

SECOND DIVISION

[G.R. No. 174481, February 10, 2016]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CRISTY DIMAANO Y TIPDAS, ACCUSED-APPELLANT.**

DECISION

LEONEN, J.:

Human memory is not infallible. Inconsistencies in the testimonies of prosecution witnesses in cases involving violations of the Comprehensive Dangerous Drugs Act may be excused so long as the identity of the dangerous drugs is proved beyond reasonable doubt and the chain of custody is established with moral certainty.

This is an appeal^[1] of the Court of Appeals Decision^[2] dated May 30, 2006 affirming the conviction of accused-appellant Cristy Dimaano y Tipdas (Dimaano) of the crime of attempted transportation of dangerous drugs punished under the Comprehensive Dangerous Drugs Act of 2002.^[3] Dimaano was sentenced to suffer the penalty of life imprisonment and was ordered to pay a fine of P500,000.00.

In the Information^[4] dated November 14, 2002, the Office of the City Prosecutor of Pasay City charged Dimaano with violating Section 5^[5] in relation to Section 26^[6] of the Comprehensive Dangerous Drugs Act of 2002. The accusatory portion of the Information reads:

That on or about the 13th day of November, 2002 at the Manila Domestic Airport Terminal 1, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable court, the above-named accused, being then a departing passenger for Cebu, without authority of law, did then and there wilfully, unlawfully and feloniously have in her possession and attempt to transport 13.96 grams of Methyllamphetamine [sic] Hydrochloride (shabu), a dangerous drug.

Contrary to law.^[7]

Dimaano was arraigned on November 25, 2002, pleading not guilty to the charge.^[8] Trial then ensued.

On November 13, 2002, Non-Uniformed Personnel Florence S. Bilugot (NUP Bilugot) was detailed as frisker at the initial check-in departure area of the Manila Domestic Airport Terminal 1.^[9] At around 3:45 a.m., a woman arrived, placed her luggage at the x-ray machine, and passed through the walk-through metal detector.^[10] The woman was then frisked by NUP Bilugot.^[11]

NUP Bilugot felt a hard object bulging near the woman's buttocks.^[12] Asked what the object was, the woman replied that it was a sanitary napkin, explaining that she was having her monthly period.^[13] Suspicious, NUP Bilugot requested the woman to accompany her to the ladies' room.^[14] NUP Bilugot informed Senior Police Officer 2 Reynato Ragadio (SPO2 Ragadio), who was likewise detailed at the initial check-in area, of the hard object she felt on the woman's body.^[15] SPO2 Ragadio then accompanied the woman and NUP Bilugot.^[16] The woman and NUP Bilugot proceeded to the ladies' restroom while SPO2 Ragadio waited outside.^[17]

NUP Bilugot then asked the woman to remove her panties.^[18] On the panties' crotch was a panty shield on top of a sanitary napkin, but under all of these was a plastic sachet.^[19] Seeing a white crystalline substance similar to "tawas," NUP Bilugot asked the woman what the plastic sachet contained.^[20] The woman allegedly replied that it was "shabu."^[21] NUP Bilugot asked the woman further as to who owned the shabu, but the woman answered that she was just asked to bring it.^[22] NUP Bilugot then seized the plastic sachet and, together with the woman, went out of the ladies' room.^[23] NUP Bilugot turned over the plastic sachet to SPO2 Ragadio.^[24]

SPO2 Ragadio recalled receiving from NUP Bilugot two (2) transparent plastic sachets, which NUP Bilugot placed inside a plastic bag.^[25] He then requested the woman for her airline ticket, revealing the woman's name to be "Cristy Dimaano."^[26] Together with NUP Bilugot, SPO2 Ragadio brought Dimaano to the Intelligence and Investigation Office of the Philippine Center for Aviation and Security, 2nd Regional Aviation Security Office.^[27] According to SPO2 Ragadio, he and NUP Bilugot wrote their respective initials, "RBR" and "FSB," on the two sachets.^[28] NUP Bilugot then returned to her post at the initial check-in area.^[29]

Investigators detailed at the Philippine Center for Aviation and Security examined the contents of the two (2) plastic sachets.^[30] One sachet contained three (3) smaller sachets while the other contained four (4).^[31] Thirty minutes later, three investigators from the Philippine Drug Enforcement Agency arrived to collect the specimen and placed their initials on the two plastic sachets.^[32] They then brought Dimaano to the Philippine Drug Enforcement Agency office at the Ninoy Aquino International Airport.^[33]

