

SECOND DIVISION

[G.R. No. 204911, August 06, 2014]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MIKE STEVE Y BASMAN AND RASHID MANGTOMA Y NONI,
ACCUSED-APPELLANTS.**

D E C I S I O N

PEREZ, J.:

Before this Court is an appeal from the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02460 affirming *in toto* the Decision^[2] in Criminal Case No. 03-115457 rendered by the Regional Trial Court (RTC), Branch 103 of Quezon City. The RTC Decision found Mike Steve y Basman and Rashid Mangtoma y Noni guilty beyond reasonable doubt of drug pushing, particularly for violation of Section 5, Article II of Republic Act No. 9165 (R.A. No. 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Facts

Both accused were charged under the Information^[3] docketed as Criminal Case No. Q-03-115457 for violation of Section 5, Article II of R.A. No. 9165, which reads as follows:

That on or about 20th day of February, 2003 in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there, willfully, and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, Nine Hundred Seventy Two point eight (972.8) grams of white crystalline substance containing Methylamphetamine hydrochloride, [a] dangerous drug[.]^[4]

Upon arraignment, both accused Mike Steve and accused Rashid Mangtoma pleaded not guilty to said charge.^[5] Subsequently, a full-blown trial proceeded.

Incidentally, the parties entered into stipulation and admitted the following: (a) that there was a letter request for the examination of the specimen involved in this case dated 20 February 2003 (Exhibit "A"); (b) that as a result of said letter request, an Initial Laboratory Report was issued finding the subject specimen positive of methamphetamine hydrochloride (Exhibit "B"); (c) that a Chemistry Report No. D-95-03 was issued by Forensic Chemist Mae Andrea Bonifacio (Forensic Chemist Bonifacio) subscribed and sworn to before an Administrative Officer as stated in a certification attached thereto (Exhibits "C" and "D"); (d) that the subject specimen was placed in a transparent plastic bag (Exhibit "E"); and (e) that the said chemist

has no personal knowledge of the facts of this case. Accordingly, the testimony of Forensic Chemist Bonifacio was dispensed with.^[6]

Records reveal that, based on the evidence presented,^[7] the summary of factual findings of the trial court is stated as follows:

In 2003, a buy-bust operation was conducted by police officers PO3 Mohammad Sugod, Jr. and SPO3 Santiago Gonzales inside the Kimco Subdivision in Barangay Sauyo, Quezon City. The buy-bust team was formed due to the information received from the residents of the said subdivision regarding some illegal drug activities. Surveillances were made.

The team prepared buy-bust money and PO3 Sugod was assigned as the poseur buyer. As planned, the team's informant made arrangement with the accused-appellants Mike Steve and Rashid Mangtoma for the purchase of one kilo of "shabu". On February 20, 2003, the team proceeded to the target area. At around ten (10) in the morning, the informant communicated to the police officers of the arrival of the accused-appellants. PO3 Sugod transacted with accused-appellant Mangtoma. A plastic bag containing (almost) one kilo of "shabu" was handed over to PO3 Sugod. After witnessing the transaction, SPO3 Gonzales approached the parties involved who were also inside the car. SPO3 Gonzales declared "Pulis kami, huwag na kayong manlaban pa". The accused-appellants were arrested and brought to the police station.

The item of the transaction was seized. It was subsequently subjected for laboratory examination in the Philippine National Police Crime Laboratory. A chemistry report manifesting that the confiscated substance yielded positive for methylamphetamine hydrochloride was issued by Forensic Chemist Officer May Andrea A. Bonifacio.

Both accused-appellants denied the commission of the crime. They alleged that a buy-bust operation was never conducted by the police officers. Both of them were temporarily staying in the residence of Spouses Pauto and Armpo Lilog when the policemen forced their way into the house. They were arrested together with the said spouses and a certain Noro.

In the police station, all of them were asked to pay the total amount of one (1) million pesos for their release. As accused-appellants failed to give any amount, only Noro and Spouses Pauto and Armpo Lilog were released.^[8]

The Ruling of the RTC

The RTC rendered a Decision^[9] finding both accused guilty beyond reasonable doubt of the crime of drug pushing, specifically in violation of Section 5, Article II of R.A. No. 9165, the dispositive portion of which is hereunder quoted as follows:

WHEREFORE, in view of the foregoing disquisitions, judgment is hereby rendered finding accused **MIKE STEVE y BASMAN** and **RASHID MANGTOMA y Noni GUILTY** beyond reasonable doubt of the crime of drug pushing and each is hereby sentenced to suffer **LIFE IMPRISONMENT** and each to pay a fine of **P800,000.00**.

