

SECOND DIVISION

[G.R. No. 193184, February 07, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MICHAEL ANDRES Y TRINIDAD, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the January 20, 2010 Decision^[1] of the Court of Appeals (CA), which affirmed the December 3, 2007 Decision^[2] of the Regional Trial Court, Branch 171, Valenzuela City (RTC), finding accused Michael Andres y Trinidad (*Andres*) guilty beyond reasonable doubt of having violated Section 5 and Section 11, Article II of Republic Act (R.A.)

No. 9165, otherwise known as the "*Comprehensive Dangerous Drugs Act of 2002*," for the illegal sale of 0.53 gram of shabu and illegal possession of 0.43 gram of shabu.

Two (2) separate informations for violation of Section 5 and Section 11, Article II of R.A. No. 9165 were filed against accused Andres. During the trial, the prosecution presented two (2) witnesses, namely: Senior Police Officer 2 Lucio Flores (*SPO2 Flores*) and Police Officer 2 Gaspar Talaue (*PO2 Talaue*), while the defense presented Andres as its lone witness. The respective versions of the parties were summarized in the subject decision of the CA as follows:

In the trial that ensued, the **prosecution's evidence** showed that in the morning of 25 March 2003, PDEA's (Philippine Drug Enforcement Agency) confidential agent informed PSI Paterno C. Panaga [PSI PANAGA] that "a project he was working on was ready for entrapment operation." After which PSI Panaga called for a briefing and organized a team composed of SPO2 Alfredo Bernardo, SPO2 Lucio Flores, PO2 Adaviles, PO2 Tolivas, PO2 Talaue, and PO1 Rosales. Designating PO2 Gaspar Talaue [PO2 Talaue], as the poseur-buyer, PSI Panaga handed him the marked money. At around 11 o'clock in the morning, the team, together with the confidential agent, proceeded to Poblacion Street, Malinta, Valenzuela City. SPO2 Lucio Flores [SPO2 Flores], acting as back-up, positioned himself about five (5) to ten meters from the three while the other members of the team stood in front of the Valenzuela City Hall where they could still see the transaction.

When the appellant Michael Andres arrived, he approached PO2 Talaue and the informant. After a short conversation, accused-appellant asked the poseur-buyer how much he was going to purchase, to which PO2 Talaue replied, "*isang libo lang*." After the police officer showed accused-

appellant the money, the latter took the shabu from his pocket and handed it to PO2 Talaue. Upon receiving one piece of transparent plastic sachet containing the suspected shabu, PO2 Talaue gave the pre-arranged signal and his back-up, SPO2 Flores, approached them and frisked accused-appellant. As a result of the buy-bust operation, SPO2 Flores recovered the buy-bust money consisting of two one hundred peso bills with Serial Nos. BT766967 and JF988321 and one plastic sachet of shabu which was marked by PO2 Talaue with GCT-03-25-03 "B." On the other hand, the shabu, object of the sale, was also marked by PO2 Talaue with his initials and date of the arrest with additional marking "A."

After his arrest, accused-appellant was brought to the office of the Barangay Chairperson to whom the alleged confiscated shabu was shown. When accused-appellant was brought to their headquarters, the necessary requests for dusting of ultra-violet, medical examination and drug-testing were made. As stipulated during the pre-trial conference, Forensic Chemist May Andrea A. Bonifacio conducted a qualitative examination of the seized items and, thereafter, noted the following findings:

"SPECIMEN SUBMITTED:

A (GCT-03-25-03 "A") = 0.53 gram

B (GCT-03-25-03 "B")

FINDINGS:

Qualitative examination conducted on the above-stated specimens gave POSITIVE result to the tests for the presence of Methylamphetamine hydrochloride, a dangerous drug. Xxx"

Accused-appellant, for his part, denied the charges of illegal possession and illegal sale of dangerous drugs and insisted that no buy-bust operation ever took place. He asserted that he was on his way to the terminal on board his tricycle when somebody on a vehicle motioned him to stop. When he did, four (4) male passengers in civilian clothes alighted and told him to get off his tricycle, one of whom accused him of selling illegal drugs which he denied. When about to be frisked, he asked the police officer to show him his hands but the latter retorted, "*putang ina wala akong ilalagay sa iyo.*" Thus, while in handcuffs, accused-appellant and his tricycle were searched but the police officers did not find anything. Thereafter, he was dragged to the car and was forced to put two sachets in his own pocket. He was allegedly told to admit that these two sachets came from him, otherwise, he would be "salvaged" upon reaching the barangay outpost. He claimed that he had not been involved in any drug-related case and that he had no previous encounter with any of the four men who arrested him.

