

## SECOND DIVISION

[ G.R. No. 200507, June 26, 2013 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PETER LINDA Y GEROLAGA, ACCUSED-APPELLANT.**

### DECISION

**PEREZ, J.:**

Before us for final review is the conviction of accused-appellant for illegal sale of *shabu*. The Court of Appeals affirmed *in toto*<sup>[1]</sup> the decision of the trial court<sup>[2]</sup> sentencing him to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

#### The Facts

In an information<sup>[3]</sup> dated 27 February 2008 docketed as Criminal Case No. 82-259718, accused-appellant was charged with violation of Section 5, Article II, Republic Act No. 9165<sup>[4]</sup> before the Regional Trial Court of Manila to which he pleaded not guilty.<sup>[5]</sup>

During pre-trial, Forensic Chemist Elisa G. Reyes (Reyes) brought with her the specimen she examined and other pertinent documents. These were marked as follows: Letter Request for Laboratory Examination (Exh. "A") stamped received by the Crime Laboratory (Exh. "A-1"); specimen with the following initials "PGL" (Exh. "B") together with a brown envelope (Exh. "B-1"); and Final Chemistry Report (Exh. "C") containing her Findings and Conclusions (Exh. "C-1") with the corresponding signatures appearing at the bottom of the Report (Exh. "C-2"). The parties thereafter stipulated on the qualification of Reyes, the genuineness and due execution of the documents, and the specimen, which she herself brought to the court. Further, the prosecution had the following marked in evidence: Affidavit of Apprehension (Exh. "D") with the signatures of the arresting officers (Exh. "D-1"); the Coordination Form (Exh. "E") and a machine copy of the buy bust money (Exh. "F").<sup>[6]</sup>

On trial, the prosecution presented PO2<sup>[7]</sup> Archie Bernabe<sup>[8]</sup> (PO2 Bernabe) of the District Anti-Illegal Drugs-Special Operations Task Group (DAID-SOG), Manila Police District. The defense, on the other hand, relied on the sole testimony of accused-appellant.<sup>[9]</sup>

The prosecution summarized its version of the incident in the following manner:

On February 22, 2008, the team of SPO1 Rodolfo Ramos received a reliable information from a confidential informant regarding the illegal

drug activity of x x x [accused-appellant] along Ma. Orosa Street, Malate, Manila. Thus, SPO1 Ramos ordered his team to conduct a buy-bust operation on appellant and designated PO2 Archie Bernabe as poseur-buyer, who was given two (2) P100 bills as buy-bust money. The money was then marked as "DAID" and a coordination with the Philippine Drug Enforcement Agency (PDEA) was made.

After the preparation, the team, together with the confidential informant, proceeded to the target area. Upon arrival, appellant approached PO2 Bernabe and the informant who is known to appellant. The informant and the appellant talked to each other while PO2 Bernabe stayed two (2) meters away. Afterwards, the informant called PO2 Bernabe and introduced him to appellant as a friend who is buying "shabu." PO2 Bernabe told the appellant that he was buying the illegal drug worth "P200." Appellant answered "wala pong problema" and accepted the buy-bust money tendered by PO2 Bernabe. The former then handed to the latter one transparent plastic sachet containing white crystalline substance with the resemblance of "shabu." Thereafter, PO2 Bernabe arrested appellant and introduced himself as police officer. The other members of the team arrived at the scene. PO2 Bernabe informed appellant of his constitutional rights and marked the plastic sachet with the letters "PGL" from the initials of the appellant. The former frisked appellant and recovered the marked money from the latter. When the substance was examined by Forensic Chemist Elisa G. Reyes, the white crystalline substance tested positive for methylamphetamine hydrochloride.<sup>[10]</sup>

The defense, on the other hand, countered that:

On 22 February 2008, Peter Linda was doing nothing when suddenly, several persons entered the house and went upstairs looking for his parents, Lorenzo Linda and Marlita Linda. He told them that his parents were no longer living there. Afterward[s], he was told to go with the police. At the precinct, he was asked again the whereabouts of his parents but he reiterated his earlier reply. He was then frisked but nothing was recovered from him. He was not informed of the charges, only knowing it in court.<sup>[11]</sup>

After trial, the court convicted accused-appellant of the crime charged.<sup>[12]</sup> On appeal, the Court of Appeals affirmed the decision *in toto*.<sup>[13]</sup>

The dispositive portion of the Decision reads:

Before us, both parties manifested that they will no longer file their respective supplemental briefs.<sup>[14]</sup> We, thus, re-examine the arguments of the defense before the Court of Appeals, to wit: (1) that the chain of custody was broken; (2) that it is hard to believe that one would readily sell drugs to a stranger; (3) that since the warrantless arrest is invalid, the item seized is inadmissible in evidence; and (4) that notwithstanding that the defense of denial is inherently weak, it must be given

credence when the prosecution fails to prove his guilt beyond reasonable doubt.<sup>[15]</sup>

### ***Our Ruling***

The appeal is bereft of merit.

