

THIRD DIVISION

[G.R. No. 208837, July 20, 2016]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DONNA RIVERA Y DUMO, ACCUSED-APPELLANT.

R E S O L U T I O N

PEREZ, J.:

Before this Court is an appeal from the 16 May 2013 Decision^[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 05117, which affirmed the 29 June 2011 Decision^[2] of the Regional Trial Court (RTC) of Agoo, La Union, Branch 32, finding appellant Donna River y Dumo guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II, Republic Act (R.A.) No. 9165.

The case stemmed from two Informations charging appellant with illegal sale and possession of methamphetamine hydrochloride or *shabu*, the accusatory portions of which read as follows:

Criminal Case No. A-5711 (Possession)

That on or about the 26th day of January 2009, in the Municipality of Agoo, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously have in (her) possession, control and custody three (3) pieces plastic sachet marked as:

- (1) "B1 JJC" containing methamphetamine hydrochloride, a dangerous drug, weighing zero point zero five hundred thirty 0.0530 gram;
- (2) "B2 JJC" containing methamphetamine hydrochloride, a dangerous drug, weighing zero point zero five hundred sixty five 0.0565 gram;
- (3) "B3 JJC" containing methamphetamine hydrochloride, a dangerous drug, weighing zero point zero five hundred fifty four 0.0554 gram;

without first securing the necessary permit, license or prescription from the proper government agency or authority.^[3]

Criminal Case No. A-5713 (Sale)

That on or about the 26th day of January 2009, in the Municipality of Agoo, Province of La Union, Philippines and within the jurisdiction of [this] Honorable Court, the above-named accused, for and in consideration of the sum of P500.00 did then and there willfully,

unlawfully and feloniously, sell and deliver one (1) plastic sachet containing ZERO POINT ZERO FOUR HUNDRED EIGHTY FOUR (0.0484) gram of methamphetamine hydrochloride, a dangerous drug, to IO1 JAIME J. CLAVE, JR., who posed as buyer thereof using marked money, ONE (1) piece of TWO hundred peso bill bearing serial No. DQ540638; TWO (2) pcs. of ONE HUNDRED PESOS bill bearing serial nos. of EQ913638 and JM093792 respectively and FIVE (5) PCS. TWENTY PESOS bill bearing serial nos. of W783296; SC613989; V500855; W637658 and ZG282032 respectively without the necessary authority or permit from the proper government authorities.^[4]

Upon arraignment, appellant pleaded not guilty to both charges. Trial on the merits ensued.

Acting on a tip from an informant, that appellant was selling drugs in San Nicolas Central, Agoo, La Union and upon confirmation with the Intelligence Division of the Philippine Drug Enforcement Agency (PDEA) Regional Office in San Fernando City, La Union, Police Officer 3 Roy Arce Abang (PO3 Abang) formed a buy-bust team on 26 January 2009 composed of Intelligence Officer 2 Jaime Clave (IO2 Clave) as poseur buyer and Lanibelle Ancheta (Ancheta), as immediate back-up. Intelligence Officers Rosario Vicente (Vicente), Jojo Cayuma (Cayuma), Ricky Ramos (Ramos) and IO2 Natividad also joined the operation.^[5]

IO2 Clave was given five (5) pieces of P20.00 bill, one (1) piece of P200.00 bill and two (2) pieces of P100.00 bill to be used as buy-bust money.^[6] The team proceeded to the target area, IO2 Clave and the informant approached appellant, who was then seated on a bamboo bench. The informant introduced IO2 Clave to appellant as the one who wanted to buy *shabu* worth P500.00. IO2 Clave then gave appellant the marked bills. Appellant, in turn, took out an elongated plastic sachet from her pocket and handed it to IO2 Clave. Upon inspection of the sachet, IO2 Clave sent his pre-arranged signal to the other PDEA officers by wearing his sunglasses on top of his head. Ancheta then rushed to IO2 Clave's side and introduced themselves as PDEA officers. Appellant was arrested and subjected to a body search. Three (3) more elongated plastic sachets and four (4) small plastic sachets of suspected *shabu* were recovered from her. The confiscated items were marked and inventoried by IO2 Clave in the presence of the *barangay* officials, a representative from the media and other witnesses.^[7] IO2 Clave brought them to the PNP Crime Laboratory for examination.^[8] Chemistry Report No. D-007-09 contains the following findings:

SPECIMEN SUBMITTED:

A - Four (4) small heat-sealed transparent plastic sachets containing white crystalline substance with the following markings and recorded net weights:

