

SPECIAL EIGHTEENTH DIVISION

[CA-GR. CR. HC. NO. 01520, September 30, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EXEQUIL AMIGO BANATANTO, ACCUSED-APPELLANT,**

D E C I S I O N

INGLES, G. T., J.:

The Case

This is an appeal filed by accused-appellant, of the Joint Judgment^[1] dated August 1, 2012 of the Regional Trial Court, Seventh Judicial Region, Branch 30, Dumaguete City, Negros Oriental which found accused-appellant guilty beyond reasonable doubt of Violation of Sections 11 and 5 of Article II of RA No. 9165 or the Dangerous Drugs Act of 2002 in Criminal Case Nos. 19872 and 19873.

Version of the Prosecution

Around 2:00 PM on February 22, 2010, Special Investigator (SI) Ferdinand Kintanar, Provincial Chief of the Philippine Drug Enforcement Agency (PDEA), Dumaguete City received information from a confidential informant that accused-appellant Exequil Banatanto whose surname was erroneously reported as "Manatanto" was involved in illegal drug business in Barangay Looc, Dumaguete City.

Around 3:00 PM on the same day, SI Kintanar organized a team and conducted a briefing for the conduct of a buy bust operation against accused-appellant. The team members marked the buy bust money. SI Kintanar was designated as poseur buyer.

Around 4:00 PM that same afternoon, the buy bust team proceeded to Zone 4, Barangay Looc, Dumaguete City together with the confidential informant. Upon arriving at the target area, the team members observed two persons on the right side of the road and one of them was identified by the informant as accused-appellant.

SI Kintanar and the informant subsequently approached their target and relayed their intention to purchase P 500 worth of shabu. Accused-appellant then led them to a nearby alley approximately ten (10) meters from the road, and demanded money for a sachet of shabu in his hand. Upon the exchange of items, SI Kintanar made a missed call to his team members to signal that the sale had been consummated. The rest of the team members then appeared and arrested accused-appellant. He was then searched. SI Kintanar recovered from accused-appellant another sachet of shabu which he marked with accused-appellant's initials "EM-01 2-22-2010" along with the sachet subject of the sale marked as "EM-BB 2-22-2010".

SI Kintanar marked the seized items with "EM" due to the initial information he received that accused-appellant's name was Exequil Manatanto.

Thereafter, SI Kintanar conducted an inventory of the items on site in front of accused-appellant and a barangay official of Looc. No representative from the DOJ and the media could come to the area since it was getting dark. SI Kintanar continued the proceedings at the PDEA Office where the said representatives caught up with the other team members and subsequently signed the certificate of inventory.

After the inventory proceedings, SI Kintanar prepared the laboratory request form and personally delivered the same with the seized sachets containing suspected shabu to PCI Josephine Llena of the PNP Crime Laboratory. PCI Llena conducted tests on the contents of the sachets she received. In Chemistry Report^[2] No. D-027-10, the results yielded positive for shabu. Thereafter, the foregoing items were delivered as evidence to the trial court.

The Charge

In the Informations dated February 23, 2010, and March 3, 2010 accused-appellant was charged with the crime of Violation of Sections 5 and 11 of Article II of RA No. 9165, respectively, as follows:

CRIM CASE NO. 19873^[3]

"That on or about the 22nd day of February, 2010 in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused not being then authorized by law, did then and there willfully, unlawfully, and feloniously sell to a poseur-buyer one (1) heat sealed transparent plastic sachet containing 0.01 gram of methamphetamine hydrochloride, otherwise known as "shabu", a dangerous drug.

Contrary to Sec. 5, Art. II, RA 9165."

CRIM CASE NO. 19872^[4]

"That on or about the 22nd day of February, 2010 in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did then and there willfully, unlawfully and feloniously possess one (1) heat-sealed transparent plastic sachet containing 0.01 gram of methamphetamine hydrochloride, otherwise known as "shabu", a dangerous drug.

That the urine sample taken from the accused contains Methamphetamine, a dangerous drug, as reflected in Chemistry Report No. CDT-017-10.

Contrary to Sec. 11, Art. II, RA 9165."

Accused-appellant was arraigned and pleaded "not guilty" to the crimes charged against him. The two cases were consolidated.

Joint trial ensued. The prosecution presented the following as witnesses: SI Ferdenand Kintanar and SI Marion Manzanaris. On the other hand, accused-appellant testified for his defense.

