

FIRST DIVISION

[G.R. No. 180177, April 18, 2012]

**ROGELIO S. REYES, PETITIONER, VS. THE HONORABLE COURT
OF APPEALS, RESPONDENT.**

DECISION

BERSAMIN, J.:

The burden rests in the Prosecution to see to it that the evidence of guilt satisfies the standard of moral certainty demanded in all criminal prosecutions. The standard demands that all the essential elements of the offense are established as to leave no room for any doubt about the guilt of the accused. The courts should unfailingly impose the standard in order to prevent injustice from being perpetrated against the accused.

Under review is the decision promulgated on September 28, 2007 by the Court of Appeals (CA),^[1] whereby the CA affirmed the conviction of petitioner by the Regional Trial Court (RTC), Branch 2, in Manila^[2] for violations of Section 5 and Section 11, Article II of Republic Act No. 9165 (*The Comprehensive Dangerous Drugs Act of 2002*).

Antecedents

On February 23, 2005, the Office of the City Prosecutor of Manila filed two informations charging petitioner with illegal sale of shabu and illegal possession of shabu defined and punished, respectively, by Sections 5 and 11 of R.A. No. 9165,^[3] to wit:

Criminal Case No. 05234564

That on or about January 20, 2005, in the City of Manila, Philippines, the said accused, not being been (sic) authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell One (1) heat sealed transparent plastic sachet containing zero point zero two two (0.022) gram, of white crystalline substance known as "SHABU" containing methylamphetamine hydrochloride, which is a dangerous drug.

CONTRARY TO LAW.^[4]

Criminal Case No. 05234565

That on or about January 20, 2005, in the City of Manila, Philippines, the said accused, not being then 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 One (1) heat sealed transparent plastic sachet containing zero point zero two four (0.024) gram of white crystalline substance known as "SHABU" containing methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.^[5]

After petitioner pled *not guilty*, trial ensued. The summary of the evidence of the parties adduced at trial follows.

In the morning of January 20, 2005, a lady confidential informant went to the Police Station 8 of the Western Police District to report on the drug-dealing activities of a certain *alias* Boy (later identified as petitioner) on M. Mapa Street, Sta. Mesa, Manila.^[6] A buy-bust team of ten members,^[7] including PO2 Erwin Payumo as designated poseur-buyer,^[8] was formed. PO2 Payumo then prepared the necessary documents prior to the operation.^[9]

From the police station, the lady confidential informant called petitioner by phone. The latter instructed her to wait on M. Mapa Street.^[10] Thus, the buy-bust team proceeded to that area and arrived at around 4:20 p.m. of January 20, 2005.^[11] PO2 Payumo and the lady confidential informant arrived together to wait for petitioner. The rest of the buy-bust team, who had gone to the area on board an L300 van,^[12] took positions nearby. Petitioner came by five minutes later,^[13] and, after asking the lady confidential informant whether PO2 Payumo was the buyer, instructed Payumo to follow him to his house where he told PO2 Payumo to wait. Two other individuals, later identified as Conchita Carlos and Jeonilo Flores, were also waiting for petitioner.^[14]

Upon getting back, petitioner asked PO2 Payumo for the payment,^[15] and the latter complied and handed the marked money consisting of three P50.00 bills all bearing the initials "TF".^[16] Petitioner then went into a room and returned with a plastic sachet containing white crystalline substance that he gave to PO2 Payumo. Receiving the plastic sachet, PO2 Payumo placed a missed call to PO1 Miguelito Gil, a member of the buy-bust team, thereby giving the pre-arranged signal showing that the transaction was completed. PO2 Payumo then arrested petitioner after identifying himself as an officer. PO2 Payumo recovered another sachet containing white crystalline substance from petitioner's right hand, and the marked money from petitioner's right front pocket.^[17] The rest of the buy-bust team meanwhile came around and recovered two sachets also containing white crystalline substance from the sofa where Conchita and Jeonilo were sitting. The buy-bust team thus also arrested Conchita and Jeonilo.^[18]

Back at the police station, PO2 Payumo placed on the plastic sachet that petitioner had handed him the marking "RRS-1" and on the other sachet recovered from petitioner's right hand the marking "RRS-2."^[19] The seized items were thereafter turned over to the Western Police District Crime Laboratory for examination by P/Insp. Judycel Macapagal, who found the items positive for methamphetamine

hydrochloride or *shabu*.^[20]

On the other hand, petitioner denied that there had been a buy-bust operation, and claimed that he had been framed up.

