

FIRST DIVISION

[G.R. No. 184807, November 23, 2011]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GREGG C. BUENAVENTURA, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

For Our review is the Decision^[1] dated March 10, 2008 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00902, which affirmed *in toto* the Decision^[2] dated January 21, 2005 of Branch 70 of the Regional Trial Court (RTC) of Pasig City in Criminal Case No. 12772-D, finding accused-appellant Gregg C. Buenaventura guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. Accused-appellant was sentenced to life imprisonment and ordered to pay a fine of P500,000.00.

The criminal Information against accused-appellant reads:

On or about August 5, 2003 in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully, and feloniously sell, deliver and give away to PO1 Michael Espares, a police poseur-buyer, one (1) heat-sealed transparent plastic sachet containing three (3) centigrams (0.03 gram) of white crystalline substance, which was found positive to the test for Methylamphetamine Hydrochloride, a dangerous drug, in violation of the said law.^[3]

When arraigned on October 28, 2003, accused-appellant pleaded not guilty to the charge against him.^[4] During the pre-trial conference held on February 11, 2004, the parties stipulated only as to the genuineness and due execution, as well as to the truthfulness of the contents, of the chemistry report. The said report stated that when tested, the plastic sachet containing crystalline substance was positive for methamphetamine hydrochloride.^[5] Trial then ensued.

The RTC summarized the evidence of the parties as follows:

Apart from Forensic Chemist **P/INSP. ISIDRO CARINO**, whose testimony was the subject of stipulation of facts between the prosecution and the defense, as contained in the Pre-Trial Order, above reproduced, the prosecution presented two (2) other witnesses, namely: **PO1 MICHAEL ESPARES** and **PO3 EDILBERTO SANCHEZ** both of the

Station Drug Enforcement Unit (SDEU) of the Pasig Police Station, a compendium of whose testimonies follows:

On August 5, 2003, at about 5:30 in the afternoon, a confidential informant arrived in their office at the Pasig Police Station to report the rampant selling of illegal drugs by one, alias "Gregg," at Teacher's Village, Barangay San Miguel, Pasig City. They relayed the information to their Chief, Jojie A. Tabios, who immediately caused the formation of a team composed of P/Insp. Sabio, as team leader, and SPO3 Eliseo Sta. Ana, SPO1 Mateo Garcia, SPO1 Graciana Delosata, and themselves (PO1 Espares and PO3 Sanchez) as team members, to conduct a buy-bust operation against the said suspect, with PO1 Espares being designated as the poseur-buyer. The buy-bust money consisting of two One Hundred Peso bills (Exhs. "F" and "G") was prepared and marked with the letters "ME" on each of the bills (Exhs. "F-1" and "G-1") representing the initials of PO1 Michael Espares, for identification purposes. After a briefing and after coordinating with the Philippine Drug Enforcement Agency (PDEA), they proceeded to the target area. Upon reaching Teacher's Village, Barangay San Miguel, Pasig City, their confidential informant pointed to the suspect, alias "Gregg," who was standing at the opening of an alley. PO1 Espare[s], the poseur-buyer, together with the confidential informant, then approached the suspect while the other team members positioned themselves nearby to observe. Upon getting near the suspect, the informant introduced PO1 Espares to the former as the one who wanted to buy shabu. The suspect then asked how much and in reply, PO1 Espares said that he wanted to buy PHP200.00 worth of shabu simultaneously handing, the PHP200.00 marked money to the suspect. In turn, the latter took out from his right pocket a transparent plastic sachet containing white crystalline substance which he handed to PO1 Espares. After getting hold of the plastic sachet, PO1 Espares lit a cigarette, which was their pre-arranged signal signifying that the transaction had been consummated. Sensing that something was amiss, the suspect immediately ran towards his house and locked the door. PO1 Espares, together with his teammates who by then were with the former having responded to the pre-arranged signal, followed the suspect to his house and after announcing that they are police officers commanded the suspect to open the door which was not done. Momentarily, they heard voices coming from the roof-top and saw the suspect, together with another person, jump towards the "*kangkungan*," a watery part at the back of suspect's house. Eventually, PO1 Espares and his companions were able to corner and arrest the suspect, who later turned out to be the herein accused, Gregg C. Buenaventura. Recovered from the accused was the marked buy-bust money where PO1 Espares placed the markings MPE/GCB representing his initials and that of the accused, respectively, and the date 8.05.03 of the buy[-]bust operation. The specimen subject of the operation was likewise marked by PO1 Espares with the markings MPE/GCB 08-05-03 and signed by him for identification purposes. Accused, was later brought to the police station for investigation and filing of the appropriate charges. At the police station, an investigation was conducted wherein PO1 Espares and PO3 Edilberto Sanchez executed a Joint Affidavit of Arrest (Exh. "E").

