

THIRD DIVISION

[G.R. No. 207517, June 01, 2016]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RAUL AMARO Y CATUBAY ALIAS "LALAKS," APPELLANT.

DECISION

PERALTA, J.:

On appeal is the August 26, 2011 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR HC No. 00953, which sustained the July 14, 2008 Decision^[2] of the Regional Trial Court (RTC), Branch 30, Dumaguete City, Negros Oriental, in Criminal Case No. 17679, convicting appellant Raul Amaro y Catubay (*a.k.a.* "Lalaks") of illegal sale of Methamphetamine Hydrochloride, commonly known as shabu, in violation of Section 5, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

On July 7, 2005, an Information was filed against appellant Amaro, which reads:

That on or about the 6th day of July 2005, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being authorized by law, did, then and there wilfully, unlawfully and feloniously sell and deliver to a police poseur-buyer one (1) heat-sealed transparent plastic sachet containing 0.01 grams of white crystalline substance, of Methamphetamine Hydrochloride, commonly called shabu, a dangerous drug.

Contrary to Section 5, Article II of R.A. 9165.^[3]

In his arraignment, Amaro pleaded "Not Guilty."^[4] Trial ensued while he was detained in the city jail.^[5]

The prosecution presented witnesses from the PNP Dumaguete Station (PO3 Remby Abella, PO2 Pio Barandog, Jr., and SPO2 Douglas Ferrer), the PNP Provincial Crime Laboratory Office (Police Senior Inspector Maria Ana Rivera-Dagasdas), the Philippine Drug Enforcement Agency (SPO1 Manuel Sanchez and SPO1 Allen June Germodo), and the media (Reysan Elloren and Juancho Gallarde). Their version of facts are as follows;

At about 11:30 a.m. on July 6, 2005, a team composed of the members of the Intelligence Operatives Section of the PNP Dumaguete Station, PDEA, and National Bureau of Investigation, implemented a buy-bust operation against Amaro in his residence located in Looc, Dumaguete City. The plan was brought about by reports received by the Intelligence Operatives of the police station that Amaro was engaged in the illegal trade of selling shabu.

The team was also armed with a search warrant, which was the result of surveillance and test buy conducted prior to the buy-bust operation. It was agreed that the buy-bust would be executed prior to the warrant. PO3 Abella was designated as the poseur-buyer. SPO2 Ferrer handed him two (2) one hundred peso (P100.00) bills, which he marked with "RA," referring to the initials of Amaro:

As planned, while the rest of the buy-bust team concealed themselves and served as back-up, PO3 Abella approached Amaro at the back portion of his house and negotiated for the purchase of P200.00 worth of shabu. When Amaro received the P200.00 marked money that PO3 Abella gave him, he went inside the house. Going back, he handed over to PO3 Abella a sachet of white crystalline substance. Upon examination, PO3 Abella immediately told him that he is a police officer and placed him under arrest. In reaction, Amaro ran inside the house, but was chased and caught by PO3 Abella. He was informed of the reason for his arrest and was apprised, in the local dialect, of his constitutional rights. A body search conducted on him resulted in the recovery of the marked bills inside his pocket.

The rest of the buy-bust team then entered Amaro's residence to serve and implement the search warrant. Barangay Councilor Nelson Merced as well as mediamen Elloren and Gallarde were present to witness. After the search, PO3 Abella marked the sachet containing shabu with "LA-BB 7-6-05" (signifying "Lalaks Amaro-Buy Bust" and the date of seizure). The sachet and the marked money^[6] recovered were inventoried by PO3 Abella and the receipt^[7] was signed by the team members and witnesses. A photograph^[8] was also taken by PO2 Barandog, Jr. to document the event.

The day after, on July 7, 2005, PO3 Abella brought to the PNP Provincial Crime Laboratory Office for qualitative examination the sachet of shabu aside from the other items confiscated during the implementation of the warrant. The letter-request^[9] and the confiscated items were received by forensic chemist, PSI Dagasdas. Per Chemistry Report No. D-117-05^[10] and Certification,^[11] she found that the specimen bought from Amaro, which weighed 0.01 gram, was positive for methamphetamine hydrochloride.

Only Amaro testified for the defense. While he admitted that illegal drugs were being openly sold in Looc where he had lived for almost ten years, he denied that he was selling shabu. He testified that he was in his house at noontime of July 6, 2005 when PO2 Barandog, Jr., SPO1 Sanchez, and SPO1 Germodo kicked the door and went inside; that the policemen searched the house pursuant to a warrant, which was shown to him, but they were not able to recover anything; and that even if they were neither friends nor enemies, he knew. PO3 Abella and PO2 Barandog, Jr. because they used to pass by his house and often saw them conduct roving or arrest of people in the area.^[12]

On July 14, 2008, the RTC convicted Amaro of the crime charged. The dispositive portion of the judgment states:

WHEREFORE, judgment is hereby rendered finding the accused guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. 9165. He is sentenced to suffer the penalty of life imprisonment and pay the fine of P500,000.00 without any subsidiary imprisonment in case of

insolvency. The 0.01 gram of shabu, subject of this case, and the money used in the commission of the crime are hereby forfeited in favor of the government, and to be disposed of in accordance with law.