- A1 (A1 "JJC" with date and time) = 0.0484 gram
- A2 (B1 "JJC" with date and time) = 0.0530 gram
- A3 (B2 "JJC" with date and time) = 0.0565 gram
- A4 (B3 "JJC" with date and time) = 0.0554 gram

B - Four (4) small heat-sealed transparent plastic sachets containing white crystalline residue with markings "C1 to C4" and "JJC".

x x x x

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of dangerous drugs. x x x

FINDINGS:

Qualitative examination conducted on the above-stated specimens gave POSITIVE result to the test for the presence of Methamphetamine Hydrochloride, a dangerous drug. x x x^[9]

In her defense, appellant presented a different version of the incident. She narrated that on 26 January 2009 at around 4:00 p.m., she was waiting for her grandmother on a bench located outside the latter's house when five armed men approached her and asked if she was "Donna Rivera." Appellant confirmed her identity. She was thereafter frisked. She and her live-in partner were arrested and brought to the PDEA office. Her live-in partner was later released while she was detained. She further claimed that during the investigation, she was not accompanied by counsel.^[10]

On 29 June 2011, the RTC rendered a Decision finding appellant guilty of sale and illegal possession of *shabu*, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered, to wit:

1. In Criminal Case No. A-5711, the [c]ourt finds accused Donna Rivera y Dumo **guilty** beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165, and hereby sentences her to suffer the indeterminate penalty of twelve (12) years and one (1) day as minimum to fifteen (15) years as maximum, and to pay a fine of three hundred thousand pesos (P300,000.00).
2. In Criminal Case No. A-5712, the [c]ourt finds accused Donna Rivera y Dum *guilty* beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, and hereby sentences her to suffer the penalty of life imprisonment, and to pay a fine of five hundred thousand pesos (P500,000.00)

The Branch Clerk of Court is directed to transmit the eight (8) plastic sachets subject matter of these cases to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.^[11]

On 16 May 2013, the Court of Appeals affirmed the judgment of the RTC. The appellate court held that the prosecution was able to prove beyond reasonable doubt that the three (3) elongated and four (4) smaller sachets, all containing *shabu*, were seized from appellant's possession. Furthermore, the appellate court found that a consummated sale of *shabu* transpired between IO2 Clave and appellant. The appellate court gave full credit to the testimony of the PDEA officers relative to the presence of all the elements for illegal possession and illegal sale of

shabu.

Appellant appealed her conviction before this Court, adopting the same arguments in her Brief^[12] before the Court of Appeals.

Appellant contends that the PDEA officers had sufficient time to secure a warrant of arrest but failed to do so. Appellant asserts that a buy-bust operation should not be used to dispense with the requirement of a warrant. Appellant insists that she was merely sitting on a bench and waiting for her grandmother when the PDEA officers came and apprehended her. Moreover, appellant argues that the items allegedly seized from her are not admissible in evidence because they were a product of an invalid warrantless arrest.

With these antecedents, we once more pronounce that factual findings of trial courts especially those which revolve on matters of credibility of witnesses deserve to be respected when no glaring errors bordering on a gross misapprehension of the facts, or where no speculative, arbitrary and unsupported conclusions, can be gleaned from such findings. The evaluation of the credibility of witnesses and their testimonies are best undertaken by the trial court because of its unique opportunity to observe the witnesses' deportment, demeanor, conduct and attitude under grilling examination.^[13]

After a painstaking review of the records, we agree with the trial court's finding that the guilt of the appellant was established beyond reasonable doubt.

In every prosecution for illegal sale of *shabu*, the following elements must be sufficiently proved: (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 therefor.^[14]

On the other hand, to prove the complicity of the accused to illegal possession of a dangerous drug, there must be proof that (1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug.^[15]

The prosecution has duly established all the elements of the two crimes charged. As culled from testimonies of prosecution witnesses, the PDEA officers caught appellant *in flagrante delicto* selling *shabu* to a PDEA officer. The delivery of the illicit drug to the poseur buyer and the receipt by the seller of the marked money successfully consummated the buy-bust transaction. After her arrest, she was frisked and eight (8) plastic sachets of *shabu* were recovered in her possession.

The result of the laboratory examination confirmed the presence of methamphetamine hydrochloride on the white crystalline substance inside the plastic sachets confiscated from appellant. This was further corroborated by the presentation of the marked money in evidence.

Denial or frame-up, like alibi, has been viewed by the court with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecutions for violation of the Dangerous Drugs Act.^[16] The defense of frame-up or denial in drug cases requires strong and convincing evidence because of the