

## FIRST DIVISION

[ G.R. No. 189844, November 15, 2010 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO VILLANUEVA BAGA, ACCUSED-APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

This is an appeal from the August 26, 2009 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02946 entitled *People of the Philippines v. Mario Villanueva Baga*, which affirmed the August 17, 2007 Decision<sup>[2]</sup> in Criminal Case No. Q-02-110865 of the Regional Trial Court (RTC), Branch 80 in Quezon City. The RTC found accused-appellant Mario Villanueva Baga guilty of violation of Section 5, Article II of Republic Act No. (RA) 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

#### **The Facts**

The charge against Baga stemmed from the following Information:

That on or about the 22<sup>nd</sup> day of July, 2002, in Quezon City Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did then and there willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point zero four (0.04) gram of Methylamphetamine Hydrochloride, a dangerous drug.

Contrary to law.<sup>[3]</sup>

On November 11, 2002, accused-appellant was arraigned, and he pleaded "not guilty" to the offense charged.<sup>[4]</sup> Thereafter, trial on the merits ensued.

During trial, the prosecution presented as its witnesses Engr. Leonard M. Jabonillo, Police Officer 2 (PO2) Florante Manlapig, and Senior Police Officer 1 (SPO1) Wilfredo Hidalgo. Subsequently, the parties agreed to stipulate on the testimony of Engr. Jabonillo, the Forensic Chemist. On the other hand, the defense presented accused-appellant as its sole witness.

#### **The Prosecution's Version of Facts**

On July 22, 2002, the Station Drug Enforcement Unit (SDEU) of Police Station 1 in La Loma, Quezon City received an information from a police asset about the drug

peddling activities of a certain Mario Baga. The chief of the SDEU then formed a buy-bust team composed of PO2 Manlapig, who was designated as poseur-buyer; and SPO1 Hidalgo and PO2 Romeo Paday, who would act as back-ups. The buy-bust money, PhP 100, was marked by PO2 Manlapig with his initials, "FM."

Afterwards, the team, whose members were all dressed in civilian clothes, was dispatched along with the informant on board an L-300 van. They left the police station at around 4:45 in the afternoon and reached the target area at 12-A Kaingin Bukid, *Barangay Samson*, Quezon City, 10 minutes later.

Upon arriving, PO2 Manlapig and the informant went ahead followed by the other members of the team. At the target area, PO2 Manlapig and the informant saw the target of the operation who turned out to be accused-appellant. The informant then introduced PO2 Manlapig to accused-appellant. Thereupon, PO2 Manlapig gave the marked money to accused-appellant, who, in turn, gave PO2 Manlapig a plastic sachet. PO2 Manlapig examined the plastic sachet, and when he determined that it contained *shabu*, he executed the pre-arranged signal by drawing his gun. The back-up officers then rushed to the scene, joining PO2 Manlapig, and together they arrested accused-appellant and took him to the police station.

While on their way to the police station, PO2 Manlapig took custody of the suspected illegal drug subject of the transaction, while SPO1 Hidalgo took the marked money with him. At the precinct, SPO1 Hidalgo marked the plastic sachet with "FM-MBVI," which stands for Florante Manlapig and Mario Baga, and forwarded it with a referral letter to the crime laboratory for examination. Likewise, he prepared the affidavit of the arresting officers. Accused-appellant was subjected to inquest proceedings at the City Prosecutor's Office and was charged accordingly.

### **Version of the Defense**

In contrast, accused-appellant strongly denied having sold any illegal drug to the poseur-buyer. He insisted that on July 22, 2002, at around 5 o'clock in the afternoon, he was at Kaingin Road on his way to return some rented VCDs when two men in civilian clothes suddenly accosted him. He asked them why he was being arrested, but the two told him to do his explanation at the police station. He was then brought to La Loma Police Station, where he was informed by one of the apprehending officers, whom he came to know later as PO2 Manlapig, that charges would be filed against him for sale of illegal drugs.

### **Ruling of the Trial Court**

After trial, the RTC found accused-appellant guilty of the crime. The dispositive portion of the Decision dated August 17, 2007 reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused GUILTY beyond reasonable doubt of the offense charged. Accordingly, he is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00, there being no mitigating nor aggravating circumstances that attended the commission of the offense.

The illegal drug subject of this case is hereby forfeited in favor of the Government [and to be] turned over to the Philippine Drug Enforcement Agency for proper disposition.

SO ORDERED.<sup>[5]</sup>

On appeal to the CA, accused-appellant disputed the lower court's finding of guilt beyond reasonable doubt of the crime charged. He argued that the testimonial evidence presented by the prosecution was contradictory and insufficient to overturn the presumption of innocence.

### **Ruling of the Appellate Court**

On August 26, 2009, the CA affirmed the judgment of the lower court. The dispositive portion of the CA Decision reads:

**WHEREFORE**, the decision dated August 17, 2007 of the Regional Trial Court, Branch 80, Quezon City, in Criminal Case No. Q-20-110865 is **AFFIRMED** *in toto*.

