

[G.R. No. 129019, August 16, 2000]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RICKY UY Y CRUZ, ACCUSED-APPELLANT.**

D E C I S I O N

KAPUNAN, J.:

This is an appeal from the Decision,^[1] dated April 24, 1997, of the Regional Trial Court of Pasay, National Capital Judicial Region, Branch 110, in Criminal Case No. 96-8899, finding the accused-appellant Ricky Uy y Cruz guilty beyond reasonable doubt of the offense of violation of Section 15, R.A. No. 6425, as amended by R.A. No. 7659, and imposing the penalty of *reclusion perpetua* and to pay a fine of Five Hundred Thousand Pesos.

Accused-appellant was charged with Violation of Sec. 15, Art. III, R.A. 6425, as amended by R.A. 7659, in an Information reading as follows:

That in the evening of 13 June 1996 in Pasay City and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously sell, distribute, and/or deliver 250.36 grams of Methamphetamine Hydrochloride otherwise known as "shabu", a regulated drug without the corresponding license and/or legal authority to sell, distribute and/or deliver the aforesaid regulated drug.

CONTRARY TO LAW.^[2]

The accused-appellant, assisted by his counsel de parte, when duly arraigned on July 19, 1996 entered a plea of NOT GUILTY to the crime charged in the Information.^[3] Thereafter, trial ensued.

After trial, on April 24, 1997, the trial court rendered judgment convicting the accused of the offense of Violation of Section 15 of R.A. 6425, as amended by R.A. 7659. The dispositive portion of the Decision reads as follows:

WHEREFORE, judgment is hereby rendered finding the accused RICKY UY y CRUZ Guilty beyond reasonable doubt of the offense of Violation of Section 15 of RA 6425 as amended by RA 7659, and hereby imposes on him the penalty of *RECLUSION PERPETUA* and condemns said accused to pay a fine of Five Hundred Thousand (P500,000.00) PESOS without subsidiary imprisonment in case of insolvency and to pay the costs of suit.

The 250.36 grams of Methamphetamine Hydrochloride or "shabu" (Exhibits "B", "B-1", "B-2", "B-3", "B-4" and "B-5") are hereby confiscated in favor of the government and the Branch Clerk of Court of this Court is hereby ordered to cause the delivery and transportation thereof to the Dangerous Drugs Board for disposition in accordance with law.

The accused shall be credited in full for the period of his detention at the City Jail during the pendency of his case provided that he agreed in writing to abide by and comply strictly with the rules and regulations of the City Jail.

SO ORDERED.^[4]

The prosecution presented the following witnesses: (1) Police Inspector Ofelio Sotelo, Forensic Chemist of the PNP Crime Laboratory, (2) PO3 Emmanuel Lopez, (3) PO3 Edgar Bitadora, (4) SPO1 Juanito Lazaro, and (5) PO3 Wilfredo Lumba, the last four came from the Narcotics Command.

The facts as synthesized by the Solicitor General based on the evidence on record are as follows:

On June 13, 1996, at around 5:00 p.m., one Lino Buenaflor was arrested as a result of a buy-bust operation in Taguig, Metro Manila. When investigated, Lino Buenaflor divulged that his source of shabu is Ricky Uy, appellant herein (TSN, 8-28-96, pp. 2-5).

Thereafter, Lino Buenaflor cooperated with the arresting officers to entrap appellant. The team was composed of PO3 Bitadora, PO3 Manuel Lopez, PO3 Lumba, PO3 Anabiso, PO3 Lazaro and PO3 Labrador as the poseur buyer.

On their way, Lino Buenaflor placed a call through a cellular phone to appellant, informing the latter that he has a good buyer, hence he ordered 250 grams of shabu. Appellant instructed them to proceed to his house at 767-C F. Cruz St., Malibay, Pasay City. The team proceeded to the house of appellant on board a white Toyota Corolla owned by Lino Buenaflor and a Lite Ace as a backup vehicle. (TSN, 8-28-96, pp. 5-10)

Five minutes after arrival of the team near his house, appellant came out making a waving sign to Lino Buenaflor, then went back to his house. (TSN, 11-11-96, pp. 29-32)

Lino Buenaflor and PO3 Labrador alighted from the car and later, appellant came out from the house with a plastic bag. The three were then already facing each other. Afterwards, PO3 Labrador first extended to appellant the money and the latter extended to the former the shabu. PO3 Labrador then started scratching his head as the pre-arranged signal that the transaction was already consummated, hence, appellant was arrested. (TSN, 11-11-96, pp. 35-40)^[5]

For his defense, appellant Ricky Uy testified that he was the victim of a frame-up. Appellant's testimony is summed by the trial court as follows:

On the evening of July 13, 1996, he was at home suffering from diarrhea. It was around 6:00 p.m. when Lino Buenaflor called inviting him for a disco. He, however, refused the invitation due to the said stomach ache. At around 11:00 p.m. Lino Buenaflor called again, this time being answered by the wife since he was inside the comfort room. After twenty minutes, he called again and insisted on his invitation because he is going to tell him something, and that he is already near the place.