Testifying in his defense, accused, **GREGG BUENAVENTURA** claims that as early as 3:00 in the afternoon of August 5, 2003, he was hiding at the back of his house because a soldier whom he does not know was pestering him and insisting that he accompany him to the house of a certain "Bukol." When he refused to do so, they had an argument which culminated in a fist fight ("*nagkasuntukan kami*"). The soldier then went away to call for a police officer. At this point, he left his house and went to the house of his neighbor named Pilo. When the soldier returned to his house already accompanied by a policeman he was no longer there. He denied selling dangerous drugs. Accused further testified on cross-examination that it was only from his neighbors that he learned that policemen came to his house while he was at his friend Pilo's house. While at first he claims that he saw the soldier for the first time on August 5, 2003, he testified in the later part of his cross-examination that two weeks prior to August 5, 2003 he already had a fight with the soldier. Thus, on said date, when he heard loud knocks on the door, thinking it was the soldier trying to avenge himself as a result of their quarrel, he ran with his friend, Edgardo Habana, and jumped into the flooded *kangkungan* area lest he be shot.^[6]

After an evaluation of the evidence, the RTC promulgated its Decision dated January 21, 2005, finding accused-appellant guilty beyond reasonable doubt of the offense charged and sentencing him thus:

WHEREFORE, premises considered, accused Gregg Buenaventura is hereby adjudged GUILTY beyond reasonable doubt of Violation of Section 5, Article II of Republic Act 9165, and is hereby sentenced, as mandated under the aforequoted provision, to LIFE IMPRISONMENT and for him to pay a Fine of Five Hundred Thousand (PHP500,000.00).

Considering the penalty imposed, the immediate commitment of herein accused to the National Penitentiary, New Bilibid Prison, Muntinlupa City is hereby ordered.

Pursuant to Sec. 20 of R.A. 9165, the amount of PHP200.00 recovered from the accused representing the proceeds from the illegal sale of the plastic sachet of shabu is hereby ordered forfeited in favor of the government.

Again, pursuant to Sec. 21 of the same law, the PDEA is hereby ordered to take charge and have custody of the plastic sachet of shabu, subject of the instant case, for proper disposition.^[7]

Accused-appellant's conviction was elevated to the Court Appeals for review. Accused-appellant, represented by the Public Attorney's Office, filed his Brief^[8] on August 23, 2005, while plaintiff-appellee, through the Office of the Solicitor General, filed its Brief^[9] on December 19, 2005.

The Court of Appeals considered the following arguments presented by the parties:

Accused-appellant raises the following assignment of errors:

1. The trial court gravely erred in not finding his search and arrest as illegal.
2. The trial court gravely erred in convicting him of the crime charged despite the failure of the prosecution to prove his guilt beyond reasonable doubt.

It is [accused-appellant's] posture that his arrest and the seizure of the marked money, being without warrant, were illegal as it violates Sec. 2, Art. III, of the Constitution providing:

"The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, of whatever nature and for any purpose shall be inviolable and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination of the complaint and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized."

According to him, items which were the product of illegal search and seizure are inadmissible as evidence in any proceedings for any purpose. And even in instances where warrantless search and seizure may be valid, the requirement of existence of probable cause cannot be dispensed with. Probable cause must only be based on reasonable ground of suspicion or belief that a crime has been committed or is about to be committed in cases of search/seizure without warrant. In this case, [accused-appellant] claimed that he was not in either situation as he just mistook the policeman to be companions of the soldier with whom he had a spat earlier. Unable to hold the [accused-appellant] liable for possession of prohibited drug, the police planted evidence (marked money) and filed a case of selling illegal drug, [accused-appellant] maintains.

It is also the argument of [accused-appellant] that the presumption of regularity in the performance of duty of the arresting police officers cannot prevail over the constitutional presumption of innocence which the accused enjoys unless there are other proof[s] showing the guilt of the accused beyond reasonable [doubt].

He postulates that his conviction was based mainly on the testimony of a police officer who acted as poseur-buyer, unsubstantiated by other evidence; thereby creating doubt as to his culpability.

Upon the other hand, [plaintiff-appellee] contends that the warrantless search and arrest of appellant was legal. [Plaintiff-appellee] considers [accused-appellant's] excuse for running away because he mistook the