



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 203433

Present:

SERENO, C.J.,
Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, JJ.

-versus-

FAISAL LOKS y PELONYO,
 Accused-Appellant.

Promulgated:

NOV 27 2013

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RESOLUTION

REYES, J.:

This is an appeal from the Decision¹ dated February 13, 2012 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04129, which affirmed the Decision² dated June 11, 2009 of the Regional Trial Court (RTC) of Manila, Branch 23 finding accused-appellant Faisal Loks y Pelonyo (Loks) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165 (R.A. No. 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

¹ Penned by Associate Justice Manuel M. Barrios, with Associate Justices Juan Q. Enriquez, Jr. and Apolinario D. Bruselas, Jr., concurring; *CA rollo*, pp. 85-92.

² Issued by Judge Caroline Rivera-Colasito; *id.* at 48-52.

Loks was accused of violating R.A. No. 9165 for the sale of methylamphetamine hydrochloride, commonly known as *shabu*, weighing 1.300 grams on August 2, 2006 in the City of Manila.³ When arraigned, he pleaded not guilty to the charge. After pre-trial, trial on the merits ensued.⁴

SPO1 Jerry Velasco (SPO1 Velasco) and SPO1 Rodolfo Ramos (SPO1 Ramos) testified for the prosecution. Their testimonies provided that on August 2, 2006, at around 4:00 p.m., SPO1 Ramos learned from a confidential informant about the delivery of *shabu* worth ₱3,000.00 that was to be made by a certain “Faisal” at around 6:00 p.m. along Carriedo Street in Quiapo, Manila. The information was reported by SPO1 Ramos to Police Senior Inspector Julian Olonan, who immediately organized a buy-bust team composed of SPO1 Velasco, SPO1 Ramos, a certain PO2 Nicdao and PO2 Manlapaz. The marked money for the buy-bust operation was prepared by SPO1 Ramos, while SPO1 Velasco was designated as the poseur-buyer. The members of the team agreed that SPO1 Velasco would remove his bull cap to signal that the sale by “Faisal” of the illegal drug had been consummated.⁵

At the target area in Quiapo, Manila, “Faisal” was identified as herein accused-appellant Loks. When Loks arrived, he approached the police’s confidential informant, who was then with SPO1 Velasco. SPO1 Velasco was introduced by the confidential informant to Loks as the buyer of *shabu*.⁶

The sale ensued between SPO1 Velasco and Loks. Loks handed to SPO1 Velasco 1.25 grams of *shabu*, while SPO1 Velasco paid the amount of ₱3,000.00 to Loks. When SPO1 Velasco executed the team’s pre-arranged signal, the other members of the buy-bust team approached to arrest Loks. SPO1 Ramos recovered the marked money from Loks, while SPO1 Velasco kept with him the purchased drug.⁷

Loks was then brought to the police station, where SPO1 Velasco placed the marking “DAID” to the seized item.⁸ The specimen was turned over to one SPO1 Pama⁹, who brought it to the police crime laboratory for

³ Id. at 9.

⁴ Id. at 13.

⁵ Id. at 14.

⁶ Id. at 15.

⁷ Id.

⁸ Id.

⁹ Referred to as SPO1 Fama in some pleadings.

examination.¹⁰ The examination conducted by Police Senior Inspector Marites F. Mariano confirmed that the seized specimen contained *shabu*.¹¹

For his defense, accused-appellant Loks denied having sold any illegal drug to SPO1 Velasco. He claimed that on August 2, 2006, he was selling pirated compact discs at Isetan in Recto, Manila when four men in civilian clothes approached him and asked if he was Faisal Benito. Even after Loks informed the men that he was not Faisal Benito, he was told to go with them to the Western Police District (WPD) Station along United Nations Avenue, Manila. At the police station, Loks overheard from some policemen that they erred in the identity of the person whom they arrested, but SPO1 Velasco instructed them to proceed with the charge.¹²

On June 11, 2009, the RTC rendered its Decision¹³ finding Loks guilty beyond reasonable doubt of the crime charged. The dispositive portion of the Decision reads:

WHEREFORE, the court finds the accused, FAISAL LOKS Y PELONYO @ Feisal, GUILTY, beyond reasonable doubt, of the crime of Violation of Section 5 Article II of RA 9165 and is sentenced to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine of Five Hundred Thousand Pesos ([P]500,000.00).

