

THIRD DIVISION

[G.R. No. 210677, August 23, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ABUNDIO M. SARAGENA, ACCUSED-APPELLANT.**

DECISION

LEONEN, J.:

When the quantity of the confiscated substance is miniscule, the requirements of Section 21 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, must be strictly complied with.^[1]

The prosecution's failure to present the police officer who acted as the poseur-buyer in the buy-bust operation, which allegedly involved 0.03 grams of shabu, coupled with the improbability that the two (2) apprehending police officers witnessed the transaction at night time, engenders reasonable doubt on the guilt of the accused. The prosecution's failure to sufficiently establish the chain of custody in accordance with the law further amplifies the doubt on accused's guilt.

In its April 2, 2013 Decision,^[2] the Court of Appeals upheld Abundio Mamolo Saragena's^[3] (Saragena) conviction in the Regional Trial Court Judgment dated August 21, 2008.^[4]

This Court reverses his conviction and acquits him of the sale of dangerous drugs under Section 5 of Republic Act No. 9165.

On September 23, 2005,^[5] SPO1 Roldan Paller (SPO1 Paller) received information that a certain "Tatay"^[6] was selling illegal drugs at Sitio Sindulan, Brgy. Mabolo, Cebu City.^[7] "Tatay's" exact address was unknown.^[8]

A buy-bust team was formed, composed of SPO3 Raul Magdadaro (SPO3 Magdadaro) as team leader, PO1 Roy Misa (PO1 Misa)^[9] as poseur-buyer, and SPO1 Paller as back-up.^[10] SPO1 Paller called the Philippine Drug Enforcement Agency for coordination on the buy-bust operation.^[11] SPO1 Paller, SPO3 Magdadaro, and PO1 Misa held a briefing before jump-off. A buy-bust money of P100.00, bearing the serial no. VT129780, was handed to PO1 Misa.^[12]

On June 23, 2005, at about 7:00 p.m., the buy-bust team headed to Sitio Sindulan in their service vehicle.^[13] An informant helped them locate the house of accused-appellant,^[14] Saragena, alias "Tatay."^[15] The police officers parked three (3) comers away from accused-appellant's house.^[16]

As the designated poseur-buyer, PO1 Misa walked towards accused-appellant's

house.^[17] SPO1 Paller and SPO3 Magdadaro trailed behind him.^[18] Accused-appellant's house was located at the back of a stage.^[19] As PO1 Misa drew closer to the target site, SPO1 Paller and SPO3 Magdadaro hid themselves at the side of the stages^[20] beside the basketball court.^[21] The distance between the designated poseur-buyer and the two (2) back-up officers were about five (5) to eight (8) meters.^[22]

Outside accused-appellant's house,^[23] PO1 Misa convinced the suspect to sell him shabu.^[24] PO1 Misa handed the P100.00 bill as payment, for which he received a "pack of white crystalline substance."^[25] SPO1 Paller and SPO3 Magdadaro then rushed to the scene^[26] and introduced themselves as police officers.^[27] SPO1 Paller conducted a body search on accused-appellant and recovered the buy-bust money. Accused-appellant was brought to the police station.^[28]

PO1 Misa retained custody of the plastic pack, while SPO1 Paller took the buy-bust money from accused-appellant.^[29] At the police station,^[30] PO1 Misa turned over the plastic pack to their team leader, SPO3 Magdadaro,^[31] who then marked it with the letters "AS."^[32] The incident was logged in the police blotter.^[33]

SPO3 Magdadaro wrote a letter-request for laboratory examination of the seized and marked plastic pack, signed by Chief Police Superintendent Armando Macolbacol Radoc.^[34] PO1 Misa, accompanied by SPO1 Paller,^[35] delivered SPO3 Magdadaro's letter-request and the seized plastic pack to the Philippine National Police Crime Laboratory in Cebu City.^[36] A certain PO2 Roma received the letter-request and the specimen from PO1 Misa and then delivered these items to P/S Insp. Pinky Sayson-Acog (P/S Insp. Acog),^[37] a forensic chemist.^[38]

