

SECOND DIVISION

[G.R. No. 193768, March 05, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JERRY CARANTO Y PROPETA, ACCUSED-APPELLANT.

DECISION

PEREZ, J.:

On appeal is the 28 July 2010 Decision^[1] of the Court of Appeals (CA) in CA-G.R. C.R.-H.C. No. 01680. The CA affirmed the 7 October 2005 Decision of the Regional Trial Court (RTC), Branch 267, Pasig City, that found Jerry Caranto y Propeta (Jerry) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (R.A.) No. 9165 (The Comprehensive Dangerous Drugs Act of 2002) and imposed upon him the penalty of life imprisonment.

Jerry was charged under the criminal information,^[2] which reads:

That, on or about the 24th day of July 2002, in the Municipality of Taguig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did, then and there willfully, unlawfully and knowingly sell, deliver and give away to another one (1) heat sealed transparent sachet containing 0.39 gram of white crystalline substance, which was found positive to the test of Methylamphetamine (sic) Hydrochloride also known as "shabu", a dangerous drug, in consideration of the amount of PhP 500.00, in violation of [Section 5, Article II, Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002)].

The Facts

The antecedent facts were culled from the records of the case, particularly the Appellee's Brief^[3] for the version of the prosecution and the Appellant's Brief^[4] for the version of the defense.

Version of the Prosecution

On 24 July 2002, PO2 Danilo Arago (PO2 Arago) was inside the office of the Drug Enforcement Unit (DEU) of the Philippine National Police (PNP) in Taguig City when his informant approached him and reported that there was widespread selling of methamphetamine hydrochloride (*shabu*) by a certain Jojo at the latter's residence at No. 13 Santos Street, *Barangay* Calzada, Tipas, Taguig City.

PO2 Arago immediately reported the information to his superior, P/Supt. Ramon

Ramirez (P/Supt. Ramirez), who in turn organized a "buy-bust" operation to apprehend Jerry.

Inside P/Supt. Ramirez' office, PO2 Arago, along with the informant, PO3 Angelito Galang, SPO3 Arnuldo Vicuna, PO3 Santiago Cordova, PO2 Archie Baltijero and PO1 Alexander Saez, discussed the conduct of the "buy-bust" operation.

The team agreed that the informant would accompany the team to Jerry's residence where PO2 Arago would act as the *poseur buyer* while the rest of the team would serve as his back up. P/Supt. Ramirez thereafter provided the "buy-bust" money of five hundred pesos (P500.00), which PO2 Arago marked with his initials, "DBA."

At around 12:00 in the afternoon of the same day, the team proceeded to Jerry's residence. Upon nearing the area, the informant and PO2 Arago separated from the rest of the team. They walked ahead of their companions and proceeded towards Jerry's residence while the rest of the team hid in a corner some six to seven meters away from the two.

When they were about 10 to 20 meters when they got near him, from the house, the informant pointed PO2 Arago to Jerry and the informant introduced PO2 Arago to Jerry as a *balikbayan* who was looking for some shabu.

Jerry then asked them how much worth of *shabu* they planned to buy, to which informant answered Five Hundred Pesos (P500.00) worth. PO2 Arago then handed Jerry the marked money.

Upon receiving the money, Jerry went inside his house and after around thirty (30) seconds to one (1) minute, he returned and handed PO2 Arago a plastic sachet, which PO2 Arago suspected to be *shabu*.

After the completion of the transaction, Jerry noticed the informant and PO2 Arago's companions moving in from behind the two. Jerry immediately tried to flee but was stopped by PO2 Arago.

Seeing the scuffle between PO2 Arago and Jerry, the rest of the "buy-bust" team rushed towards them. After Jerry was subdued, PO2 Arago recovered the marked money inside Jerry's right pocket. Thereafter, the team introduced themselves as police officers, informed Jerry of his constitutional rights in Filipino and then returned to their station in Taguig City where Jerry was duly investigated.

Version of the Defense

Recalling what transpired on 24 July 2002, Jerry said that he went through his route as a tricycle driver from 6:00 a.m. until he went home around 12:00 in the afternoon to have lunch. He was at the rooftop of their house feeding the dog when policemen arrived looking for his father Cesar Caranto. The policemen kicked the door and forced it open. They held Jerry and told him that they would have to bring him in unless they get his father. Jerry told the policemen that he was not aware of his father's whereabouts because his father did not live with them anymore. The policemen frisked him and took his wallet. He was brought to the DEU and was thereafter hit by P/Supt. Ramirez on the chest. He denied that he sold any shabu.

The mother of Jerry, Teresita Propeta Caranto (Teresita), testified that on that date, she was at the Baclaran church attending mass when her daughter called and told her that her son Jerry was taken from their house and invited by policemen. She hurriedly went to the police station and cried when her son told her that the policemen mauled him. The policemen also asked money from her, but she did not give them anything as her son is innocent. Upon learning that her son's case was non-bailable, she went back to the police station and uttered invectives against the policemen who arrested her son.