Accused told Eddie Baybago, cousin of his wife, to open the gate as Lino Buenaflor would be arriving. Later accused heard the blowing of horns of the car of Lino Buenaflor. After 2-3 minutes, Eddie Baybago did not come back and a person

entered then followed by another two persons. They asked if he is Ricky Uy. Four men came along, one of whom hit accused with a 45 cal. pistol on his back.

Accused asked them what were they doing inside the house and actually one of them entered a part of the house carrying a tissue box paper. Then they proceeding to the kitchen, and the one carrying the tissue box, opened the cabinet below the sink and brought out something and they said "this is the thing." Accused, however said, he does not own it, but was hit instead.

Several men entered the house and some of them went upstairs and there was already a commotion inside the house. Later, pictures were taken from the accused with the alleged "shabu" and later accused was brought out of the house and proceeded to Camp Crame for investigation.^[6]

Accused-appellant appeals his conviction to this Court, raising the following errors:

I

THE TRIAL COURT ERRED IN GIVING UNDUE WEIGHT AND CREDENCE TO THE TESTIMONIES OF THE POLICE OFFICERS, DESPITE THE FACT THAT THEIR TESTIMONY WERE NOT ONLY DOUBTFUL, UNRELIABLE AND UNWORTHY OF CREDENCE, BUT WERE FULL OF INHERENT CONTRADICTIONS AND IMPROBABILITIES, WHILE DISREGARDING THE STRONG DEFENSE OF THE ACCUSED THAT THE ALLEGED BUY-BUST OPERATION WAS ACTUALLY A FRAME-UP.

II

THE TRIAL COURT ERRED IN HOLDING THAT THE ELEMENTS NECESSARY FOR THE CHARGE OF ILLEGAL SALE OF SHABU WERE DULY SUBSTANTIATED.

III

THE TRIAL COURT ERRED IN FINDING THAT THE ACCUSED WAS POSITIVELY IDENTIFIED BY A PROSECUTION WITNESS AS THE SELLER OF THE SHABU TO A POSEUR-BUYER, DESPITE THE FACT THAT THE POSEUR-BUYER DID NOT TESTIFY IN COURT.

IV

THE TRIAL COURT ERRED IN NOT FINDING THAT THE BARANGAY OFFICIAL WAS PRESENT ONLY AFTER THE COMMOTION INSIDE THE HOUSE HAD BEEN FINISHED AND CONSEQUENTLY AFTER THE FRAME-UP HAD ALREADY BEEN COMMITTED.

V

THE TRIAL COURT ERRED IN NOT HOLDING THAT THE FAILURE OF THE BARANGAY OFFICIAL TO TESTIFY IN COURT WAS DUE TO HIS REFUSAL TO TESTIFY FOR FEAR OF THREATS FROM THE POLICE.

VI

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE REFUSAL OF THE WIFE TO ACCOMPANY HER HUSBAND TO GO TO CAMP CRAME AFTER

HIS ARREST, DESPITE THE FACT THAT THE WIFE, TOGETHER WITH HER COUSIN, EDDIE BAYBAGO, AND OTHER PERSONS, FOLLOWED THE GROUP TO CAMP CRAME BUT THEY WERE DELAYED IN REACHING THE CAMP BECAUSE THEIR JEEP DEVELOPED ENGINE TROUBLE.

VII

THE TRIAL COURT ERRED IN NOT BELIEVING THE CLAIM OF THE ACCUSED THAT THE POLICE OFFICERS BARGED INTO THEIR HOUSE, PLANTED EVIDENCE AND TOOK AWAY THEIR JEWELRY BY TAKING JUDICIAL COGNIZANCE OF ALLEGED PERNICIOUS PRACTICE OF THOSE CAUGHT IN FLAGRANTE DELICTO OF ASCRIBING TO POLICE OFFICES WHO ARREST THEM CRIMINAL AND/OR IRREGULAR ACTS TO EVADE CRIMINAL CULPABILITY.