**SO ORDERED.**<sup>[6]</sup>

Accused-appellant timely filed a notice of appeal from the CA Decision.

### **The Issue**

Accused-appellant assigns the following lone assignment of error:

The court *a quo* erred in finding the accused-appellant guilty of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt.

### **Our Ruling**

The appeal is meritorious.

Accused-appellant argues that the lower court erred in relying on the testimony of prosecution witnesses while totally disregarding the version of the defense. He stresses that the police officers who testified in the case are seasoned witnesses who can deliver practiced testimonies and parry cross-examination, and, thus, posits that it was the duty of the lower court to minutely examine said testimonies. He likewise faults the lower court for giving credence to the testimony of poseur-buyer PO2 Manlapig which is uncorroborated, and points out the alleged contradictory testimonies of SPO2 Hidalgo and PO2 Manlapig on the role of the former in the buy-bust operation.

We agree with accused-appellant.

As a rule, the trial court's evaluation of the credibility of the witnesses and their testimonies is entitled to great weight and will not be disturbed on appeal. This rule does not apply where it is shown that any fact of weight and substance has been overlooked, misapprehended, or misapplied by the trial court.<sup>[7]</sup> In the instant case, there are circumstances, which, when properly appreciated, would warrant accused-appellant's acquittal.

Nothing less than the Constitution itself mandates that an accused shall be presumed innocent until the contrary is proved.<sup>[8]</sup> The prosecution has the burden to overcome such presumption and prove the guilt of accused-appellant beyond reasonable doubt. In doing so, it must rely on the strength of its own evidence and not on the weakness of the defense.

In fact, if the prosecution fails to meet the required quantum of evidence, the defense may not even present any defense on its behalf, in which case, the presumption of innocence prevails and the accused is acquitted.<sup>[9]</sup>

In the crime of sale of dangerous drugs, the prosecution must be able to successfully prove the following elements: (1) identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment for it.<sup>[10]</sup> Likewise, it is fundamental to prove that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*. The term *corpus delicti* means the actual commission by someone of the particular crime charged.<sup>[11]</sup>

Moreover, the existence of dangerous drugs is a condition *sine qua non* for conviction for the illegal sale of dangerous drugs, it being the very *corpus delicti* of the crime.<sup>[12]</sup> In fact, the existence of the dangerous drug is essential to a judgment of conviction. It is, therefore, essential that the identity of the prohibited drug be established beyond doubt. Even more than this, what must also be established is the fact that the substance bought during the buy-bust operation is the same substance offered in court as exhibit. The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.<sup>[13]</sup>

The importance of establishing the chain of custody cannot be overemphasized. In *Malillin v. People*,<sup>[14]</sup> the Court explained its significance, thus:

Prosecutions for illegal possession of prohibited drugs necessitates that the elemental act of possession of a prohibited substance be established with moral certainty, together with the fact that the same is not authorized by law. The dangerous drug itself constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to a judgment of conviction. Essential therefore in these cases is that the identity of the prohibited drug be established beyond doubt. Be that as it may, the mere fact of unauthorized possession will not suffice to create in a reasonable mind the moral certainty required to sustain a finding of guilt. More than just the fact of possession, the fact that the substance illegally possessed in the first place is the same substance offered in court as exhibit must

also be established with the same unwavering exactitude as that requisite to make a finding of guilt. The chain of custody requirement performs this function in that it ensures that unnecessary doubts concerning the identity of the evidence are removed.

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.

While testimony about a perfect chain is not always the standard because it is almost always impossible to obtain, an unbroken chain of custody becomes indispensable and essential when the item of real evidence is not distinctive and is not readily identifiable, or when its condition at the time of testing or trial is critical, or when a witness has failed to observe its uniqueness. The same standard likewise obtains in case the evidence is susceptible to alteration, tampering, contamination and even substitution and exchange. In other words, the exhibit's level of susceptibility to fungibility, alteration or tampering--without regard to whether the same is advertent or otherwise not--dictates the level of strictness in the application of the chain of custody rule.

Indeed, the likelihood of tampering, loss or mistake with respect to an exhibit is greatest when the exhibit is small and is one that has physical characteristics fungible in nature and similar in form to substances familiar to people in their daily lives. *Graham vs. State* positively acknowledged this danger. In that case where a substance later analyzed as heroin--was handled by two police officers prior to examination who however did not testify in court on the condition and whereabouts of the exhibit at the time it was in their possession--was excluded from the prosecution evidence, the court pointing out that the white powder seized could have been indeed heroin or it could have been sugar or baking powder. It ruled that unless the state can show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into the possession of police officers until it was tested in the laboratory to determine its composition, testimony of the state as to the laboratory's findings is inadmissible.

A unique characteristic of narcotic substances is that they are not readily identifiable as in fact they are subject to scientific analysis to determine their composition and nature. The Court cannot reluctantly close its eyes to the likelihood, or at least the possibility, that at any of the links in the chain of custody over the same there could have been tampering,