

SECOND DIVISION

[G.R. No. 191392, March 14, 2011]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLLY SORIAGA Y STO. DOMINGO, ACCUSED-APPELLANT.

DECISION

MENDOZA, J.:

This is an appeal from the November 27 2009 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03108, which affirmed the finding of guilt by the Regional Trial Court, Makati City, Branch 64 (RTC), in Criminal Case No. 03-4031, convicting accused Rolly Soriaga (*Soriaga*) of Violation of Section 5, Article II, Republic Act (R.A.) No. 9165.^[2] The Information filed against him reads:

That on or about the 15th day of October, 2003, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously sell, distribute and transport Methylamphetamine Hydrochloride, weighing zero point zero five (0.05) gram, which is a dangerous drug, in consideration of one hundred (P100.00) pesos, in violation of the above-cited law.

CONTRARY TO LAW.^[3]

In the afternoon of October 15, 2003, Barangay Captain Manuel Adao of the Makati Anti-Drug Abuse Council - Cluster 2 (*MADAC*) received an information about Soriaga's unbridled selling of illegal drugs on Arellano and Bautista Streets, Barangay Palanan, Makati City. Consequently, a joint buy-bust operation was conducted by the police headed by PO3 Henry Montes (*PO3 Montes*) and the *MADAC* represented by Herminia Facundo (*Facundo*) and Leovino Perez (*Perez*). Facundo was designated as the *poseur-buyer*.

Thereafter, the team proceeded to the target area accompanied by their informant. Facundo and the informant met Soriaga at the corner of Arellano and Bautista Streets. Soriaga asked the informant, "Okay ba yan, pre?" The informant assured Soriaga, "Barkada ko yan, okay `to." Soriaga then asked Facundo how much she was going to buy, and the latter replied, "Piso lang." Thereafter, Soriaga took the P100.00 marked-money from Facundo and placed it in his front pocket. Instantaneously, Soriaga took out a plastic sachet with crystalline substance from his left pocket and handed it over to Facundo. The latter immediately gave the pre-arranged signal by throwing a lighted cigarette and the rest of the buy-bust team rushed to the scene. PO3 Montes ordered Perez to empty the pockets of Soriaga and recovered the P100.00 marked-money. Facundo marked the plastic sachet that

Soriaga gave her with the letters "RSD." Facundo placed the same initials on the recovered money.

Soriaga was placed under arrest and brought to the office of the Anti-illegal Drugs Special Operation Task Force. The evidence seized was turned over to police investigator PO2 Reynaldo Juan. An examination was conducted on the contents of the plastic sachet which tested positive for Methylamphetamine Hydrochloride.^[4]

In addition to the above-mentioned charge, Soriaga was also indicted for illegal use of dangerous drugs under Section 15, Article II, also of R.A. No. 9165. On July 14, 2007, the RTC rendered a decision acquitting Soriaga of this charge of illegal use of dangerous drugs but finding him guilty beyond reasonable doubt of the crime of illegally selling dangerous drugs. The *fallo* of said decision reads as follows:

WHEREFORE, the premises considered, Judgment is rendered in these cases as follows:

1. In Criminal Case No. 03-4031, finding accused Rolly Soriaga y Sto. Domingo GUILTY beyond reasonable doubt of Violation of Section 5, Art. II, RA 9165, and sentencing him to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00. Said accused shall be given credit for the period of his preventive detention.
2. In Criminal Case No. 03-5007, acquitting the said accused Rolly Soriaga y Sto. Domingo from the charge of Violation of Section 15, Art. II, R.A. No. 9165, upon a reasonable doubt.

It is further ordered that the dangerous drugs subject of Criminal Case No. 03-4031 be transmitted to the Philippine Drug Enforcement Agency (PDEA) for the latter's appropriate disposition.

SO ORDERED.^[5]

On appeal, the CA affirmed in *toto* the July 14, 2007 Decision of the RTC.^[6]

When the case was elevated to this Court, Soriaga, through the Public Attorney's Office, and the Office of the Solicitor General, both manifested that they would no longer file their respective supplemental briefs and, instead, they would adopt all the arguments in their briefs filed before the CA. In his Appellant's Brief, Soriaga presented the following:

ASSIGNMENT OF ERRORS

I

THE TRIAL COURT GRAVELY ERRED IN RENDERING A VERDICT OF CONVICTION DESPITE THE PROSECUTION'S FAILURE TO PROVE

THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT ERRED IN RENDERING A JUDGMENT OF CONVICTION DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE CHAIN OF CUSTODY OF THE ALLEGED SHABU.^[7]

The Court finds no merit in the appeal.

"A buy-bust operation is a form of entrapment whereby ways and means are resorted to for the purpose of trapping and capturing the lawbreakers in the execution of their criminal plan. In this jurisdiction, the operation is legal and has been proved to be an effective method of apprehending drug peddlers, provided due regard to constitutional and legal safeguards is undertaken."^[8]

Soriaga argues that the buy-bust team failed to comply with the requisites of Section 21, Article II of R.A. No. 9165 and its implementing rules requiring the immediate inventory and photograph of the items seized in the buy-bust operation. Further, Soriaga proceeds to question the chain of custody of the seized shabu.

First of all, what is material to the prosecution for illegal sale of prohibited or dangerous drugs is the proof that the transaction or sale actually took place, plus the presentation of the *corpus delicti* as evidence. Thus, the elements essential to the crime of illegal sale of prohibited or dangerous drugs are: (i) the accused sold and delivered a prohibited drug to another; and (ii) he knew that what he had sold and delivered was a prohibited drug.^[9]

The RTC and the CA both found the above elements to have been satisfactorily proved by the prosecution in the present case. Soriaga sold and delivered the shabu for P100 to Facundo, the poseur buyer. Facundo herself testified that there was an actual exchange of the marked-money and the prohibited drug. Certainly, Soriaga was aware that what he was selling was illegal and prohibited. Thereafter, the *corpus delicti* or the subject drug was seized, marked and subsequently identified as a prohibited drug. At the trial, the same drug with the identifying marks intact was presented in evidence. Coupled with the unwavering testimony of Facundo who had no reason at all to falsely accuse Soriaga and who was only doing her job, the prosecution convinced the RTC to render a judgment of conviction.

In the absence of any showing that substantial or relevant facts bearing on the elements of the crime have been misapplied or overlooked, the Court can only accord full credence to such factual assessment of the trial court which had the distinct advantage of observing the demeanor and conduct of the witnesses at the trial.^[10]

Absent any proof of motive to falsely charge an accused of such a grave offense, the presumption of regularity in the performance of official duty and the findings of the trial court with respect to the credibility of witnesses shall prevail over his bare allegation.^[11]