

THIRD DIVISION

[G.R. NO. 175222, July 27, 2007]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON QUIAOIT, JR., ACCUSED-APPELLANT.

D E C I S I O N

CHICO-NAZARIO, J.:

For review is the Decision^[1] of the Court of Appeals promulgated on 12 July 2006 in CA-G.R. CR-H.C. No. 00803 entitled, "*People of the Philippines v. Ramon Quiaoit, Jr. y De Castro*," affirming the Decision^[2] dated 1 December 2004 of the Regional Trial Court of Tarlac City, Branch 65, in Criminal Case No. 13229, finding appellant guilty beyond reasonable doubt of violation of Article II, Section 5 of Republic Act No. 9165, otherwise known as "The Comprehensive Dangerous Drugs Act of 2002."

The information against appellant reads as follows:

That at around 3:45 o'clock in the morning of April 13, 2004, at Tarlac City, Philippines, and within the jurisdiction of this Honorable Court, accused, did then and there, willfully, unlawfully and criminally sell, dispense and deliver 0.851 gram of Methamphetamine Hydrochloride, known as Shabu, a dangerous drug, to poseur buyer PO1 Mark Anthony Baquiran for ₱500.00, without being authorized by law.^[3]

Appellant pleaded not guilty when arraigned on 5 May 2004.^[4]

During the trial, the prosecution presented the following witnesses: P/Sr. Insp. Ma. Luisa G. David, a Forensic Chemical Officer of the Philippine National Police (PNP) Crime Laboratory assigned at the Tarlac Provincial Crime Laboratory; PO2 Ronnie Dueña, a member of the buy-bust operation team and the one who arrested appellant; and PO1 Mark Anthony Baquiran, a member of the PNP and the designated poseur-buyer.

The prosecution's version of the case is as follows:

At around 11:00 o'clock in the evening of 12 April 2004, the Tarlac PNP received a report from a confidential informant that someone was selling *shabu* at the Golden Miles,^[5] a videoke bar located in Barangay San Roque, Tarlac City. Acting on said information, a team was immediately organized by PNP Provincial Director Rudy Gamido Lacadin to conduct a surveillance in order to verify the information and perform a buy-bust operation.

Shortly thereafter, the team went to Golden Miles where they initially observed the movements of appellant who was with the confidential informant at that time. Later, the informant introduced PO1 Baquiran to appellant and the two negotiated the sale

of *shabu*. According to PO1 Baquiran's testimony, appellant handed to him a plastic sachet containing white crystalline substance in front of The Golden Miles' comfort room which was located at the back of said establishment.^[6] In return, he gave appellant a marked P500.00 bill. As soon as the exchange between appellant and PO1 Baquiran took place, the latter gave his companions the pre-arranged signal by scratching his head. PO2 Dueñas and PO1 Cabradilla moved in to arrest appellant. The plastic sachet containing white crystalline substance was later marked RID 1 by PO2 Dueñas.

On their way back to Camp Makabulos, the informant allegedly told the buy-bust team, through a text message, that appellant still had in his possession illegal drugs other than that which he had sold to PO1 Baquiran. Thus, upon reaching the camp, they frisked appellant and this yielded six more plastic sachets, the contents of which were similar to those earlier bought by PO1 Baquiran.

All seven pieces of the plastic sachets were then forwarded to the Provincial Crime Laboratory for examination. The test was conducted by P/Sr. Insp. David, and her report^[7] contained the following pertinent information:

SPECIMEN SUBMITTED:

Seven (7) heat-sealed transparent plastic sachets with markings "RID-1" through "RID-7" and marked as specimen "A" through "G," respectively, each containing white crystalline substance having a total weight of 0.851 gram. x x x.

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of dangerous drugs xxx

FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE results to the tests for the presence of Methylamphetamine Hydrochloride, a dangerous drug. x x x.

CONCLUSION:

Specimen "A" through "G" contain Methylamphetamine Hydrochloride, a dangerous drug. x x x.^[8]

Expectedly, appellant presented a disparate narration of the incident:

Appellant claimed that at around 1:00 o'clock in the morning of 13 April 2004, he went to the Golden Miles in order to meet a friend of his. While he was having drinks, PO1 Baquiran saw him and asked if he had company and he replied that he was by himself. He alleged that he knew PO1 Baquiran as he used to be a police asset. PO1 Baquiran then inquired if he was familiar with a certain August Medrano who was a drug pusher in their place. When he answered in the affirmative, PO1 Baquiran supposedly instructed him to buy P500.00 worth of *shabu* from Medrano. He was also allegedly ordered by PO1 Baquiran to bring Medrano with him to Golden Miles. He initially declined to follow PO1 Baquiran's instructions since he no longer

worked with the police. PO1 Baquiran, however, represented that he was the one who would buy *shabu* from Medrano and not appellant. Despite this, appellant alleged that he was "forced"^[9] to buy *shabu* himself after PO1 Baquiran told him that "(they) need August Medrano."^[10]

And so, from Golden Miles, appellant proceeded to Medrano's house. He informed Medrano that someone was interested in buying *shabu* but the prospective buyer wanted to talk to him in person. Medrano refused appellant's invitation claiming that he had to go somewhere else; instead, he gave the plastic sachet containing *shabu* to appellant and the latter gave him the P500.00 earlier given by PO1 Baquiran. After this, appellant went back to Golden Miles to inform PO1 Baquiran of what had just transpired between him and Medrano including the latter's refusal to go with him. He also handed over to said police officer the plastic sachet containing *shabu* which he bought from Medrano. All of a sudden, PO1 Baquiran placed his hand over appellant's shoulder and the latter was then taken to Camp Makabulos.