VIII

THE TRIAL COURT ERRED IN HOLDING THAT THERE WAS NOT EARNEST EFFORT ON THE PART OF THE WIFE TO PURSUE HER COMPLAINT WITH THE OFFICE OF THE NARCOTICS COMMAND OR PURSUED HER COMPLAINT FOR THE RECOVERY OF THE ARTICLES ILLEGALLY TAKEN FROM THEM, OVERLOOKING THE FACT THAT THE SAID PERSONAL ARTICLES WERE TAKEN FROM THEM THROUGH ILLEGAL AND UNLAWFUL SEARCH AND SEIZURE AND WITHOUT ANY SEARCH WARRANT IN VIOLATION OF THEIR CONSTITUTIONAL RIGHTS, AND MOREOVER, THEIR FAILURE TO MAKE CONTINUOUS FOLLOW-UP OF THE COMPLAINT WAS NOT THROUGH THE FAULT OF THE ACCUSED'S WIFE BUT DUE TO THREATS ON HER LIFE.

IX

THE TRIAL COURT ERRED IN IMPUTING ALLEGED INCONSISTENCIES IN THE TESTIMONIES OF THE ACCUSED AND HIS WIFE REGARDING THE PRESENCE OF THE BARANGAY OFFICIAL, DESPITE THE FACT THAT SUCH ALLEGED INCONSISTENCIES DO NOT IMPAIR THEIR CREDIBILITY AS THEY WERE SPEAKING OUT THE TRUTH IN THEIR TESTIMONY.

X

THE TRIAL COURT ERRED IN NOT GIVING CREDENCE AND WEIGHT TO THE TESTIMONY OF DEFENSE WITNESS EDDIE BAYBAGO AND IN HOLDING THAT HIS TESTIMONY REGARDING THE OCCURRENCE INSIDE THE HOUSE WAS HEARSAY.

XI

THE TRIAL COURT ERRED IN HOLDING THAT THE ACCUSED'S DEFENSE OF FRAME-UP, LIKE ALIBI, IS A WEAK DEFENSE, DESPITE AMPLE EVIDENCE PRESENTED TO SUPPORT THE SAID DEFENSE.

XII

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED OF THE CRIME CHARGED, DESPITE THE INSUFFICIENCY OF PROSECUTION EVIDENCE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[7]

At the core of the assigned errors is the issue of whether or not the prosecution was able to prove beyond reasonable doubt the guilt of the accused-appellant.

We rule in the affirmative.

Accused-appellant asserts that the prosecution failed to establish his guilt beyond reasonable doubt. He posits that the prosecution could not have proved an essential element of the crime which is the identity of buyer and seller due to their failure to present the poseur buyer in open court. He maintains that he was the victim of a frame-up and that what really happened on the night of the alleged buy-bust operations was that the police officers barged into their house, planted evidence and stole valuable property. Thus, the trial court erred in not believing his version of the facts, which is supported by the testimony of his wife and Eddie Baybago, as against the inconsistent testimonies of the prosecution witnesses.

It is axiomatic that the accused is accorded in his favor the disputable presumption of innocence.^[8] It is the burden of the prosecution to overcome such presumption of innocence by presenting quantum of evidence therein required.^[9] Corollarily, the prosecution must rest on its own merits and must not rely on the weakness of the defense.^[10] In fact, if the prosecution fails to meet the required quantum of evidence, the defense may logically not even present evidence on its behalf. In which case, the presumption of innocence shall prevail and, hence, the accused shall be acquitted. However, once the presumption of innocence is overcome, the defense bears the burden of evidence to show reasonable doubt as to the guilt of the accused. By reasonable doubt is not meant that which of the possibility may arise, but it is that doubt engendered by an investigation of the whole proof and an inability after such investigation, to let the mind rest each upon the certainty of guilty. Absolute certainty of guilt is not demanded by the law to convict a criminal charge, but moral certainty is required as to every proposition of proof requisite to constitute the offense.^[11]

Existing jurisprudence has set the requisites for the prosecution of a dangerous drugs case. The elements necessary in every prosecution for the illegal sale of shabu are: (1) identity of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor.^[12]

The actual sale of the shabu, which is the corpus *delicti* in the crime of illegal distribution and sale of prohibited or regulated drugs, has been sufficiently established by the testimonies of prosecution witnesses.

PO3 Edgar Bitadora, who was part of the team which conducted the buy-bust operation, testified that he saw the exchange of the marked money and the bag between accused-appellant Ricky Uy and poseur-buyer Labrador.^[13] The records are clear on this point, to wit:

FISCAL VIBANDOR

Q Now after you saw Lino Buenaflor, Ricky Uy and Labrador talking or conversing with each other what else did you observe?

PO3 EDGAR BITADORA

A Ricky Uy left and entered his house sir.