At around 2:30 p.m., SPO2 Ragadio received a phone call from the PDEA investigators, requesting him to go to the Philippine Drug Enforcement Agency office.^[34] There, he and NUP Bilugot were informed that the specimen obtained from Dimaano tested positive for methamphetamine hydrochloride, or shabu.^[35] He then executed his affidavit while NUP Bilugot executed an affidavit of arrest.^[36]

That the sachets contained methamphetamine hydrochloride was corroborated by Police Inspector Abraham B. Tecson (Police Inspector Tecson), a Forensic Chemist at the Philippine National Police Crime Laboratory at Camp Crame, Quezon City.^[37] In

his Physical Science Report, Police Inspector Tecson stated that he was the officer on duty at the chemistry department of the Philippine National Police Crime Laboratory when he received a request for examination at around 2:20 p.m. of November 13, 2002.^[38] He received from Police Chief Inspector Roseller Fabian two plastic sachets marked with "FSB," "RDR," and "RSA."^[39]

Police Inspector Tecson reported that one of the sachets contained three (3) heat-sealed plastic sachets, while the other contained four (4).^[40] After subjecting the contents of the sachets to chemical analysis, Police Inspector Tecson confirmed that the sachets contained a total of 13.96 grams^[41] of methamphetamine hydrochloride.^[42]

Waiving her right to testify in court, Dimaano instead filed a memorandum and argued that the prosecution failed to establish her guilt beyond reasonable doubt.^[43] She specifically alluded to the conflicting testimonies of NUP Bilugot and SPO2 Ragadio as to the number of sachets allegedly obtained from her person.

NUP Bilugot testified in court that she obtained from Dimaano only one (1) plastic sachet. On the other hand, SPO2 Ragadio recalled receiving two (2) plastic sachets from NUP Bilugot. This discrepancy, according to Dimaano, casts doubt as to the identity of the specimen allegedly obtained from her. There was a break in the chain of custody of the seized drugs, which warranted her acquittal.^[44]

In addition, Dimaano assailed the prosecution's failure to present in court the airline ticket bearing her name. She argued that this failure disproved the factual allegation that on November 13, 2000, she was supposed to board an airplane to transport methamphetamine hydrochloride.^[45]

Branch 119 of the Regional Trial Court, Pasay City found that the prosecution proved beyond reasonable doubt that Dimaano attempted to transport methamphetamine hydrochloride, a dangerous drug.^[46] According to the trial court, Dimaano, a departing airline passenger, had in her person 13.96 grams of methamphetamine hydrochloride distributed in seven (7) small sachets, three of which were placed in a bigger sachet and the remaining four in another bigger sachet.^[47]

On the discrepancy in NUP Bilugot's and SPO2 Ragadio's testimonies as to the number of sachets obtained from Dimaano, the trial court explained that "the chain of [custody] [nevertheless] remained unbroken because immediately after NUP Bilugot seized the 'shabu' from [Dimaano], [NUP Bilugot] immediately turned over the same to SPO2 Ragadio who was just outside the door of the ladies' comfort room."^[48] The trial court added that SPO2 Ragadio's testimony that he received from NUP Bilugot two (2) plastic sachets that were further placed inside a bigger plastic sachet explained NUP Bilugot's testimony that she obtained only one plastic sachet from Dimaano.^[49]

Considering that Dimaano was apprehended prior to her departure at the Manila International Airport, the trial court ruled that she was properly charged with attempt to transport dangerous drugs punished under Section 5 in relation to Section 26 of the Comprehensive Dangerous Drugs Act of 2002.^[50] The

presentation of the airline ticket, therefore, was unnecessary.

Thus, in the Decision^[51] dated March 5, 2005, the trial court convicted Dimaano as charged. The dispositive portion of the Decision reads:

WHEREFORE, this Court finds accused Cristy Dimaano y Tipdas guilty beyond reasonable doubt of violation of Section 5, in relation to Section 26 of Republic Act 9165, she is hereby sentenced to Life Imprisonment and a fine of five Hundred Thousand Pesos (P500,000.00).

The methamphetamine hydrochloride recovered from the accused is considered confiscated in favor of the government and to be turned-over to the Philippine Drug Enforcement Agency.