On December 3, 2007, the RTC handed down a joint decision finding Andres guilty beyond reasonable doubt of violating Section 5 and Section 11, Article II of R.A. No.

9165, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing, this Court hereby finds accused MICHAEL ANDRES y TRINIDAD GUILTY beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. 9165, for the illegal sale of 0.53 gram of shabu and illegal possession of 0.43 gram of shabu as charged in Criminal Case Nos. 341-V-03 and 342-V-03, respectively.

Consequently, for violating Sections 5, Article II of Republic Act No. 9165, the said accused is hereby sentenced to suffer the penalty of life imprisonment plus a fine in the amount of One Million Pesos (P1,000,000.00).

For violating Section 11 of Article II of Republic Act No. 9165, accused Andres is further sentenced to suffer the penalty of imprisonment from twelve (12) years and one (1) day to fourteen (14) years and eight (8) months and pay the fine in the amount of Three Hundred Thousand Pesos (P300,000.00).

The penalties herein imposed on the accused shall be served by him successively and the period during which the said accused was placed under preventive imprisonment shall be credited in his favor.

Meanwhile, the Branch Clerk of Court of this Court is hereby directed to turn over to PDEA the evidence in these cases for proper disposition of the said office.

SO ORDERED.

The RTC gave full faith and credit to the testimonies of the arresting officers and gave no credence to the claim of Andres that he was framed-up for lack of corroborating evidence.

Aggrieved, Andres appealed the RTC decision to the CA praying for the reversal and setting aside of the judgment of conviction anchored on the following

ASSIGNMENT OF ERRORS:

I

THE TRIAL COURT ERRED IN FINDING THAT THE LAW ENFORCERS REGULARLY PERFORMED THEIR OFFICIAL DUTIES.

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S LACK OF EVIDENCE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

On January 20, 2010, the CA rendered the subject decision affirming *in toto* the decision of the RTC. It ruled, among others, that the testimonies of the arresting officers were convincing and the buy-bust operation was not a fabrication. The CA was of the view that the prosecution was able to prove all the elements of illegal sale and illegal possession of dangerous drugs. The series of events unmistakably showed that the chain of custody of the subject drugs was established proving that the pieces of evidence were correctly preserved and identified. It further stated that the procedural lapses committed by the police officers were not sufficient to render void the seizure of, and custody over, the confiscated items.

Hence, this appeal.

ISSUE

WHETHER OR NOT THE COURT OF APPEALS WAS CORRECT IN RULING THAT THE ACCUSED MICHAEL ANDRES Y TRINIDAD IS GUILTY BEYOND REASONABLE DOUBT OF VIOLATING SECTIONS 5 AND 11, ARTICLE II OF REPUBLIC ACT NO. 9165.

The Position of the Accused

Accused Andres argues that the presumption of regularity in the performance of duty by the police officers cannot apply in this case because the alleged sale of illegal drugs was not established and no buy-bust operation took place. The single testimony of PO2 Talaue proved nothing because it was not corroborated. Moreover, the confidential informant was not presented in court to corroborate his testimony. With respect to the custody and disposition of confiscated drugs, Andres claims that the procedural requirements of Section 21, paragraph 1, Article II of RA No. 9165 were not followed.

The Court's Ruling

The Court finds no merit in the appeal.

Fundamental is the principle that findings of the trial courts which are factual in nature and which involve the credibility of witnesses are accorded respect when no glaring errors, gross misapprehension of facts, and speculative, arbitrary and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds an even more stringent application where said findings are sustained by the CA.

For the successful prosecution of offenses involving the illegal sale of 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. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.^[3]