The one (1) heat-sealed transparent plastic sachet with white crystalline substance, containing methylamphetamine hydrochloride known as shabu, a dangerous drug, subject matter of this case, is hereby confiscated in favor of the State and ordered turned over to the Philippine Drug Enforcement Agency for its eventual destruction pursuant to existing Rules. No cost.

SO ORDERED.¹⁴

Dissatisfied, Loks appealed the RTC decision to the CA which, in the Decision¹⁵ dated February 13, 2012, affirmed the rulings of the RTC. Hence, this appeal.

Upon review, the Court finds no cogent reason to reverse the conviction of accused-appellant Loks. Both the RTC and the CA courts correctly declared him guilty beyond reasonable doubt of illegal sale of *shabu*, as defined in Section 5, Article II of R.A. No. 9165. In *People v. Seraspe*,¹⁶ the Court emphasized that in the prosecution of illegal sale of

¹⁰ CA *rollo*, p. 15.

¹¹ Id. at 16-17.

¹² Id. at 16.

¹³ Id. at 48-52.

¹⁴ Id. at 52.

¹⁵ Id. at 85-92.

¹⁶ G.R. No. 180919, January 9, 2013, 688 SCRA 289.

dangerous drugs, the two essential elements of the offense must concur, namely: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor.¹⁷

The presence in the instant case of these two elements was sufficiently discussed in the RTC and CA decisions. Citing the facts which were determined after a trial on the merits, the RTC explained:

In the case under consideration, all these elements have been established. The witnesses for the prosecution clearly showed that the sale of the drugs actually happened and that the shabu subject of the sale was brought and identified in court. The poseur buyer (SPO1 Velasco) positively identified accused as the seller of the shabu. He categorically testified about the buy-bust operation – from the time he was introduced by the informant to accused as the buyer of the shabu; to the time when accused agreed to the sale; to the actual exchange of the marked money and the heat-sealed sachet containing a white crystalline substance; and until the apprehension of accused. His testimony was corroborated by SPO1 Ramos.

Moreover, the prosecution was able to establish that the substance recovered from accused was indeed shabu[.] Per Chemistry Report No[.] D-D-911-06 of Police Senior Inspector Marites F. Mariano, the substance, weighing ONE POINT THREE ZERO ZERO (1.300) grams, which was brought by SPO2 Pama was examined and found to be methamphetamine hydrochloride (*shabu*).¹⁸

The RTC's appreciation of the prosecution witnesses' testimonies *vis-à-vis* the defense offered by Loks and the other evidence presented during the proceedings before it deserves respect. It is a well-entrenched principle that "[t]he trial court's evaluation of the credibility of witnesses and their testimonies is conclusive on this Court as it is the trial court which had the opportunity to closely observe the demeanor of the witnesses."¹⁹ Further, we explained in *People v. Naelga*²⁰:

[I]t should be pointed out that prosecutions involving illegal drugs largely depend on the credibility of the police officers who conducted the buy-bust operation. Considering that this Court has access only to the cold and impersonal records of the proceedings, it generally relies upon the assessment of the trial court. This Court will not interfere with the trial court's assessment of the credibility of witnesses except when there appears on record some fact or circumstance of weight and influence which the trial court has overlooked, misapprehended, or misinterpreted.

¹⁷ Id. at 299, citing *People v. Legaspi*, G.R. No. 173485, November 23, 2011, 661 SCRA 171, 185.

¹⁸ CA *rollo*, pp. 16-17.

¹⁹ *People v. Salcedo*, G.R. No. 186523, June 22, 2011, 652 SCRA 635, 645, citing *People v. Flores*, G.R. No. 188315, August 25, 2010, 629 SCRA 478, 488.

²⁰ G.R. No. 171018, September 11, 2009, 599 SCRA 477.

This rule is consistent with the reality that the trial court is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. Thus, factual findings of the trial court, its calibration of the testimonies of the witnesses, and its conclusions anchored on its findings are accorded by the appellate court high respect, if not conclusive effect, more so when affirmed by the Court of Appeals, as in this case.²¹ (Citations omitted)

“It is equally settled that in cases involving violations of [R.A. No. 9165], credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.”²² In this case, the RTC gave greater weight to the testimonies of the police officers who testified against Loks, a ruling which even the CA affirmed on appeal. Upon review, the Court has determined that the testimony of SPO1 Velasco, who was the poseur-buyer in the sale and thus armed with sufficient personal knowledge on the transaction, indeed established Lok’s sale of the illegal drug and the validity of his arrest.

