

SECOND DIVISION

[G.R. No. 229507, August 06, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DOMINGO ASPA, JR. Y RASIMO, ACCUSED-APPELLANT.**

D E C I S I O N

PERALTA, J.:

Assailed in this appeal is the January 14, 2016 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06767, which affirmed the April 2, 2014 Decision^[2] of the Regional Trial Court, Branch 20, Vigan City, Ilocos Sur (RTC), finding accused-appellant Domingo Aspa, Jr. y Rasimo (*Aspa*) guilty beyond reasonable doubt of 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 antecedents are as follows:

A spa was indicted for violation of Section 5, Article II of R.A . No. 9165 in an Information,^[3] dated September 3, 2011. The accusatory portion of which reads:

That, on or about the 2nd day of September, 2011, in the City of Vigan, Province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without having been authorized by law, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur-buyer 7.8471 grams, more or less, of marijuana fruiting tops, a dangerous drug.

Contrary to law.

When arraigned, Aspa pleaded not guilty to the charge. After pre-trial was terminated, trial on the merits ensued.

Version of the Prosecution

As summarized by the Office of the Solicitor General (OSG) in the Appellee's Brief,^[4] the People's version of the event is as follows:

On September 2, 2011 while on duty at the Vigan City Police Station, Deputy Chief of Police PCI Mar Louise Tamargo Bundoc received a report from a confidential informant that a certain Domingo Aspa, Jr. is selling

marijuana. Thereafter, a buy-bust team against the suspect was constituted with PCI Mar Louise Bundoc, SPO4 Elpidio Ponce, SPO2 Dionisio Adela, SPO1 Amado Somera, Jr., PO2 Denni[s] Reoliquio and PO1 Mark Anthony Italin as members. PO1 Italin was briefed to act as the poseur-buyer and accompany the confidential informant.

Later around 9:45 am, the buy-bust team proceeded to the northern part of the Vigan Public Market near Pardo's Lechon Manok, where the buy-bust operation will be conducted. They positioned themselves in front of Pardo's Lechon Manok and in front of the north portion of the public market. After a few minutes, appellant Domingo Aspa arrived. PO1 Italin, along with the civilian informant, went to the alley beside Pardo's Lechon Manok. Then PO1 Italin heard the confidential informant asking Aspa whether he already has the marijuana, to which Aspa answered in the affirmative. After their conversation, Aspa handed over to the confidential informant three (3) heat-sealed plastic sachets allegedly containing dried marijuana leaves. In turn, the confidential informant handed over to Aspa the buy-bust money worth Php300.00, in three (3) Php100.00 bills. After the transaction, the confidential informant gave the pre-arranged signal, then Aspa was immediately arrested.

At the crime scene, the recovered evidence were inventoried and marked by SPO1 Somera, in front of appellant [and] in the presence of PO1 Italin, members of the media and councilor from Barangay VIII. Thereafter, PO1 Lopez photographed the evidence. The suspect was then turned over to the investigation section. The three (3) sachets of marijuana, on the other hand, were carried by SPO1 Somera who then proceeded to the Crime Laboratory at Ilocos Norte, together with the letter request for the confirmation and identification of the substance personally prepared and delivered by him, signed by PCI Mar Louise Bundoc. PSI Roanalaine B. Baligod received the said letter request and conducted a qualitative examination to determine the presence of marijuana after the examination. Consequently, she prepared the pertinent laboratory and chemistry reports finding that the specimen submitted yielded positive results to the test of marijuana, a dangerous drug.^[5]

Version of the Defense

Aspa raised the defense of denial. He gave the following version in the Appellant's Brief^[6] to support his plea for exoneration:

x x x x

13. On 2 September 2011, at around 8:00 o'clock in the morning, DOMINGO R. ASPA, a tricycle driver by trade, was about to park his vehicle on the road along the Vigan City Public Market to await passengers when a fellow pedicab driver, Ernie Figuerres (Ernie), asked him to spare Two Hundred Pesos (P200.00) to purchase marijuana. Not

having the exact amount, he gave him Five Hundred Pesos (P500.00). Upon his return, Ernie handed the accused Three Hundred Pesos (P300.00) together with three (3) plastic sachets containing marijuana leaves.

14. After parting ways, the accused walked towards his tricycle. However, he was unable to reach the same as he was *strangled* on his way to it. Barely able to breath, he fell down and was then asked where he secured the contraband by his assailant who later introduced himself as a Policeman.

15. The Police officer sat on him while placing a call on his cellular phone and after about twenty (20) to twenty-five (25) minutes, more policemen arrived. While waiting, the officer asked him the source of his marijuana in exchange for his liberty. The accused answered that the officer saw the exchange as it transpired. The accused then denied all the accusations leveled against him.^[7]

After the trial, the RTC rendered judgment finding accused-appellant Aspa guilty beyond reasonable doubt of the crime charged. The dispositive portion of the RTC Decision, dated April 2, 2014, reads:

WHEREFORE, in view of the foregoing premises, the Court finds the accused DOMINGO ASPA, Jr., y RASIMO, GUILTY beyond reasonable doubt of the offense charged in the Information, hereby sentencing him to suffer LIFE IMPRISONMENT without eligibility of parole and to pay a fine of five hundred thousand pesos (Php500,000.00).

The 7.8471 grams of marijuana fruiting tops are hereby ordered confiscated in favor of the government for proper disposal.

The Branch Clerk of Court is hereby directed to prepare the MITTIMUS.

SO ORDERED.^[8]

According to the RTC, all the elements of the crime of illegal sale of dangerous drugs were satisfactorily established by the prosecution. The RTC gave weight and credence on the testimonies of the prosecution witnesses PO1 Mark Anthony Italin (*PO1 Italin*), SPO1 Amado Somera, Jr. (*SPO1 Somera*) and PO2 Dennis Reoliquio (*PO2 Reoliquio*) which proved that Aspa was caught *in flagrante delicto* selling 7.8471 grams of marijuana during a legitimate buy-bust operation.

The RTC declared that the integrity and evidentiary value of the confiscated narcotics were duly preserved. It rejected the defense of denial interposed by the appellant because the same was not substantiated by clear and convincing evidence.

Undaunted, Aspa appealed his conviction for illegal sale of dangerous drugs before

the CA.

The CA Ruling

On January 14, 2016, the CA rendered its assailed Decision affirming Aspa's conviction based on the same ratiocinations the RTC had rendered, the *fallo* of which states:

FOR THESE REASONS, the appeal is DENIED.

SO ORDERED.^[9]

The CA ruled that the elements of illegal sale of dangerous drugs have been adequately proven by the prosecution. The appellate court declared that the absence of the representative from the Department of Justice during the buy-bust is of no moment and would not affect the guilt of Aspa because the chain of custody of the seized marijuana remains unbroken and evidentiary value thereof was duly preserved. Lastly, the CA brushed aside Aspa's defense of denial for being self-serving and unsupported by any plausible proof.

Maintaining his claim of innocence, Aspa filed the present appeal and posited the same assignment of errors he previously raised before the CA, to wit:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE PROSECUTION'S VERSION DESPITE THE PATENT IRREGULARITIES IN THE CONDUCT OF THE BUY-BUST OPERATION.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE IDENTITY AND INTEGRITY OF THE ALLEGED CONFISCATED DRUGS CONSTITUTING THE *CORPUS DELICTI* OF THE CRIME.^[10]

In its Resolution^[11] dated March 20, 2017, the Court directed both parties to submit their Supplemental Briefs, if they so desire. On May 23, 2017, the OSG filed its Manifestation and Motion^[12] stating that it will no longer file a supplemental brief as its Appellee's Brief had sufficiently ventilated the issues raised. On June 16, 2017, Aspa filed a Manifestation (In Lieu of Supplemental Brief)^[13] averring that he would adopt all his arguments in his Appellant's Brief filed before the CA.

Aspa insists that his arrest has no legal anchor because no buy bust or entrapment operation was ever conducted against him. The three sachets of marijuana were given to him by a certain Ernie as payment for the P200.00 he earlier lent the latter.

The appeal is bereft of merit. Aspa 's conviction for violation of Section 5, Article II of R.A. No. 9165 must stand.

In the main, Aspa wants this Court to reevaluate and reexamine the credibility of the prosecution witnesses *vis-a-vis* defense witness. Fundamental is the rule that findings of the trial court, which are factual in nature and which involve the credibility of witnesses, are accorded respect when no glaring errors, gross misapprehension of facts or speculative, arbitrary and unsupported conclusions can be gathered from such findings.^[14] The reason is obvious. The trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial.^[15]

We carefully examined the records of this case since what is at stake here is no less than the liberty of Aspa. Try as we might, however, this Court failed to identify any error committed by the RTC and the CA in the appreciation of the evidence as well as in the similar conclusions they reached. The courts *a quo* have not overlooked or disregarded arbitrarily any significant facts and circumstances in the case at bench.

Primarily, buy-bust operations are recognized in this jurisdiction as a legitimate form of entrapment of the persons suspected of being involved in drug dealings.^[16] Unless there is a 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 testimonies with respect to the operation deserve full faith and credit.^[17] In the prosecution of illegal sale of dangerous drugs in a buy-bust operation, there must be a concurrence of all the elements of the offense: (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 thereof. The prosecution must also prove the illegal sale of the dangerous drugs and present the *corpus delicti* in court as evidence.^[18] The commission of the offense of illegal sale of dangerous drugs requires merely the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller. The crime is considered consummated by the delivery of the goods.^[19]

All the above elements are present in the case at bench. PO1 Italin gave an unequivocal account of the sale that took place on September 2, 2011 leading to the arrest of the appellant. PO1 Italin testified that he was assigned to accompany the confidential informant who acted as the poseur-buyer in a buy-bust operation conducted at the northern part of the Vigan City Public Market; that upon reaching the target site, he and the confidential informant proceeded in front of Pardo's Lechon Manok, while the rest of the team strategically positioned themselves around the parking area of the market; that after a few minutes, Aspa arrived and led the informant to an alley; that he followed them closely as he was then only 2 to 3 meters away from the two; that he heard the informant asked Aspa if he has the marijuana, to which Aspa answered in the affirmative; and, that Aspa handed the three sachets containing dried marijuana leaves to the informant who, in turn, gave the buy bust money consisting of three P100.00 bills with the marking "DR," the initials of PO2 Dennis Reoliquio, the one who prepared the buy-bust money. SPO1 Somera and PO2 Reoliquio corroborated the testimony of PO1 Italin in its material points having also seen how the transaction between Aspa and the confidential informant took place. This Court notes that the accounts of these Police operatives of the incident dovetailed each other and uniformly testified of having apprehended