On June 23, 2005,^[39] P/S Insp. Acog found the plastic pack marked as "AS" to be positive for methamphetamine hydrochloride.^[40] She entered her findings in her Chemistry Report No. D-89G-2005,^[41] marked the specimen as "D-890-05," and put her initials, "PSA."^[42]

On the other hand, according to the defense, accused-appellant was at home when three (3) armed police officers kicked the door of his house.^[43] He recognized PO1 Misa, SPO1 Palter, and SPO3 Magdadaro as they frequented illegal cockfights^[44] and would take turns asking for the defeated fighting cock.^[45] The police officers held accused-appellant.^[46] One (1) of them searched his pockets but found nothing. They also searched his house.^[47]

Despite the lack of contraband found, accused-appellant was sent to the Mabolo Police Station. He inquired why he was being arrested. The buy-bust team told him that they were able to buy shabu from him.^[48] Denying this accusation, accused-appellant asserted that they planted the evidence.^[49]

An Information was filed against accused-appellant for the illegal sale of a dangerous drug under Section 5 of Republic Act No. 9165, as follows:

That on or about the 23rd day of June, 2005, at about 7:00 P.M. in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, and without authority of law, did then and there sell, deliver or give away to a poseur buyer:

one (1) heat[-]sealed transparent plastic pocket containing 0.03 gram[s] of white crystalline substance locally known as "SHABU" containing methylamphetamine (sic) hydrochloride, a dangerous drug.

CONTRARY TO LAW.^[50]

On August 21, 2008, the Regional Trial Court convicted^[51] accused-appellant of the crime charged. The dispositive portion of the Decision read:

In fine, the prosecution has successfully discharged its task to adduce evidence to obtain a conviction.

For all the foregoing, accused is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of one million pesos.

The plastic pack of shabu is order[ed] forfeited in favor of the government.

SO ORDERED.^[52]

Accused-appellant appealed^[53] before the Court of Appeals.

The Court of Appeals found that the police officers failed to comply with the compulsory procedure on the seizure and custody of dangerous drugs under Section 21 of Republic Act No. 9165 or the chain of custody rule. Nevertheless, it justified the noncompliance by applying the exception in the same provision.^[54]

On April 2, 2013, the Court of Appeals convicted^[55] accused-appellant. The dispositive portion of the Decision read:

After due consideration, We resolve that accused-appellant has not overcome the evidence presented by the prosecution against him. This Court finds accused-appellant **GUILTY** beyond reasonable doubt of violation of Section 5, Article II, Republic Act No. 9165.

WHEREFORE, the instant appeal is **DENIED**. The RTC's judgment dated August 21, 2008 is **AFFIRMED**.

SO ORDERED.^[56] (Emphasis in the original)

For resolution of this Court is the sole issue of whether or not accused-appellant Abundio Mamolo Saragena is guilty beyond reasonable doubt of violation of Section 5 of Republic Act No. 9165. Subsumed in this issue is the matter of whether or not the law enforcement officers substantially complied with the chain of custody rule.

This Court rules in favor of accused-appellant.

I

Absent proof beyond reasonable doubt, accused-appellant is presumed innocent of the crime charged.

Section 14(2) of Article III of the Constitution provides that "[i]n all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved[.]" To overcome this constitutional presumption, prosecution must establish accused's guilt beyond reasonable doubt.^[57]

Proof beyond reasonable doubt does not require absolute certainty; it only requires moral certainty or the "degree of proof which produces conviction in an unprejudiced mind,"^[58] Thus:

Reasonable doubt is that doubt engendered by an investigation of the whole proof and an inability after such investigation to let the mind rest ea[sy] upon the certainty of guilt. Absolute certainty of guilt is not demanded by the law to convict a criminal charge, but moral certainty is required as to every proposition of proof requisite to constitute the offense.^[59]