The drug involved in this case is hereby ordered transmitted to the PDEA thru DDB for proper disposition.^[10]

The court *a quo* gave emphasis to the undisputed fact established by the prosecution that a buy-bust operation was properly conducted, including prior surveillances, by the police operatives; that both accused were positively identified to be the source of the “*shabu*” submitted as evidence before the trial court; and that both accused sold the same to the arresting officers for a consideration. In other words, it ruled that the testimonies of the police operatives are more credible and reliable since there was absence of any evil motive on their part to allegedly barge into the house of any person and arrest and charge both accused for such serious crime. On the other hand, the mere denials of the accused were found to be weak and self-serving. It further pointed out that there were inconsistencies on the accused respective testimonies, aggravated further by the doubtful credibility of their corroborating witnesses as shown by their demeanors and implausible version of the story, particularly as to the alleged bribery.

The Ruling of the CA

On appeal, the accused-appellants contended that there were glaring inconsistencies with the testimonies of the prosecution’s witnesses pertaining to the conduct of the buy-bust operation, and the manner of the alleged consummation of sale of dangerous drug; that there were procedural lapses on the part of the buy-bust team to comply with Section 21(1) of R.A. No. 9165, which accordingly failed to secure the evidence related to the arrests, and to protect the chain of custody; and that ultimately, the prosecution miserably failed to prove the accused-appellants’ guilt beyond reasonable doubt.^[11]

However, the CA affirmed *in toto* the Decision of the RTC and dismissed the appeal.^[12] The appellate court ruled that the prosecution was able to sufficiently bear out the statutory elements of the crime. It explained that the allegation of frame-up is a banal defense of those accused in drug-related cases that is viewed with disfavor since, like the defense of alibi, it is an allegation that can be easily concocted. Such defense must adduce clear and convincing evidence to overcome the presumption or regularity of official acts of government officials. Otherwise, the findings of the trial court with respect to the credibility of prosecution’s witnesses shall prevail over that of the accused.^[13] It further ruled that the alleged inconsistencies in the testimonies of the prosecution’s witnesses were immaterial to establish beyond reasonable doubt that the crime was in fact committed by both accused. Besides, in criminal cases, the evaluation of the credibility of witnesses is addressed to the sound discretion of the trial judge, whose conclusion thereon deserves much weight and respect, because the judge has the opportunity to observe them on the stand and ascertain if they are telling the truth or not.^[14]

Moreover, the CA held that failure to comply with Section 21 of R.A. No. 9165 will not render the arrest of the accused illegal, nor will it result to the inadmissibility in evidence against the accused of the illegal drugs seized in the course of the entrapment operation. What is of utmost relevance is the preservation of the integrity and maintenance of the evidentiary value of the confiscated illegal drugs, for in the end, the same shall necessarily be the thrust that shall determine the guilt or innocence of the accused. Although it was mentioned that the justifiable ground for non-compliance with Section 21 was not very well expressed by the police officers, this does not necessarily mean that the accused-appellants' arrest was illegal or the items seized inadmissible. Said justifiable ground will remain unknown in the light of the apparent failure of the accused-appellants to challenge the custody and safekeeping of the issue of disposition and preservation of the subject drugs before the lower court. In short, they cannot be allowed to question the police officers' alleged non-compliance with Section 21 for the first time on appeal.^[15]

Lastly, non-coordination with the Philippine Drug Enforcement Agency (PDEA) by the police officers in conducting a buy-bust operation does not render such operation illegal. As pointed out by the appellate court, Section 86 of R.A. No. 9165 is silent as to the consequence of failure to comply therewith, but this should not be interpreted as a legislative intent to make an arrest without the participation of the PDEA illegal or evidence obtained pursuant to such an arrest inadmissible.^[16]

The Issue

Whether or not the RTC and the CA erred in finding that the evidence of the prosecution was sufficient to convict both accused-appellants of the alleged sale of methylamphetamine hydrochloride or "*shabu*," in violation of Section 5 of R.A. No. 9165.

Our Ruling

The Court finds no merit in the appeal.

At the outset, this Court has consistently ruled that for the successful prosecution of offenses involving drug pushing or sale of dangerous or prohibited drugs under Section 5, Article II of R.A. No. 9165, the following elements must be proven: (1) the identity of the buyer and seller, object and consideration; and (2) the delivery of the thing sold and the payment therefor.^[17] In other words, there is a need to establish beyond reasonable doubt that the accused actually sold and delivered a prohibited drug to another, and that the former indeed knew that what he had sold and delivered to the latter was a prohibited drug.^[18] To reiterate, what is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, plus the presentation in court of *corpus delicti* as evidence.^[19]

Contrary to the claim of accused-appellants, the prosecution was able to clearly recount how the buy-bust operation^[20] was conducted, and the eventual submission of the subject sachet of "*shabu*" as part of its evidence. Both the trial court and the appellate court appreciated the evidence presented which certainly established that accused-appellants sold and delivered the 972.8 grams of "*shabu*" for a consideration of P600,000.00 to PO3 Mohammad Sugod, Jr. (PO3 Sugod, Jr.), the