Petitioner testified that he was at his house entertaining his visitors Conchita and Jeonilo in the afternoon of January 20, 2005;^[21] that Conchita was selling to him a sofa bed for P800.00, while Jeonilo was only contracted by Conchita to drive the jeepney carrying the sofa bed;^[22] that the three of them were surprised when a group of armed men in civilian clothes barged into his house and conducted a search, and arrested them; that he was also surprised to see a plastic sachet when the armed men emptied his pocket; that the plastic sachet did not belong to him;^[23] that PO2 Payumo was not among those who entered and searched his house;^[24] that the three of them were made to board a van where PO1 Rudolf Mijares demanded P30,000.00 for his release;^[25] and that because he told them he had no money to give to them, one of the men remarked: *Sige, tuluyan na yan*; and that they were then brought to the police station.^[26]

Jeonilo corroborated petitioner's story.^[27]

Ruling of the RTC

As stated, on May 23, 2006, the RTC found petitioner guilty beyond reasonable doubt, to wit:

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 with respect to the operation deserve full faith and credit.

However like alibi, we view the defense of frame up with disfavor as it can easily be concocted and is commonly used as a standard line of defense in most prosecution arising from violations of the Dangerous Drugs Acts.

Having established that a legitimate buy-bust operation occurred in the case at bar, there can now be no question as to the guilt of the accused-appellant. Such operation has been considered as an effective mode of apprehending drug pushers. If carried out with due regard to the constitutional and legal safeguards, it deserves judicial sanction." (People of the Philippines vs. Lowell Saludes, et al., G.R. No. 144157, June 10, 2003)

The accused failed to show any ill motive on the part of the policeman to testify falsely against him. Indeed, the prosecution showed that the police were at the place of the incident to do exactly what they are supposed to do—to conduct an operation. The portrayal put forward by accused and his lone witness remained uncorroborated. Evidence to be believed must not only come from a credible witness but must in itself be

credible.

The entrapment operation paved the way for the valid warrantless arrest of accused, Sec. 5(a) of Rule 113 of the Rules of Court provides thus:

"A police officer or private person, without warrant, may arrest a person:

(a) when, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; xxx

"It has been held that the testimonies of police officers involved in a buy-bust operation deserve full faith and credit, given the presumption that they have performed their duties regularly. This presumption can be overturned if clear and convincing evidence is presented to prove either two things: (1) that they were not properly performing their duty, or (2) that they were inspired by any improper motive." (People of the Philippines vs. Reynaldo Remarata et al., G.R. No. 147230, April 29, 2003)

The positive identification of appellants by the prosecution witness should prevail over the former's denials of the commission of the crime for which they are charged, since greater weight is generally accorded to the positive testimony of the prosecution witness than the accused's denial. Denial, like alibi, is inherently a weak defense and cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime. (People of the Philippines vs. Edwin Belibet, Manny Banoy and Ronnie Rosero, G.R. No. 91260, July 25, 1991) [28]

The dispositive portion of the decision of the RTC reads:

WHEREFORE, judgment is hereby rendered as follows, to wit:

1. In Criminal Case No. 05-234564, finding accused, Rogelio Reyes y Samson, GUILTY beyond reasonable doubt of the crime charged, he is hereby sentenced to life imprisonment and to pay the fine of P500,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs.
2. In Criminal Case No. 05-234565, finding accused, Rogelio Reyes y Samson, GUILTY beyond reasonable doubt of the crime charged, he is hereby sentenced to suffer the indeterminate penalty of 12 years and 1 day as minimum to 17 years and 4 months as maximum; to pay a fine of P300,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs.

The specimens are forfeited in favor of the government and the Branch Clerk of Court, accompanied by the Branch Sheriff, is directed to turn over with dispatch and upon receipt the said specimen to the Philippine Drug Enforcement Agency (PDEA) for proper disposal in accordance with

the law and rules.

SO ORDERED.^[29]

With his motion for reconsideration being denied by the RTC, petitioner filed his notice of appeal.^[30]

Ruling of the CA

On appeal, the CA affirmed the findings of the RTC thuswise:

A fortiori, viewed in the light of the foregoing, We are strongly convinced that the prosecution has proven the guilt of the Appellant for the crimes charged beyond reasonable doubt.

WHEREFORE, premises considered, the instant Appeal is DENIED. The challenged Decision of the court a quo is hereby AFFIRMED in toto.

SO ORDERED.^[31]

The CA gave more weight to the testimony of poseur buyer PO2 Payumo, and believed the findings of the laboratory examination conducted by P/Insp. Macapagal. It recognized the validity of the buy-bust operation.

Issue

Petitioner is now before the Court seeking to reverse the decision of the CA upon the sole error that:

THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT FINDING WORTHY OF CREDENCE PETITIONER'S WITNESS TESTIMONY CREATING DOUBT ON THE GUILT OF THE PETITIONER OF THE CRIME CHARGED IN THE INFORMATION.

Petitioner wants the Court to give credence to his defense of frame-up, and to believe the testimony of Jeonilo Flores who had no reason to testify falsely against the arresting officers.

Ruling

The appeal is meritorious.

In this jurisdiction, we convict the accused only when his guilt is established beyond reasonable doubt. Conformably with this standard, we are mandated as an appellate court to sift the records and search for every error, though unassigned in the appeal, in order to ensure that the conviction is warranted, and to correct every error that the lower court has committed in finding guilt against the accused.^[32]