

SECOND DIVISION

[G.R. No. 192284, March 11, 2015]

**ALEX TIONCO Y ORTEGA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

R E S O L U T I O N

DEL CASTILLO, J.:

Assailed in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court is the January 21, 2010 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 31924, which affirmed the August 29, 2008 Amended Decision^[2] of the Regional Trial Court (RTC), Manila, Branch 11 in Criminal Case No. 02-205012 finding petitioner Alex Tionco^[3] y Ortega (petitioner) guilty' beyond reasonable doubt of violation of Section 11(3), Article II of Republic Act No. 9165 (R.A. 9165) or The Comprehensive Dangerous Drugs Act of 2002. Also questioned is the CA's May 13, 2010 Resolution^[4] denying the motion for reconsideration thereto.

Factual Antecedents

In an Amended Information^[5] dated September 4, 2002, petitioner was charged with violation of Section 11(3), Article II of R.A. 9165, the pertinent portions of which read:

That on or about July 24, 2002, in the City of Manila, Philippines, :he said accused, without being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control white crystalline substance known as shabu placed in one (1) heat-sealed transparent plastic sachet weighing ZERO AND POINT ZERO FOUR SEVEN (0.047) GRAM, containing methylamphetamine hydrochloride, a dangerous drug, without the corresponding license or prescription thereof.

Contrary to law.^[6]

Petitioner entered a plea of not guilty to the charge Upon his arraignment on December 9, 2002.

During the pre-trial, the prosecution dispensed with the testimony of Forensic Chemist P/Insp. Judycel Macapagal (P/Insp. Macapagal) of the Western Police District (WPD) Crime Laboratory after the defense admitted that the drug specimen, together with the letter-request for laboratory examination, were personally delivered by PO1 Elymar Garcia (PO1 Garcia) to P/Insp. Macapagal and that the said specimen weighing 0.047 gram tested positive for *shabu* per her Chemistry Report.

[7] Likewise dispensed with after a stipulation during the trial was the testimony of the case investigator, PO1 Garcia.

Version of the Prosecution

At around 3:45 in the afternoon of July 24, 2002, PO1 Joel G. Sta. Maria (PO1 Sta. Maria) and PO1 Fernando Reyes were conducting an anti-criminality patrol in Parola Compound, Tondo, Manila. From a distance of about three meters, they saw petitioner holding and examining a plastic sachet with white crystalline substance believed to be *shabu*. They approached petitioner and after ascertaining the contents of the plastic sachet, confiscated the same. Petitioner was arrested, told of his alleged violation, and apprised of his constitutional rights. Thereupon, petitioner and the confiscated plastic sachet were brought to the police station where the seized item was marked by PO1 Sta. Maria with petitioner's initials "ATO" before turning it over to PO1 Garcia for investigation and disposition. PO1 Garcia prepared a letter request for the examination of the substance found inside the plastic sachet by the WPD Crime Laboratory. Together with PO1 Sta. Maria, PO1 Garcia then brought the seized item to the crime laboratory, which after examination by P/Insp. Macapagal, was found to be Positive for methamphetamine hydrochloride or *shabu*.

Version of the Defense

Petitioner denied the charges against him. He recounted that in the morning of July 24, 2002, he was sitting in front of his uncle's house when policemen approached and arrested him. When he asked them why he was being arrested, he was merely told to follow their instructions. He was brought to Police Station 2 where he was frisked but nothing illegal was found on him. He was detained after being informed that he violated the law pertaining to drugs. PO1 Sta. Maria demanded P6,000.00 from him in exchange for his release but no money was forthcoming.

Ruling of the Regional Trial Court

The RTC, in its Amended Decision^[8] of August 29, 2008, convicted petitioner, viz:

WHEREFORE, the foregoing premises considered, the Court in Criminal Case No. 02-205012, finds accused Alex Tionco y Ortega GUILTY beyond reasonable doubt of the crime of violation of Section 11(3), Art. II of R.A. 9165, and sentences him to imprisonment of twelve (12) years and one (1) day to fifteen (15) years and to pay a fine of P300,000.00.

SO ORDERED.^[9]

Ruling of the Court of Appeals

On appeal, the CA found the elements of illegal possession of dangerous drug present in the case. Moreover, it accorded the police officers the presumption of regularity in the performance of their duties since they were not impelled by improper motive in imputing the crime against petitioner. The CA also upheld the integrity and evidentiary value of the confiscated item after observing that its chain of custody was duly established. On the other hand, it did not give merit to

petitioner's assertion that it was highly improbable for him to openly display the sachet of *shabu* in broad daylight and for the police officers to see the same at a distance of three meters. This is in light of PO1 Sta. Maria's positive identification of petitioner as the person who unlawfully possessed the illegal drug. Anent the alleged inconsistency in the testimony of the said police officer with respect to petitioner's position at the time he was arrested, *i.e.*, whether he was facing his companion or leaning on the wall, the CA ratiocinated that the same is a peripheral matter which is inconsequential to the determination of petitioner's guilt. Thus, the dispositive portion of the CA's January 21, 2010 Decision:^[10]

WHEREFORE, the Amended Decision dated August 29, 2008 of the trial court is affirmed.

SO ORDERED.^[11]

Petitioner filed a Motion for Reconsideration,^[12] which was denied in a Resolution^[13] dated May 13, 2010.

Hence, this Petition for Review on *Certiorari*.

Issues

I.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION'S EVIDENCE [NOTWITHSTANDING] THE APPREHENDING TEAM'S FAILURE TO PROVE THE INTEGRITY AND IDENTITY OF THE ALLEGED CONFISCATED SHABU.

II.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE PETITIONER'S CONVICTION DESPITE THE PREVAILING IRREGULARITIES IN THE APPREHENDING OFFICERS' PERFORMANCE OF THEIR OFFICIAL DUTIES.^[14]

The Court's Ruling

The Petition is not impressed with merit.

The well-established rule is "that findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary and unsupported conclusions can be gathered from such findings."^[15] "[T]he determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, is accorded full weight and credit as well as great respect, if not conclusive effect."^[16] Here, there is no compelling reason to deviate from the findings of both the trial and appellate courts as explained hereunder.