

THIRD DIVISION

[G. R. No. 216632, March 13, 2019]

AUGUSTO REGALADO Y LAYLAY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

LEONEN, J.:

This resolves a Petition for Review on Certiorari^[1] assailing the Court of Appeals January 29, 2015 Decision^[2] in CA-G.R. CR No. 36216. The Court of Appeals upheld the Regional Trial Court November 23, 2011 Decision^[3] in Criminal Case No. 08-03 finding Augusto Regalado y Laylay (Regalado) guilty beyond reasonable doubt for violating Article II, Section 11 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

On January 31, 2003, two (2) informations were filed before the Regional Trial Court, charging Regalado with two (2) counts of violating Article II, Section 11 of Republic Act No. 9165.^[4] The informations read:

In Crim. Case No. 08-03:

That on or about the 17th day of December 2002, at around 2:00 o'clock (sic) in the afternoon, at barangay (sic) Sibuyao, municipality (sic) of Torrijos, province (sic) of Marinduque, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did[,] then and there[,] wil[l]fully, unlawfully[,] [and] feloniously possess Cannabis Sativa (Marijuana) weighing not more than 300 grams, not being authorized by law to possess the same.

CONTRARY TO LAW.

In Crim. Case No. 09-03:

That on or about the 17th day of December 2002, at around 2:00 o'clock (sic) in the afternoon, at barangay (sic) Sibuyao, municipality (sic) of Torrijos, province (sic) of Marinduque, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did[,] then and there[,] wil[l]fully, unlawfully[,] [and] feloniously possess Cannabis Sativa (Marijuana) weighing not more than 300 grams, not being authorized by law to possess the same.

CONTRARY TO LAW.^[5] (Emphasis in the original, citations omitted)

On arraignment, Regalado pleaded not guilty to the crimes charged. Trial then ensued.^[6]

According to the prosecution, on December 17, 2002, a team of five (5) police officers led by Special Police Officer 2 Quirino Peñascosas (SPO2 Peñascosas), with designated poseur-buyer PO1 Dario Pedrigal (PO1 Pedrigal), PO2 Rodrigo Llante (PO2 Llante), PO1 Macrino Romeo Palma, and PO1 Manuelito Palma, conducted a buy-bust operation.^[7]

At around 2:00 p.m. that day, PO1 Pedrigal went to Regalado's house while the rest of the team stayed about 200 meters behind him. There, PO1 Pedrigal asked Regalado's wife, Marilyn, "*Meron kayo ngayon, bibili ako?*"^[8] Marilyn informed him that her husband was not in the house and that she would ask her daughter to fetch him.^[9]

When Regalado arrived, he immediately inquired where PO1 Pedrigal came from, to which he replied that he was from Marlangga. Regalado then asked PO1 Pedrigal the quantity he sought to buy, to which the latter replied that he wanted two (2).^[10]

Regalado went into his house, returning with a plastic sachet suspected to contain marijuana, which he then exchanged with PO1 Pedrigal's marked bills amounting to P200.00. Regalado took the money and put it in his pocket.

At this point, PO1 Pedrigal scratched his head—the pre-arranged signal signifying to the team that the transaction had been consummated. The rest of the team rushed to Regalado's house and identified themselves as police officers. They arrested Regalado after PO1 Pedrigal retrieved the marked money from his pocket.^[11]

Upon the arrest, PO1 Pedrigal asked Regalado, "*Meron pa itong kasamahan?*"^[12] to which Regalado admitted having more, pointing to the roof of his house. He turned over to PO1 Pedrigal a milk box that allegedly had two (2) plastic sachets and four (4) sticks of marijuana. PO1 Pedrigal kept all the confiscated pieces of evidence.^[13]

The police officers informed Regalado of his constitutional rights in Tagalog. Then, after informing Barangay Captain Isidro Palomares of what had transpired, they brought Regalado to the police station.^[14]

At the police station, PO1 Pedrigal marked with initials "AR" the three (3) plastic sachets and four (4) sticks of suspected marijuana. He later turned them over, along with the marked money, to the investigator, PO2 Llante. PO2 Llante then brought the seized evidence, along with a Request for Laboratory Examination, to the Philippine National Police Crime Laboratory in Canlubang, Laguna to have them tested for the presence of illegal drugs.^[15]

Police Chief Inspector Lorna Tria (Chief Inspector Tria), the forensic chemist, confirmed upon a laboratory examination that the confiscated items were indeed marijuana. The seven (7) specimens with the "AR" markings weighed 6.40 grams, 13.93 grams, 22.60 grams, 0.49 gram, 0.40 gram, 0.36 gram, and 0.47 gram.^[16] The specimens weighed a total of 44.65 grams. These results were evidenced by

In his defense, Regalado alleged that on December 17, 2002, he was ploughing the field in his farm located about 100 meters from his house when his son, Alvin, told him to come home. There, he was met by a teenager who gave him P200.00, wanting to purchase marijuana.^[18]

As soon as Regalado gave the teenager marijuana, he stated that five (5) police officers arrived and arrested him. PO1 Pedrigal recovered from him the P200.00, which the teenager had handed him. When asked about the rest of his stash, Regalado immediately divulged its hiding place and surrendered the marijuana "because he was scared."^[19]

Regalado denied handing the marijuana to PO1 Pedrigal and maintained that the latter took it from the teenager. He claimed that he signed the confiscation receipt despite not understanding it as he did not know how to read. He likewise testified that he was not informed of his constitutional rights.^[20]

In its November 23, 2011 Decision,^[21] the Regional Trial Court found Regalado guilty of violating Article II, Section 11 of Republic Act No. 9165 in Criminal Case No. 08-03. However, it acquitted him in Criminal Case No. 09-03, ruling that one cannot be convicted twice for the same act.^[22]

The dispositive portion of the November 23, 2011 Decision read:

WHEREFORE, premises considered, the accused Augusto Regalado y Laylay is hereby found guilty beyond reasonable doubt of (sic) violation of Section 11 of R.A. 9165 in Criminal Case No. 08-03. Applying the Indeterminate Sentence Law, he is hereby sentenced to imprisonment for a period of *12 years and one day as minimum to 14 years and eight months, as maximum* and is fined P300,000 without subsidiary imprisonment in case of insolvency. He is hereby acquitted in Criminal Case No. 09-03.

The property bond posted for his temporary liberty is hereby ordered cancelled.

Let the marijuana subject matter of these cases be disposed of in the manner provided by law.

SO ORDERED.^[23] (Emphasis in the original)

On appeal, Regalado argued that the trial court erred when it appreciated the evidence despite the apprehending team's failure to prove the integrity and identity of the seized items under Section 21 of the Comprehensive Dangerous Drugs Act. He contended that the trial court erred in deviating from the established rule that by itself, the presumption of regularity in the performance of official duty should not prevail over his presumed innocence.^[24]

In its January 29, 2015 Decision,^[25] the Court of Appeals denied the appeal and affirmed the trial court's Decision:

WHEREFORE, the appeal is **DENIED**. The assailed disposition of the RTC in Crim. Case No. 08-03 is **AFFIRMED**. Costs against the Accused-Appellant.

SO ORDERED.^[26] (Emphasis in the original)

According to the Court of Appeals, the prosecution sufficiently proved and established the elements of the crime of illegal possession of marijuana.^[27] It ruled that the prosecution's lapses were not fatal, since it had nonetheless preserved the integrity and evidentiary value of the confiscated items. This, it: held, was enough to establish Regalado's guilt.^[28]

Thus, on March 27, 2015, Regalado filed this Petition for Review on Certiorari.^[29]

Petitioner argues that the Court of Appeals erred in affirming the trial court's finding of his guilt.^[30] He contends that the prosecution had no basis to justify its failure to strictly comply with the requirements under Section 21. He maintains that there was no elected official, media representative, or Department of Justice representative present during the physical inventory of the seized items. Moreover, no photographs of the seized items were presented in court.^[31]

Petitioner further claims that the seized items were not immediately marked after his arrest, casting doubt on their origin.^[32] He insists that there was no sufficient evidence to establish the chain of custody.^[33]

This Court adopted respondent's Brief^[34] before the Court of Appeals as its Comment.^[35]

Respondent asserts that PO1 Pedrigal's testimony demonstrated petitioner's culpability, which sufficiently proved his conviction. It notes that the police officers' testimonies were further bolstered since petitioner does not impute any ill motive on their part. Courts, it asserts, may render judgment based on a witness' testimony as long as it is credible and positive.^[36]

Respondent argues that noncompliance with Section 21 per se will not render the arrest illegal or the seized marijuana inadmissible, as the law itself provides an exception.^[37] It points out that the "immediate confiscation" has no exact definition, and that marking in the nearest police station has been previously allowed by this Court.^[38]

Finally, respondent claims that petitioner's admission of possessing the seized marijuana rendered the issue of noncompliance with the chain of custody rule as moot.^[39]

For resolution is the lone issue of whether or not the absence of an elective official, a representative from the media, and a representative from the Department of Justice during the buy-bust operation, as well as the non-presentation of the photographs of the seized marijuana before the trial court warrants petitioner Augusto L. Regalado's acquittal.

This Court denies the Petition.

Generally, "the findings of fact by the trial court, when affirmed by the [Court of Appeals], are given great weight and credence on review."^[40] This is because the trial court "is in the best position to assess the credibility of witnesses and their testimonies because of its unique opportunity to observe the witnesses, their demeanor, conduct and attitude on the witness stand."^[41] Hence, this Court accords great respect to the trial court's findings,^[42] especially when affirmed by the Court of Appeals.^[43] An exception is when either or both of the lower courts "overlooked or misconstrued substantial facts which could have affected the outcome of the case."^[44]

Here, the records show nothing that warrants a reversal of the Decisions of the Court of Appeals and the Regional Trial Court.

The allegations in both Informations, despite the buy-bust operation, charged petitioner with illegal *possession* of dangerous drugs, not sale. Hence, the trial court correctly acquitted him in Criminal Case No. 09-03, where the Information was worded exactly as that in Criminal Case No. 08-03, which charged him with illegal possession of dangerous drugs. Moreover, although the actual weight of the seized items (44.65 grams)^[45] was not indicated in the Informations, this error was not fatal.

As for the conviction of illegal possession of dangerous drugs, the following elements must be established: "(1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug."^[46]

Here, the testimonies of the law enforcers who conducted the buy-bust operation are clear and categorical. They recalled in detail the buy-bust operation and the steps they had taken to maintain the integrity of the seized marijuana.

Notably, the designated poseur-buyer, PO1 Pedrigal, clearly recounted in his testimony the transaction and petitioner's possession of the seized marijuana:

[PROSECUTOR]: What happened when you reached the house of Augusto Regalado?

[PO1 PEDRIGAL]: When I reached the house of Augusto Regalado his wife named Marilyn confronted me, sir.

[PROSECUTOR]: What did she do or say when she confronted you?

[PO1 PEDRIGAL]: I told her, sir, (*sic*) "meron kayo ngayon, bibili ako".

[PROSECUTOR]: What happened when you say (*sic*) those words?

[PO1 PEDRIGAL]: She told me that her husband is not in the house and she ordered her daughter to fetch him, sir.

[PROSECUTOR]: What happened regarding the order?

[PO1 PEDRIGAL]: I waited for several minutes and her daughter arrived