We first ascertain the credibility of the testimony of the prosecution witness.

Settled are the rule 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,"<sup>[16]</sup> and that "the 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."<sup>[17]</sup>

Here, we see no reason to deviate from the findings of the trial court and the Court of Appeals. Corroborated by supporting documents,<sup>[18]</sup> PO2 Bernabe rendered a clear and direct narration of the details of the buy-bust operation from the moment SPO1 Rodolfo Ramos organized the team, upon receipt of the information from the confidential informant, to the time the *shabu* was marked<sup>[19]</sup> and turned over to the crime laboratory for examination.<sup>[20]</sup> Absent any showing of ill-motive or bad faith on the part of the arresting officers, as in this case where accused-appellant testified that he did not know any of the members of the team,<sup>[21]</sup> the doctrine of presumption of regularity in the performance of official duty finds application. This, we explained in *People v. Tion*:<sup>[22]</sup>

x x x Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies on the buy-bust operation deserve full faith and credit. **Settled is the rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers, for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary suggesting ill motive on the part of the police officers or deviation from the regular performance of their duties.** The records do not show any allegation of improper motive on the part of the buy-bust team. Thus, the presumption of regularity in the performance of duties of the police officers must be upheld.<sup>[23]</sup> (Citations omitted; emphasis supplied)

By upholding the credibility of the testimony of the witness for the prosecution on the circumstances leading to the arrest of the accused- appellant, we cannot give credence to the contrary version of the defense that the warrantless arrest was made inside the house of the accused- appellant after the arresting officers failed to find his parents, whom he admitted were also involved in drug-related illegal activities.<sup>[24]</sup> The argument of the defense that the warrantless arrest was invalid and that the item seized is inadmissible in evidence must, therefore, fail.

Proceeding from the above, we find that the essential requisites for illegal sale of *shabu* were all present in the instant case. These are: "(a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing."<sup>[25]</sup> The prosecution has likewise complied with the following material requirements: (1) proof that the transaction or sale actually took place and (2) presentation in court of the *corpus delicti* as evidence."<sup>[26]</sup>

Thus, PO2 Bernabe testified that after he was introduced by the confidential informant to accused-appellant as a friend who wanted to buy *shabu*, he offered to buy and accused-appellant agreed to sell him drugs worth two hundred pesos (P200.00). When accused-appellant received the marked money, he gave PO2 Bernabe a sachet of white crystalline substance, which, after its marking at the crime scene and upon submission to the laboratory, tested positive for *shabu*. Both the item subject of the sale and the marked money were presented in court.

The defense now argues that the prosecution failed to establish with moral certainty the identity of the item seized because the chemist who examined the specimen did not take the witness stand. Neither did anyone allegedly testify on how the said specimen was delivered to the court.

The contentions are likewise unmeritorious.

There is no iota of doubt that the integrity and evidentiary value of the seized item were preserved. The Letter-Request for Laboratory Examination shows that it was PO2 Bernabe who personally delivered to the crime laboratory the specimen that he earlier marked.<sup>[27]</sup> Moreover, specifically stated in the Pre-Trial Order<sup>[28]</sup> issued by the trial court was the fact that Reyes herself, the very chemist that examined the specimen, brought the same to the court. And, while the court dispensed with her testimony, the parties already stipulated on the material points she was supposed to testify on. Clearly, the chain of custody was not broken.

We likewise reject the position of the defense that a drug peddler would not readily sell his wares to a stranger as we know for a fact that "drug pushing has been committed with so much casualness even between total strangers."<sup>[29]</sup>

The last argument of accused-appellant, that is, that "[i]t matters not that the defense is weak, what matters is that the prosecution prove the guilt of an accused beyond reasonable doubt,"<sup>[30]</sup> must also fail. *First*, the evidence for the prosecution was, in fact, sufficient to establish the guilt of accused-appellant beyond reasonable doubt. *Second*, the defense of denial, when not substantiated by clear and convincing evidence as in this case, is negative and self-serving, and cannot prevail over the affirmative statements of a credible witness.<sup>[31]</sup>

All considered, we find that the prosecution has sufficiently established the guilt of the accused-appellant beyond reasonable doubt.

The penalties imposed by the trial court and the Court of Appeals are, likewise, in order.

Under Section 5, Article II of Republic Act No. 9165, the quantity of *shabu* is not