At the camp, PO2 Dueñas called for a certain PO4 Donato for whom appellant used to act as a police asset. PO4 Donato allegedly asked appellant if it was possible for him to buy some more *shabu* from Medrano. Appellant purportedly replied in the negative claiming that the personnel at Golden Miles already knew about his arrest. To this, PO4 Donato reportedly retorted, "How could we release you when this August Medrano is not yet arrested."^[11] Appellant claimed that he was surprised by PO4 Donato's statement since he was only doing the police force a favor.

Appellant also denied having possessed the other six plastic sachets of *shabu*, insisting that he bought only one heat-sealed plastic sachet from Medrano which he turned over to PO1 Baquiran.

After trial, the court *a quo* found appellant guilty as charged. The dispositive portion of the trial court's Decision reads:

Wherefore, the prosecution having established the guilt of the [appellant] beyond reasonable doubt of the crime of Violation of Sec. 5, Art. II of RA 9165, the accused RAMON QUIAOIT JR. y DE CASTRO is sentenced to undergo a prison term of life imprisonment, to pay a fine of Php500,000.00 and to pay the cost.^[12]

On 8 February 2005, appellant filed a Notice of Appeal.^[13] The Court of Appeals, in its Decision dated 12 July 2006, affirmed the findings and conclusion of the trial court, thus:

WHEREFORE, the present appeal is DENIED. The December 1, 2004 Decision of the Regional Trial Court of Tarlac City, Branch 65, in Criminal Case No. 13229, is hereby **AFFIRMED** *in toto*.^[14]

Aggrieved, appellant is now before us assailing the above-mentioned Decision of the Court of Appeals. In our Resolution of 21 January 2007, we required the parties to file their respective supplemental briefs if they so desired. Appellant manifested that he was adopting the Appellant's Brief dated 7 September 2005 which he previously filed before the Court of Appeals in order to avoid the repetition of substantially the same arguments.^[15] Similarly, the Office of the Solicitor General manifested that it

was no longer filing a supplemental brief.^[16]

In his brief, appellant impugns the trial court's decision on the following grounds:

I

THE TRIAL COURT GRAVELY ERRED IN NOT TAKING INTO CONSIDERATION THE ABSOLUTORY CIRCUMSTANCE OF INSTIGATION.

II

THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE OF FRAME-UP.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO IDENTIFY THE CORPUS DELICTI.

IV

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF VIOLATION OF SECTION 5, ARTICLE II, OF REPUBLIC ACT 9165, WHEN THE LATTER'S GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.^[17]

In essence, appellant contends that the trial court erred in not finding that the buy-bust team instigated him into buying *shabu* from Medrano and that the prosecution failed to prove his guilt by its failure to properly identify the sachet of *shabu* allegedly bought from him by PO1 Baquiran.

In support of the first error, appellant argues that the facts obtaining in this case reveal that he was a victim of instigation perpetrated by PO1 Baquiran. He emphasizes that despite his initial resistance to participate in the police operation that night, PO1 Baquiran, nevertheless, insisted that he purchase *shabu* from Medrano with the specific instruction to bring the latter to Golden Miles. Appellant, likewise, points out that the money he used in acquiring *shabu* was supplied by PO1 Baquiran himself, thus, proving that it was said police officer who initiated the events which led to his eventual arrest.

Appellant further assails the existence of a valid buy-bust operation on the ground that the buy-bust team was composed of untrained and incompetent police officers. He claims that it was "inconceivable"^[18] for such a team to be made up of police officers who had insufficient knowledge of how to properly conduct a buy-bust operation as shown by their failure to frisk appellant at the scene of the crime.

The demarcation line distinguishing "instigation" from "entrapment" is clearly drawn. In the case of *People v. Quintana*,^[19] we explained the distinction between the two, to wit –

There is a wide difference between entrapment and instigation, for while in the latter case the instigator practically induces the will be accused into the commission of the offense and himself becomes a co-principal, in entrapment ways and means are resorted to for the purpose of trapping and capturing the law breaker in the execution of his criminal plan.

Instigation and inducement must be distinguished from entrapment. The general rule is that instigation and inducement to commit a crime, for the purpose of filing criminal charges, is to be condemned as immoral, while entrapment, which is the employment of means and ways for the purpose of trapping and capturing the law breaker, is sanctioned and permissible. And the reason is obvious. Under the first instance, no crime has been committed, and to induce one to commit it makes of the instigator a co-criminal. Under the last instance, the crime has already been committed and all that is done is to entrap and capture the law breaker.^[20]

In the case at bar, we find appellant's claim of instigation to be baseless. To recall appellant's version of the story, PO1 Baquiran approached him that night inquiring about Medrano, the alleged object of the buy-bust operation. PO1 Baquiran then gave him a ₱500.00 bill to be used for purchasing *shabu* from Medrano; but PO1 Baquiran had an additional instruction for appellant which was to bring along Medrano to Golden Miles. While appellant was able to talk with Medrano, he was unable to convince the latter to accompany him back to Golden Miles. Such being the case, we fail to see anymore reason for him to still buy *shabu* considering that he knew fully well that he would be unable to fully abide by PO1 Baquiran's instructions. Furthermore, we scrutinized the records of this case and failed to discern any "force" that was exerted upon him by PO1 Baquiran. In fact, nowhere in appellant's testimony did he aver that PO1 Baquiran insisted that he buy *shabu* from Medrano. We note that after appellant had initially refused to take part in the buy-bust operation that night, PO1 Baquiran merely told him that "(they) needed August Medrano" and nothing more.

THE COURT:

Q: What will you buy?

A: Shabu worth 5 hundred pesos, sir.

Q: Did he give you the money?

A: Yes, sir.

ATTY. ABELLERA:

Q: What again PO1 Baquiran says to buy and what else?

A: "Take him along with you".

Q: Where?

A: At GMA Golden Miles, sir.