Version of Accused-appellant

Accused-appellant narrated that before his arrest, he was a resident of Boloc-boloc. He attested that on February 22, 2010, he was then at Zone 4, Dumaguete City to bring his grandson Aiso Banatanto who was studying at Looc Elementary School. While accused-appellant was waiting at his cousin Vicente Samoza's house for his grandson's dismissal from class at 4:00 PM, a certain Nicholas arrived and requested him to get something at Benny Kitay's house. He went to Benny's house and he was handed a cigarette wrapped in a paper which he brought to Nicolai. Nicolai suddenly wrestled with him. SI Kintanar arrived seconds thereafter and likewise held accused-appellant. He was arrested and brought to the road where an inventory was conducted. Accused-appellant noticed one Emilia Amatong but he did not know her. All the while, he had no idea why he was arrested and he was not even searched after his arrest. Accused-appellant denied selling drugs on the date he was arrested.

The RTC Ruling:

Thereafter, on August 1, 2012, the RTC, Seventh Judicial Region, Branch 30, Dumaguete City rendered a Joint Judgement^[5] against accused-appellant, the pertinent portion of which reads:

"Wherefore, in light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 19873, the accused Exequil Amigo Banatanto is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 0.01 gram of shabu in violation of Section 5, Article II of RA 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00)

The one heat sealed transparent plastic sachet containing 0.01 gram of shabu is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 19872, the accused Exequil Amigo Banatanto is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 0.01 gram of shabu in violation of Section 11, Article II of RA No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The one (1) heat sealed transparent plastic sachet containing 0.01 gram of shabu is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused Exequil Amigo Banatanto shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.”

Aggrieved, accused-appellant now comes to this Court seeking a reversal of his conviction and assigning as errors, thus:

I.

“THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT FOR VIOLATION OF SECTION 5, ARTICLE II, OF RA 9165 NOTWITHSTANDING THE EXISTENCE OF DOUBT AS TO THE CONSUMMATION OF THE TRANSACTION BETWEEN ACCUSED-APPELLANT AND POSEUR-BUYER;

II.

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT FOR VIOLATION OF SECTION 11, ARTICLE II OF RA 9165 NOTWITHSTANDING THE PRESENCE OF DOUBT AS TO THE VALIDITY OF THE WARRANTLESS SEARCH MADE BY THE POLICE OFFICERS,

III.

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY EVEN WHEN THERE IS DOUBT AS TO THE AUTHENTICITY OF THE EVIDENCE ADMITTED AGAINST HIM.”

THIS COURT'S RULING:

I.

Buy bust operation

Accused-appellant asserts that there is nagging doubt that the sale of illegal drugs was actually consummated when he was arrested by the police officers. Accused-appellant points out in SI Manzanaris' testimony, thus:

“Q: So where did you go after the briefing?

A: We went to Barangay Looc, sir, Zone 4.

Q: And while you were in Barangay Looc, can you tell us what transpired?

A: Yes sir, during the briefing, there was an instruction that SI Kintanar

will send a missed call from my phone indicating that the transaction with the subject is in progress for the sale of illegal drugs.”

Accused-appellant posits that the buy-bust team already agreed to arrest him even before the consummation of the crime. He claims that as to what stage of progress was agreed upon by the buy bust team is unknown but the plain language used cannot be mistaken to mean a complete or consummated transaction. Hence, accused-appellant asseverates that when the rest of the team members moved to the place where he was positioned, there was in fact, no delivery of illegal drugs and no payment thereof. It is accused-appellant's submission that the hastened arrest made by the buy bust team could be motivated by their bias against him based on their unfounded knowledge that he had been involved and arrested for an illegal drug transaction in the past. According to accused-appellant, this casts doubt on his guilt warranting his acquittal.

Accused-appellant's submission is misplaced.

Contrary to the claim of accused-appellant, a buy-bust operation was established by the prosecution.

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. Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimony on the operation deserves full faith and credit. When the police officers involved in the buy-bust operation have no motive to falsely testify against the accused, the courts shall uphold the presumption that they have performed their duties regularly. The trial court in this case correctly upheld the testimony of the prosecution witnesses, the police officers who conducted the buy-bust operation.^[6]

Here, the testimonies of the prosecution witnesses were consistent in proving that the buy-bust operation was conducted on February 22, 2010 with accused-appellant as the target. SI Kintanar narrated the circumstances leading to the consummation of the sale of illegal drugs and the possession of another sachet of illegal drugs, viz:

“Q: So what did you do along the main road of Flores Avenue?

A: When we arrived at Zone 4, we noticed two (2) persons standing on the right side of the road and the informant told me that one of those persons was the accused Banatanto and we approached them.

Q: And when you approached them, what did you do?

A: when we approached them, the confidential informant informed them that we are interested in purchasing shabu worth five hundred pesos.

Q: To whom did you and your informant give this information that you are interested to buy shabu worth five hundred pesos?

A: To both persons, the accused here and the unidentified companion of the accused.