The legal presumption of innocence prevails if the judge's mind cannot rest easy on the certainty that the accused committed the crime. In *People v. Santos*:^[60]

The prosecution has the burden to overcome such presumption of innocence by presenting the quantum of evidence required. Corollarily, the prosecution must rest on its own merits and must not rely on the weakness of the defense. If the prosecution fails to meet the required quantum of evidence [of proof beyond reasonable doubt], the defense may logically not even present evidence on its own behalf. In which case, the presumption of innocence shall prevail and hence, the accused shall be acquitted.^[61]

This rule is borne by the need to evenly balance the State's encompassing powers to prosecute and the defense's arduous struggle for liberty.^[62] It addresses the inherent inequality in resources, command, capacity, and authority between the State and an accused.^[63] In *People v. Berroya*:^[64]

[P]roof beyond reasonable doubt lies in the fact that "(i)n a criminal prosecution, the State is arrayed against the subject; it enters the contest with a prior inculpatory finding in its hands; with *unlimited means of command*; with counsel usually of authority and capacity, who are regarded as public officers, and therefore as speaking semi-judicially, and with an attitude of tranquil majesty often in striking contrast to that of defendant engaged in a perturbed and distracting struggle for liberty[,], if not for life. These inequalities of position, the law strives to meet by the rule that there is to be no conviction when there is a reasonable doubt of guilt."^[65] (Emphasis supplied, citation omitted)

II

There is great possibility of abuse in drug cases, especially those involving miniscule amounts. This Court has recognized that buy-bust operations could be initiated based on dubious claims of shady persons, or that small amounts of illicit drugs could be planted as evidence on innocent individuals, in view of the secrecy surrounding drug deals in general. Thus:

"[B]y the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great." Thus, *the courts have been exhorted to be extra vigilant in trying drug cases lest an innocent person is made to suffer the unusually severe penalties for drug offenses*[.]^[66] (Emphasis supplied)

Therefore, courts must subject "the prosecution evidence through the crucible of a *severe testing* . . . [T]he presumption of innocence requires them to take a more than casual consideration of every circumstance or doubt favoring the innocence of the accused."^[67] In deliberating the accused's guilt, courts must exercise "utmost diligence and prudence."^[68] More importantly, they must be on their guard in trying drug cases; otherwise, they risk meting severe penalties to innocent persons.^[69]

Here, there is reasonable doubt that the sale of shabu took place.

Section 5 of Republic Act No. 9165 penalizes any person who sells a dangerous drug, regardless of quantity. To successfully convict an accused under this provision, the prosecution must establish the identities of the buyer and the seller, the item sold, and the consideration given for it. There must be an actual sale, consummated through delivery and payment. Finally, the *corpus delicti* must be presented in court as evidence.^[70]

According to accused-appellant, SPO3 Magdadaro's allegation of having "clearly" seen the exchange of money and the pack of shabu between accused-appellant and PO1 Misa is "quite disturbing."

It is unclear how SPO1 Paller and SPO3 Magdadaro allegedly witnessed the purported sale. The alleged illegal drug was of very small quantity, It weighed only 0.03 grams,^[71] approximately as light as a grain of rice^[72] or an ant.^[73] The alleged transaction between PO1 Misa and accused-appellant happened five (5) to eight (8) meters away from SPO3 Magdadaro.^[74] While PO1 Misa was allegedly buying shabu from accused-appellant, SPO1 Paller and SPO3 Magdadaro were hiding at the side of the stage. Accused-appellant's house was at the back of this stage where they hid.^[75] Likewise, it was already 7:00 p.m. and the night time would have impaired their vision.

PO1 Misa, the only person who could attest to the commission of the crime, was not presented in court.^[76] The poseur-buyer "had personal knowledge of the transaction since he conducted the actual transaction."^[77] His testimony is crucial in establishing the alleged facts and circumstances surrounding the purported sale.^[78]