More than a month after the incident or on 28 August 2002, Teresita, together with her son Christopher Caranto, her daughter Cynthia Caranto, and a housemaid, were arrested in Baclaran. A drug related case was also filed against them. They were incarcerated for about two years but they were eventually acquitted. Teresita filed a case against the policemen who arrested them and is also planning to file a case against the law officers who arrested her son Jerry.

At the pre-trial, the parties stipulated:^[5] 1) that a request has been made by the arresting officers for examination of the specimens confiscated; 2) that the forensic chemist P/Insp. Lourdeliza Gural (P/Insp. Gural) examined the specimens submitted and thereafter issued her initial and final laboratory report; 3) that P/Insp. Gural has no personal knowledge from whom the alleged specimens were taken and that the test conducted on the alleged specimen yielded positive to metamphetamine hydrochloride. After stipulations were made, the public prosecutor dispensed with the testimony of P/Insp. Gural. Thereafter, trial on the merits ensued.

The RTC Decision

On 7 October 2005, the RTC found Jerry guilty of the offense charged and imposed upon him the penalty of life imprisonment. The dispositive portion of the RTC decision is as follows:

WHEREFORE, in view of the foregoing considerations, the prosecution having proven the guilt of the accused beyond reasonable doubt, this Court acting as a Special Drug Court in the above-captioned case hereby finds JERRY CARANTO y PROPETA a.k.a. 'Jojo', accused in Criminal Case No. 11539-D, GUILTY as charged and is hereby sentenced to suffer **LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php 500,000.00).**

x x x x

Moreover, the *shabu* contained in one (1) heat sealed transparent plastic sachet containing 0.39 gram of shabu which is the subject matter of the above-captioned case is ordered to be immediately transmitted and/or submitted to the custody of the Philippine Drug Enforcement Agency (PDEA) for its proper disposition.^[6]

The CA Decision

The CA, in its assailed decision, affirmed the judgement of conviction by the RTC.

The appellate court ruled that Jerry's guilt was proven beyond reasonable doubt. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the instant appeal is hereby DISMISSED. The assailed Decision of the Regional Trial Court of Pasig City, Branch 267, subject of the appeal is AFFIRMED *in toto*.^[7]

In a Resolution^[8] dated 22 November 2010, we required the parties to file their respective supplemental briefs. The prosecution manifested that it was no longer filing any supplemental brief.^[9] The issues raised in appellant's supplemental brief^[10] were similar to those previously raised to the appellate court. The appellant raises the following assignment of errors:

I.

THE TRIAL COURT GRAVELY ERRED IN NOT FINDING THE ACCUSED-APPELLANT'S SEARCH AND ARREST AS ILLEGAL.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[11]

Ruling of this Court

It should be noted that the significant issues, as discussed below, were initially raised by Jerry in his Memorandum^[12] filed with the RTC. Unfortunately, the RTC failed to discuss the issues raised when it rendered its 7 October 2005 decision. On the other hand, the Brief for Jerry filed with the CA was wanting of said pertinent issues. In effect, the CA, likewise, failed to include in its discussion said issues. Upon appeal, the Supplemental Brief for Jerry filed with this Court once again raised and expounded on said issues. Given the foregoing circumstances and in the interest of justice, this Court gives due consideration to the issues raised in Jerry's Supplemental Brief. The Court refuses to turn a blind eye on the importance of the rights of the accused. For this reason, we consider the required procedure for the timely raising of issues, substantially complied with.

Jerry was arrested during a buy-bust operation conducted on 24 July 2002 by the members of the DEU of the Taguig PNP. A buy-bust operation is a form of entrapment employed by peace officers to apprehend prohibited drug law violators in the act of committing a drug-related offense.^[13] We agree with the appellate court when it opined that:

x x x [T]here is no rigid or textbook method of conducting buy-bust operations. The choice of effective ways to apprehend drug dealers is within the ambit of police authority. Police officers have the expertise to

determine which specific approaches are necessary to enforce their entrapment operations.^[14]

The built-in danger for abuse that a buy-bust operation carries cannot be denied. It is essential therefore, that these operations be governed by specific procedures on the seizure and custody of drugs. We had occasion to express this concern in *People v. Tan*,^[15] when we recognized that “by the very nature of anti-narcotic operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which illegal drugs can be planted in the 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.”^[16]

Moreover, we have time and again recognized that a buy-bust operation resulting from the tip of an anonymous confidential informant, although an effective means of eliminating illegal drug related activities, is “susceptible to police abuse.” Worse, it is usually used as a means for extortion.^[17] It is for this reason, that the Court must ensure that the enactment of R.A. No. 9165 providing specific procedures to counter these abuses is not put to naught.^[18]

Non-compliance with the requirements of Section 21, par. 1 of Article II of R.A. No. 9165

The required procedure on the seizure and custody of drugs is embodied in Section 21, paragraph 1, Article II of R.A. No. 9165, which states:

1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, **physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated** and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof. (Emphasis supplied)

This is implemented by Section 21(a), Article II of the *Implementing Rules and Regulations* of R.A. No. 9165, which reads:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: x x x *Provided, further,* that non-compliance with these