“[A] buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors.”²³ Since Loks was caught by the buy-bust team in *flagrante delicto*, his immediate arrest was also validly made. The accused was caught in the act and had to be apprehended on the spot. From the very nature of a buy-bust operation, the absence of a warrant did not make the arrest illegal.²⁴ Section 5(a), Rule 113 of the Rules of Court authorizes a warrantless arrest by a peace officer and even a private person “when, in his presence, the person to be arrested has committed or is attempting to commit an offense.” The legitimate warrantless arrest also cloaks the arresting police officer with the authority to validly search and seize from the offender those that may be used to prove the commission of the offense.²⁵

The drug seized during the buy-bust operation, which is considered the crime’s *corpus delicti*, was sufficiently established as containing *shabu*, a dangerous drug. SPO1 Velasco’s marking of the seized drug immediately upon his arrival at the police station qualified as a compliance with the marking requirement. Contrary to the argument of the defense, even the buy-bust team’s failure to make an inventory and to take photographs of the subject drug did not adversely affect the prosecution’s case. Time and

²¹ Id. at 489-490.

²² *People v. Dela Cruz*, G.R. No. 177324, March 30, 2011, 646 SCRA 707, 726; *People v. Unisa*, G.R. No. 185721, September 28, 2011, 658 SCRA 305, 336.

²³ *People v. Mantalaba*, G.R. No. 186227, July 20, 2011, 654 SCRA 188, 199, citing *People v. Chua Uy*, 384 Phil. 70, 85 (2000).

²⁴ *People v. Marcelino*, G.R. No. 189278, July 26, 2010, 625 SCRA 632, 640.

²⁵ *Ambre v. People*, G.R. No. 191532, August 15, 2012, 678 SCRA 552, 563.

again, the Court has recognized that non-compliance with Section 21²⁶ of R.A. No. 9165 which identifies the said requirements does not necessarily render the arrest illegal or the items seized inadmissible. What is essential is that the integrity and evidentiary value of the seized items which would be utilized in the determination of the guilt or innocence of the accused are preserved.²⁷ In this case, the defense failed to substantiate its claim that such integrity and evidentiary value of the subject drug was adversely affected by the police officers' handling thereof. As the Court explained in *People v. Mendoza*²⁸:

This Court has, in many cases, held that while the chain of custody should ideally be perfect, in reality it is not, "as it is almost always impossible to obtain an unbroken chain." The most important factor is the preservation of the integrity and the evidentiary value of the seized items as they will be used to determine the guilt or innocence of the accused. Hence, the prosecution's failure to submit in evidence the physical inventory and photograph of the seized drugs as required under Article 21 of Republic Act No. 9165, will not render [the accused]'s arrest illegal or the items seized from her inadmissible.²⁹ (Citations omitted)

As against the prosecution's evidence, Lok's defense of denial fails to persuade. Our ruling in *People v. Ganenas*³⁰ applies:

Courts generally view with disfavor the defense of denial, on account of its aridity and the facility with which the accused can concoct it to suit their defense. Negative and self-serving, it deserves no weight in law when unsubstantiated by clear and convincing evidence. Thus, it cannot be given greater evidentiary weight than that given to the testimonies of credible witnesses who testify on affirmative matters. Thus, when the issue hinges on the credibility of witnesses *vis-à-vis* the appellant's denial, the trial court's findings in that respect are generally not disturbed on appeal.³¹ (Citations omitted)

²⁶ Section 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.*—The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof; x x x.

²⁷ *People v. Aneslag*, G.R. No. 185386, November 21, 2012, 686 SCRA 150, 163.

²⁸ G.R. No. 189327, February 29, 2012, 667 SCRA 357.

²⁹ Id. at 368.

³⁰ 417 Phil. 53 (2001).

³¹ Id. at 66-67.

WHEREFORE, the Decision dated February 13, 2012 of the Court of Appeals in CA-G.R. CR-H.C. No. 04129 is **AFFIRMED**.

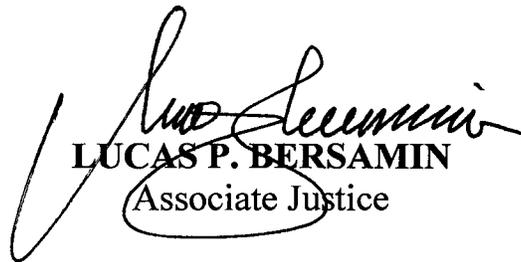
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice