



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- versus -

JOY ALCALA y NOVILLA,
Accused-Appellant.

G.R. No. 201725
Present:

CARPIO, J.,
Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

JUL 18 2014

X ----- X

DECISION

PEREZ, J.:

Before this Court is an appeal from the Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04053 affirming the Decision² in Criminal Case No. Q-04-129946 rendered by the Regional Trial Court (RTC), Branch 82 of Quezon City. The RTC Decision found Joy Alcala y Novilla (accused) guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act No. 9165 (R.A. No. 9165), otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Facts

¹ Rollo, pp. 2-15; Penned by Associate Justice Antonio L. Villamor with Associate Justices Jose C. Reyes, Jr. and Ramon A. Cruz concurring.

² Records, pp. 103-108; Penned by Presiding Judge Severino B. De Castro, Jr..

The accused was charged under the Information³ docketed as Criminal Case No. Q-04-129946 for violation of Section 5, Article II of R.A. No. 9165, which reads as follows:

That on or about the 30th day of September, 2004, 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 (sic) and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point zero two (0.02) gram of white crystalline substance containing methylamphetamine hydrochloride, a dangerous drug.⁴

Upon arraignment, the accused pleaded not guilty to said charge.⁵ Trial thereafter ensued.

The factual findings of the trial court, as affirmed by the appellate court, are stated as follows:

The Version of the Prosecution

Around 5 o'clock in the afternoon of September 30, 2004, a female informant came to the Anti-Illegal Drugs Special Operation Task Force of the Central Police District, Station 11, Quezon City, to report the illegal drug activities of a certain alias Joy in the vicinity of Lantana St., Barangay Immaculate Conception, Cubao, Quezon City. Thereupon, P/Insp. Erwin Guevarra formed a buy-bust team composed of SPO1 Mario Abong, PO2 Anthony Pamiliar, PO3 Jose Castuciano, PO2 Jonathan Caranza and PO2 Erwin Bautista, who was designated as poseur buyer. The team was briefed on the details of the buy-bust operation against alias Joy and PO2 Bautista was given buy-bust money, a one hundred peso bill, which he marked with his initials "EB". Thereafter, a pre-operation report was prepared.

Past 6:00 p.m. of the same day, the team arrived at the target area. The informant and Bautista sought alias Joy, who was later identified as appellant, Joy Alcala. The rest of the operatives followed at a distance and positioned themselves according to their plan. Along Lantana St., the informant saw and approached appellant. He introduced PO2 Bautista as a buyer of shabu. Then, appellant asked him, "*Iiskor kayo, magkano?*" PO2 Bautista replied "*pisto lang*", meaning P100.00 worth of *shabu*. Appellant took a small plastic sachet containing white crystalline substance from the right front pocket of her pants and then asked for payment. PO2 Bautista handed her the marked money and then took the plastic sachet from appellant. Thereafter, PO2 Bautista lighted a cigarette, the pre-arranged

³ Records, pp. 1-2; Information dated 4 October 2004.

⁴ Id. at 1.

⁵ Id. at 21; Certificate of Arraignment dated 3 January 2005.

signal that the sale was consummated. The other members of the team converged on the scene and arrested appellant. Appellant was asked to empty her pockets, after which, the buy bust money was recovered.

Appellant was brought to the police station. Thereat, the confiscated plastic sachet was marked by PO2 Bautista with the letters "EB-JA". He then turned it over to the duty desk officer, PO3 Castuciano, who prepared the standard request for laboratory examination. The specimen and the request were brought by PO2 Pamilar to the PNP Crime Laboratory. After a qualitative examination conducted by forensic chemist, Victor Calub Drapete, it was reported that the contents of the plastic sachet EB-JA proved positive for the presence of methylamphetamine hydrochloride or shabu, a dangerous drug.

The Defense Version

On September 30, 2003,⁶ appellant accompanied her friend, alias Baba, to Police Station 11, purportedly, to talk to a very important person there. However, while they were in the station, she was arrested and ordered detained by the woman whom alias Baba talked to. She kept crying inside the detention cell but nobody helped her. She did not see her friend nor the woman anymore. Appellant vehemently denies the accusation against her and claims that she does not know the cause of her detention.⁷

The Ruling of the RTC

After trial on the merits, the RTC rendered a Decision⁸ finding the accused guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165. The dispositive portion of which is hereunder quoted as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding accused **JOY ALCALA y NOVILLA** *guilty* beyond reasonable doubt of a violation of Section 5, Article II of R.A. No. 9165. Accordingly, she is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine in the amount of **Five Hundred Thousand (P500,000.00) PESOS**.

The Branch Clerk of Court is hereby directed to transmit to the Philippine Drug Enforcement Agency the dangerous drugs subject hereof for proper disposition and final disposal.⁹

⁶ As testified to by accused-appellant during her direct examination conducted on 3 March 2008. TSN dated 3 March 2008, p. 34.

⁷ *Rollo*, pp. 4-6; CA Decision dated 13 June 2011.

⁸ Records, pp. 103-108.

⁹ Id. at 108.

The trial court concluded that the evidence presented by the prosecution sufficiently satisfied the quantum required for accused's conviction. It found the testimonies of the police officers who participated in the buy-bust operation credible and reliable since absence of any showing of ill-motive on their part to concoct trumped-up charges, they enjoy the presumption of regularity in the performance of their duties.¹⁰ On the other hand, the denial of the accused was found to be unsubstantiated by any convincing and credible evidence. Hence, being considered as a negative, weak, and self-serving evidence, accused's bare denial cannot prevail over the positive testimony of the prosecution's witnesses and the physical evidence which supported said judgment of conviction.¹¹

The Ruling of the CA

On intermediate appellate review, the CA affirmed the RTC's Decision convicting the accused. It ruled that the prosecution was able to sufficiently bear out the statutory elements of the crime. The elements of the sale of illegal drugs between accused and PO2 Erwin Bautista (PO2 Bautista), as poseur-buyer, have been duly established by the prosecution, considering that there was actual delivery of the prohibited drug to the poseur-buyer and actual receipt by the seller of the marked money. These established factual findings consummated the buy-bust transaction between the entrapping police officers and the drug dealer.¹² Moreover, the appellate court held that failure to comply with Section 21 of R.A. No. 9165 will not render the arrest of the accused illegal, nor will it result to the inadmissibility in evidence of the illegal drugs seized in the course of the entrapment operation. What is of utmost relevance is the preservation of the integrity and maintenance of the evidentiary value of the confiscated illegal drugs, for in the end, the same shall necessarily be the thrust that shall determine the guilt or innocence of the accused. The prosecution, therefore, must simply show that the seized item recovered from accused was the same item presented in court and found to be an illegal/prohibited drug. These were all established and proven beyond reasonable doubt in the instant case.¹³

In addition, the CA gave no credence to the defense of the accused of denial. It ruled that a denial is a weak defense which cannot prevail against the positive testimony of the police officers acting in the performance of their official duty, which appeared more credible and adequately supported

¹⁰ Id. at 108 citing *People v. Khor*, 366 Phil. 762 (1999).

¹¹ Id. at 107 citing *People v. Del Mundo*, 418 Phil. 740 (2001).

¹² *Rollo*, pp. 8-9; CA Decision dated 13 June 2011.

¹³ Id. at 10-13 citing *People v. Resurreccion*, G.R. No. 186380, 12 October 2009, 603 Phil. 510; *People v. Ramos*, G.R. No. 180508, 4 September 2009, 598 SCRA 472; and *People v. Quiamanlon*, G.R. No. 191198, 26 January 2011, 640 SCRA 697.

by evidence on record. Thus, a denial which is unsubstantiated by clear and convincing evidence is not worthy of credence.¹⁴ Lastly, it pointed out that any allegation of a violation of fundamental rights during custodial investigation is relevant and material only in cases where extrajudicial admission or confession extracted from the accused becomes the basis of their conviction. Since no such extrajudicial admission or confession was extracted from appellant during her custodial investigation in the present case, such argument was therefore unmeritorious.¹⁵

Upon elevation of this case before this Court, the Office of the Solicitor General manifested that it will no longer file its supplemental brief and, instead, will adopt all the arguments in its brief filed before the CA.¹⁶ While in the Supplemental Brief¹⁷ filed by accused through the Public Attorney's Office, she raises the issue that the court *a quo* gravely erred in convicting the accused notwithstanding the prosecution's failure to establish the chain of custody and integrity of the alleged seized illegal drugs for failure to comply with the mandatory procedures under Section 21 of R.A. No. 9165. Accordingly, it is her contention that the court *a quo* gravely erred in convicting the accused despite the prosecution's failure to prove his guilt beyond reasonable doubt.

The Issue

Whether or not the RTC and the CA erred in finding that the evidence of the prosecution was sufficient to convict the accused of the alleged sale of methamphetamine hydrochloride or *shabu*, in violation of Section 5 of R.A. No. 9165.

Our Ruling

The Court finds no merit in the appeal.

We find no valid reason to depart from the time-honored doctrine that where the issue is one of credibility of witnesses, and in this case their testimonies as well, the findings of the trial court are not to be disturbed

¹⁴ Id. at 13 citing *People v. Pagkalinawan*, G.R. No. 184805, 3 March 2010, 614 SCRA 202; and *People v. Aure*, G.R. No. 185163, 17 January 2011, 639 SCRA 570.

¹⁵ Id. at 13-14 citing *People v. Buluran*, 382 Phil. 364 (2000).

¹⁶ Id. (no pagination, should be pages 43-44); Resolution dated 23 January 2013.

¹⁷ Id. at 34-42.

unless the consideration of certain facts of substance and value, which have been plainly overlooked, might affect the result of the case.¹⁸

Upon perusal of the records of the case, we see no reason to reverse or modify the findings of the RTC on the credibility of the testimony of the prosecution's witnesses, less so in the present case, in which its findings were affirmed by the CA. It is worthy to mention that, in addition to the legal presumption of regularity in the performance of their official duty, the court *a quo* was in the best position to weigh the evidence presented during trial and ascertain the credibility of the police officers who testified as to the conduct of the buy-bust operation and in preserving the integrity of the seized illegal drug.

Nonetheless, for academic discussion, it has been consistently ruled that for the successful prosecution of offenses involving the illegal sale of drugs under Article II, Section 5 of R.A. No. 9165, the following elements must be proven: (1) the identity of the buyer and seller, object and consideration; and (2) the delivery of the thing sold and the payment therefor.¹⁹ In other words, there is a need to establish beyond reasonable doubt that the accused actually sold and delivered a prohibited drug to another, and that the former indeed knew that what she had sold and delivered to the latter was a prohibited drug.²⁰ To reiterate, what is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, plus the presentation in court of the *corpus delicti* as evidence.²¹

Certainly, based on the evidence in record, the prosecution had indeed established that there was a buy-bust operation²² conducted, showing that accused-appellant sold and delivered the *shabu* for ₱100.00 to PO2 Bautista, the poseur-buyer. PO2 Bautista himself testified that there was an actual exchange of the marked-money and the prohibited drug. Likewise, accused was fully aware that what she was selling was illegal and prohibited when she asked PO2 Bautista “*iiskor kayo, magkano?*” Thereafter, the *corpus*

¹⁸ *People v. Lardizabal*, G.R. No. 89113, 29 November 1991, 204 SCRA 320, 329.

¹⁹ *People v. Tiu*, 469 Phil. 163, 173 (2004); *Chan v. Formaran, III et al.*, 572 Phil. 118, 132-133 (2008).

²⁰ *People v. Pagkalinawan*, G.R. No. 184805, 3 March 2010, 614 SCRA 202, 215.

²¹ *People v. Andres*, G. R. No. 193184, 7 February 2011, 641 SCRA 602, 608 citing *People v. Serrano*, G. R. No. 179038, 6 May 2010, 620 SCRA 327.

²² In *People v. De Leon*, G.R. No. 186471, 25 January 2010, 611 SCRA 118, 135, the High Court expressed that “[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. In this jurisdiction, the operation is legal and has been proved to be an effective method of apprehending drug peddlers, provided due regard to constitutional and legal safeguards is undertaken.”

delicti or the subject drug was seized, marked, and subsequently identified as a prohibited drug. Taken collectively, the illegal sale of dangerous drugs by accused-appellant was indeed established beyond reasonable doubt.

It cannot be overemphasized that in cases involving violations of the Dangerous Drugs Act of 2002, as amended, credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. In this regard, the defense failed to show any ill motive or odious intent on the part of the police operatives to impute such a serious crime that would put in jeopardy the life and liberty of an innocent person, such as in the case of accused. Incidentally, if these were simply trumped-up charges against her, there remains a question of why no administrative charges were brought against the police officers. Moreover, in weighing the testimonies of the prosecution's witnesses *vis-à-vis* that of the defense, it is a well-settled rule that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.²³

Again, in the absence of any showing that substantial or relevant facts bearing on the elements of the crime have been misapplied or overlooked, this Court can only accord full credence to such factual assessment of the trial court which had the distinct advantage of observing the demeanor and conduct of the witnesses during the trial. Absent any proof of motive to falsely charge an accused of such a grave offense, the presumption of regularity in the performance of official duty and the findings of the trial court with respect to the credibility of witnesses shall prevail over his/her bare allegation.²⁴

Furthermore, this Court has time and again adopted the chain of custody rule,²⁵ a method of authenticating evidence which requires that the

²³ *People v. Sembrano*, G. R. No. 185848, 16 August 2010, 628 SCRA 328, 342 citing *People v. Lamado*, G. R. No. 185278, 13 March 2009, 581 SCRA 544, 552 and *People v. Remerata*, G. R. No. 147230, 449 Phil. 813, 822 (2003).

²⁴ *People v. Soriaga*, G.R. No. 191392, 14 March 2011, 645 SCRA 300, 306 citing *People v. Tamayo*, G.R. No. 187070, 24 February 2010, 613 SCRA 556, and *People v. De Leon*, *supra* note 22 at 136.

²⁵ Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002 which implements R.A. No. 9165 defines "Chain of Custody" as follows:

"Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include

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. This would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered in 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.²⁶

It is essential for the prosecution to prove that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit. Its identity must be established with unwavering exactitude for it to lead to a finding of guilt.²⁷

However, as correctly pointed out by the RTC and the CA, failure to strictly comply with the prescribed procedures in the inventory of seized drugs does not render an arrest of the accused illegal or the items seized/confiscated from her inadmissible. What is essential is "the preservation of the integrity and the evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused."²⁸ Thus:

From the point of view of jurisprudence, we are not beating any new path by holding that the failure to undertake the required photography and immediate marking of seized items may be excused by the unique circumstances of a case. In *People v. Resurreccion*, we already stated that "marking upon immediate confiscation" does not exclude the possibility that marking can be at the police station or office of the apprehending team. In the cases of *People v. Rusiana*, *People v. Hernandez*, and *People v. Gum-Oyen*, the apprehending team marked the confiscated items at the police station and not at the place of seizure. Nevertheless, we sustained the conviction because the evidence showed that the integrity and evidentiary value of the items seized had been preserved. To reiterate what we have held in past cases, **we are not always looking for the strict step-by-step adherence to the procedural requirements; what is important is to ensure the preservation of the integrity and the evidentiary value of the seized items, as these would determine the**

the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.

²⁶ *Malillin v. People*, 576 Phil. 576, 587 (2008).

²⁷ *People v. Salonga*, G.R. No. 186390, 2 October 2009, 602 SCRA 783, 795.

²⁸ *People v. Le*, G.R. No. 188976, 29 June 2010, 622 SCRA 571, 583.

guilt or innocence of the accused. We succinctly explained this in *People v. Del Monte* when we held:

We would like to add that non-compliance with Section 21 of said law, particularly the making of the inventory and the photographing of the drugs confiscated and/or seized, will not render the drugs inadmissible in evidence. Under Section 3 of Rule 128 of the Rules of Court, evidence is admissible when it is relevant to the issue and is not excluded by the law or these rules. For evidence to be inadmissible, there should be a law or rule which forbids its reception. If there is no such law or rule, the evidence must be admitted subject only to the evidentiary weight that will [be] accorded it by the courts. x x x

We do not find any provision or statement in said law or in any rule that will bring about the non-admissibility of the confiscated and/or seized drugs due to non-compliance with Section 21 of Republic Act No. 9165. The issue therefore, if there is non-compliance with said section, is not of admissibility, but of weight — evidentiary merit or probative value — to be given the evidence. The weight to be given by the courts on said evidence depends on the circumstances obtaining in each case.²⁹ (Emphasis supplied and citations omitted)

From the testimonies of the police officers in the case at bench, the prosecution established that they had custody of the drug seized from the accused from the moment she was arrested, during the time she was transported to the police station, and up to the time the drug was submitted to the crime laboratory for examination. The same witnesses also identified the seized drug with certainty when this was presented in court. With regard to the handling of the seized drugs, there are no conflicting testimonies or glaring inconsistencies that would cast doubt on the integrity thereof as evidence presented and scrutinized in court. It is therefore safe to conclude that, to the unprejudiced mind, the testimonies show without a doubt that the evidence seized from the accused at the time of the buy-bust operation was the same one tested, introduced, and testified to in court. This fact was further bolstered by the stipulations entered into between the parties as to the testimony of forensic chemist, P/Insp. Victor Drapete.³⁰ In other words, there is no question as to the integrity of the evidence against accused.

²⁹ *People v. Domado*, G.R. No. 172971, 16 June 2010, 621 SCRA 73, 91-92.

³⁰ *Rollo*, p. 12; CA Decision dated 13 June 2011.

To reiterate, although this Court finds that the police officers did not strictly comply with the requirements of Article II, Section 21 of R.A. No. 9165, such noncompliance did not affect the evidentiary weight of the drug seized from the accused, because the chain of custody of the evidence was shown to be unbroken under the circumstances of the case. As correctly found by the appellate court, the drug confiscated from the accused was properly accounted for and forthrightly submitted to the PNP Crime Laboratory for its extensive examination. The CA further ruled that nothing invited the suspicion that the integrity and evidentiary value of the seized articles were jeopardized.


In fine, considering the pieces of evidence presented by the prosecution, the denial of the accused fails. Courts generally view the defense of denial with disfavor due to the facility with which an accused can concoct it to suit his or her defense. As evidence that is both negative and self-serving, this defense cannot attain more credibility than the testimonies of the prosecution witnesses who testify clearly, providing thereby positive evidence on the various aspects of the crime committed.³¹

WHEREFORE, the appeal is **DISMISSED**. The Court of Appeals Decision in CA-G.R. CR-HC No. 04053 dated 13 June 2011, is **AFFIRMED** in all respects.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

³¹

Zalameda v. People, G. R. No. 183656, 4 September 2009, 598 SCRA 537, 556.

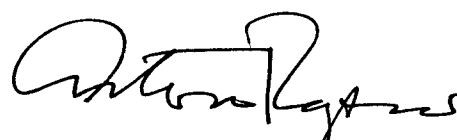

ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. BERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were 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