1 Vergara, the latter's marking of the plastic sachets, and PO1 Alicum's preparation of the request for laboratory examination and the turnover of the illegal drug to the crime laboratory.

The OSG also insists that the prosecution had discharged its burden of proving appellant's guilt beyond reasonable doubt for the elements of the crime she was charged with were established during the trial.

At the outset, we address the argument raised by the OSG that it is now too late for appellant to raise the issue of chain of custody on appeal. Such stance clearly overlooks one of the distinctions between a criminal case and a civil case. To reiterate, an appeal in a criminal case opens the entire case for review. The reviewing tribunal can correct errors though unassigned in the appeal, or even reverse the trial court's decision on grounds other than those the parties raised as errors.^[18] Notwithstanding this, we still find no cogent reason warranting the acquittal of appellant in this case.

A buy-bust operation is a form of entrapment whereby ways and means are employed for the purpose of trapping and capturing lawbreakers in the execution of their plan.^[19] It has become a familiar and much-resorted to procedure to apprehend lawless elements and to put a dent on the proliferation of criminal