SO ORDERED.^[52]

Dimaano appealed^[53] before the Court of Appeals, maintaining that there was a break in the chain of custody of the methamphetamine hydrochloride allegedly seized from her person. Because the testimonies of NUP Bilugot and SPO2 Ragadio differed as to the number of sachets allegedly obtained from her, "the identity of the illegal drugs recovered from her was not established."^[54]

The Court of Appeals, however, was not convinced of Dimaano's argument. It stated that "[a]side from [Dimaano's] . . . allegations, [Dimaano] did not present evidence to support her claim. [Worse,] she never bothered to testify in court to refute the evidence of the prosecution."^[55]

Relying on the general rule that "the lower court's assessment of the credibility of the witnesses is accorded great respect,"^[56] the Court of Appeals found NUP Bilugot and SPO2 Ragadio to be credible witnesses. That their testimonies differed as to the number of sachets obtained from Dimaano did not destroy NUP Bilugot's and SPO2 Ragadio's credibility because "the chain of events as to the custody of the recovered shabu was never broken."^[57] Moreover, the Court of Appeals affirmed the trial court's finding that the two sachets SPO2 Ragadio obtained from NUP Bilugot were placed inside one bigger plastic sachet.^[58] According to the Court of Appeals, this explained why NUP Bilugot recalled obtaining only a single plastic sachet from Dimaano.

With respect to the airline ticket, the Court of Appeals agreed with the trial court that it need not be presented in court to prove that Dimaano attempted to transport methamphetamine hydrochloride. According to the Court of Appeals, the "indorsement letter"^[59] of Police Chief Inspector Roseller N. Fabian to the City Prosecutor of Pasay, which stated that Dimaano was apprehended at the initial check-in departure area of the Manila International Airport, proved that Dimaano was bound for Cebu to transport dangerous drugs.^[60]

In the Decision dated May 30, 2006, the Court of Appeals affirmed the trial court's Decision dated March 5, 2005.^[61]

The case was brought on appeal before this court through a notice of appeal,^[62] the penalty imposed on Dimaano being life imprisonment.^[63] In the Resolution^[64] dated December 4, 2006, this court directed the parties to file their respective supplemental briefs if they so desired.

In their respective manifestations, the Office of the Solicitor General, representing the People of the Philippines,^[65] and accused-appellant Dimaano^[66] requested this court to treat the appeal briefs they filed before the Court of Appeals as their supplemental briefs. This court noted the parties' manifestations in the Resolution^[67] dated March 19, 2007.

In her Accused-Appellant's Brief,^[68] Dimaano maintains that the prosecution failed to establish the identity of the illegal drugs allegedly seized from her. With the inconsistent testimonies of NUP Bilugot and SPO2 Ragadio as to the number of sachets allegedly obtained from her, Dimaano argues that the prosecution "failed to prove the crucial first link in the chain of custody"^[69] required under Section 21 of the Comprehensive Dangerous Drugs Act of 2002.^[70]

Dimaano adds that NUP Bilugot and SPO2 Ragadio only marked the two sachets that contained seven smaller sachets of methamphetamine hydrochloride allegedly obtained from her. They did not write their initials on the seven sachets. Dimaano, thus, argues that "there is no certainty that the seven (7) smaller plastic sachets of shabu presented in court by the prosecution were the very same ones recovered from [her]."^[71]

Lastly, with the prosecution's failure to present in court the airline ticket that would prove that she intended to board a plane bound for Cebu, Dimaano argues that the prosecution failed to establish her alleged attempt to transport illegal drugs.^[72] She thus prays that this court set aside the trial court's Decision and that a new decision be rendered acquitting her of the crime charged.^[73]

In its Brief for Plaintiff-Appellee,^[74] the Office of the Solicitor General cites portions of NUP Bilugot's and SPO2 Ragadio's respective testimonies, maintaining that the two prosecution witnesses credibly related in court how Dimaano attempted to transport illegal drugs. Contrary to Dimaano's claim, the Office of the Solicitor General argues that there were no inconsistencies in NUP Bilugot's and SPO2 Ragadio's testimonies and cites SPO2 Ragadio's testimony that he received from NUP Bilugot two plastic sachets that were further placed inside a bigger plastic.^[75]

As to why the seven (7) smaller sachets were not marked, the Office of the Solicitor General counters that this "relate [s] only to [a] minor, trivial, peripheral and inconsequential [matter] that [does] not detract from the weight of the testimonies of the prosecution witnesses in their entirety as to material and important facts."^[76]

With respect to the prosecution's failure to present the airline ticket bearing Dimaano's name, the Office of the Solicitor General argues that NUP Bilugot's and SPO2 Ragadio's testimonies sufficiently proved that Dimaano was bound for Cebu to transport methamphetamine hydrochloride.^[77] The Office of the Solicitor General