

## FIRST DIVISION

[ G.R. No. 150050, June 17, 2004 ]

**RUFINO LAPUZ Y MENDOZA, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**AZCUNA, J.:**

Petitioner Rufino Lapuz y Mendoza was convicted by the Regional Trial Court of Valenzuela City,<sup>[1]</sup> for violation of Section 15, Article III of Republic Act 6425, as amended by Republic Act 7659, otherwise known as the Dangerous Drugs Act of 1972 and sentenced to suffer an indeterminate penalty of six (6) months of *arresto mayor*, as minimum, to four (4) years of *prision correccional*, as maximum, and to pay a fine of P6,000 with the corresponding subsidiary imprisonment in case of insolvency plus the costs, under the following information:<sup>[2]</sup>

That on or about May 29, 1996, in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there wilfully, unlawfully and feloniously sell and deliver to PO3 CESAR J. PINEDA, who posed as buyer of METHAMPHETAMINE HYDROCHLORIDE (0.0233) grams and 0.0457 gram, knowing the same to be a regulated drug.

Contrary to law.

Petitioner assailed his conviction by appealing to the Court of Appeals.<sup>[3]</sup> The appellate court, however, dismissed the appeal and affirmed the decision of the trial court in its entirety. The matter is now before the Court, via petition for review on certiorari.

Extracted from the decision of the Court of Appeals, the facts of the case are as follows:<sup>[4]</sup>

On May 29, 1996, at around three o'clock in the afternoon, the Drug Enforcement Group of the Northern Police District Command, Valenzuela Police Station, received an information that a certain "Erning" was selling prohibited drugs at Barangay Pinalagad, Malinta, Valenzuela City. Chief Inspector Benedicto R. Gorospe immediately formed a team to conduct a "buy-bust" operation and assigned PO3 Cesar J. Pineda to act as the "poseur buyer" who was given two (2) P100.00 bills, the serial numbers of which were recorded in their logbook. Accompanied by their civilian informant who is a barangay kagawad, the police officers led by Chief Inspector Gorospe boarded two (2) owner-type jeeps and proceeded to the area following a sketch drawn by said informant, together with a physical description of the suspect.

Upon reaching the place, the police officers positioned themselves in strategic places while the informant pointed to PO3 Pineda the accused who was standing at the alley at the corner of Mayumi and Pinalagad Streets. PO3 Pineda approached the accused and told him he is going to buy P200.00 worth of "shabu". He gave the accused the two (2) P100.00 bills and the latter handed to him two (2) plastic sachets containing white crystalline substance which the accused took from the right pocket of his pants. Suddenly realizing that his buyer is a police officer, accused ran towards his house but was blocked by the other police officers. Accused tried to resist arrest but was overpowered by the police officers who handcuffed him and boarded him into their jeep. Accused was brought to the police station for investigation. Accused's sister Amelia Lapuz Esguerra, later brought and turned over to the police officers drug paraphernalia belonging to the accused.

In seeking is acquittal, petitioner asks the Court to resolve four questions of law:

1. WHETHER OR NOT, IN PROSECUTIONS FOR SALE OF ILLEGAL DRUGS, THE BARE TESTIMONY OF A POLICE POSEUR-BUYER THAT THE PESO BILLS PRESENTED AS EVIDENCE IN COURT WERE THE PESO BILLS PAID AND RECOVERED FROM THE "DRUG-PUSHER" HAS SUFFICIENT PROBATIVE VALUE TO ESTABLISH THAT FACT;
2. WHETHER OR NOT, IN PROSECUTIONS FOR SALE OF ILLEGAL DRUGS, IT IS SUFFICIENT TO ESTABLISH THAT ILLEGAL DRUGS WAS RECEIVED BY THE POSEUR-BUYER FROM THE "DRUG-PUSHER" AND THE SAME WAS PRESENTED IN COURT TO WARRANT A CONVICTION OF THE ACCUSED;
3. WHETHER OR NOT THE ACCUSED, IN PROSECUTIONS FOR SALE OF ILLEGAL DRUGS, HAS THE BURDEN OF PROOF TO SHOW THAT THE POLICE OFFICERS WHO TESTIFIED AGAINST HIM WERE ACTUATED BY IMPROPER MOTIVES; AND
4. WHETHER OR NOT, IN PROSECUTIONS FOR SALE OF ILLEGAL DRUGS, THE NON-PRESENTATION OF THE ONLY DOCUMENTARY PROOF THAT THE MONEY RECEIVED BY AND RECOVERED FROM THE ACCUSED WAS MARKED MONEY, DESPITE THE ISSUANCE OF A SUBPOENA DUCES TECUM [AND] AD TESTIFICANDUM THEREFOR, CONSTITUTE WILLFUL SUPPRESSION OF MATERIAL EVIDENCE.

The petition is without merit.

Petitioner's conviction will not be set aside just because the only testimonial evidence presented by the prosecution was that of the poseur-buyer, PO3 Pineda. The Court has declared on numerous occasions that it is possible to convict an accused on the testimony of single witness as long as it is positive and credible.<sup>[5]</sup> This especially holds true where the witness, as in this case, is a police officer who enjoys the presumption of regularity in the performance of his duties.<sup>[6]</sup>

To sustain a conviction under a single prosecution witness, such testimony needs