In the service of sentence, the accused shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.^[13]

According to the RTC, Amaro had long been identified by the authorities as engaged in the selling of shabu, which lends credence to the prosecution's version that a buy-bust operation actually took place. The court also found that the integrity of the evidence relative to the shabu sold to the poseur-buyer has been well preserved. Citing jurisprudence, it further held that the knowledge by the seller of

Amaro moved for a reconsideration of the Decision, but it was denied.^[14] Subsequently, the case was elevated to the CA via notice of appeal.^[15] However, convinced by the credibility of the prosecution witnesses and their testimony, the appellate court affirmed the RTC Decision.

In his Supplemental Brief filed before Us, Amaro notes that the trial court judge who promulgated the July 14, 2008 Decision was not the same judge who observed the testimony of PO3 Abella; hence, the CA cannot rely on the trial court's determination on the witnesses' credibility. Further, he finds it odd that while the testimony of PO3 Abella was found untenable in the case for illegal possession,^[16] it was considered as credible to convict him for illegal sale. Lastly, Amaro contends that the presumption of regularity in the performance of official function cannot defeat the accused person's constitutional right to be presumed innocent.

The appeal is unmeritorious.

According to Amaro, the trial court effectively said in its May 21, 2008 Resolution that PO3 Abella had planted evidence against the accused, which removed the presumption of regularity in the conduct of the police officer for such ill will. In addition; despite that the police officers were already armed with a search warrant, the police operatives still resolved to first execute the buy-bust rather than just serve the warrant.

The pertinent portion of the May 21, 2008 Resolution states:

A cursory reading of the transcript of stenographic notes taken during the direct and cross examination of witness Reysan Elloren reveals that his testimony touches on the very core, the *corpus delicti*, of the crime charged in Criminal Case No. 17682, for possession of a dangerous drug. His declaration was to the effect that no drugs were found in the house and on the person of the accused and that a police officer brought the drugs recovered from the other house, not the house of the accused, and placed them on the table. On the other hand, PO3 Abella testified that he found the shabu on the table in the kitchen of the house of the accused.

Their testimonies, taken together, could bring about the inference that PO3 Abella found the shabu which was recovered from another house by a police officer who put the same on the table in the house of the accused; ownership of said shabu was then attributed to the latter. Thus, the element that *accused freely and consciously possessed the dangerous drug* has not been satisfied. It is on this score alone that the Court hereby reconsiders its ruling on the Demurrer to Evidence filed by the accused, but only insofar as Criminal Case No. 17682 is concerned.^[17]

Nowhere from the above-quoted could We infer the supposed conclusion of the RTC that PO3 Abella lacked good faith because he planted evidence against the accused. In fact, even the trial court categorically stressed in its Order^[18] dated September 18, 2008, which denied Amaro's motion for reconsideration, that, with the dismissal of Criminal Case No. 17682, there was never a finding of ill motive against PO3 Abella or that he planted evidence against Amaro.

Amaro had the burden of proof to overcome the presumption that the police officers handled the seized drugs with regularity, and that they properly performed their official duties. He failed. Other than erroneously relying on the purported finding of the trial court, no bad faith or planting of evidence was actually shown. He did not ascribe any improper motive on the part of the police officers as to why they would choose to falsely implicate him in a very serious crime that would cause his incarceration for life. For Amaro's failure to demonstrate with clear and convincing evidence that the members of the buy-bust operation team were illicitly motivated, or had failed to properly perform their official functions, the testimonies of prosecution witnesses deserve full faith and credit.

Amaro further argues that the way the alleged buy-bust had happened proves to be very dubious. He claims that while the street value of shabu has been pegged at around P2,000.00 per gram, the sachet of shabu involved in this case contains only 0.01 gram but was sold at P200.00 or ten (10) times more than what such quantity was actually worth; such quantity of shabu is impossible to be consumed as it is not even enough to be partaken; and the alleged buy-bust operation could not actually transpire since Amaro admitted that he already knew the police officers involved in view of their numerous operations in the Looc area. These issues are purely factual in nature that require the presentation of evidence and appreciation of probative value by the trial court. And, assuming them to be true, they are immaterial for the conviction of the crime charged.

For a successful prosecution of illegal sale of dangerous drugs under Section 5, Article II of R.A. 9165, the following elements must be satisfied: (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and the payment therefor.^[19] In the crime of illegal sale of dangerous drugs, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money consummate the illegal transaction.^[20] What matters is the proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited drug, the *corpus delicti*, as evidence.^[21]

In this case, the Court believes and so holds that all the requisites for the illegal sale of shabu were met. As demonstrated by the testimonies of the prosecution witnesses and the supporting documents they presented and offered, the identities