

THIRD DIVISION

[G.R. No. 212632, August 24, 2016]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DEN ANDO Y SADULLAH AND SARAH ANDO Y BERNAL, ACCUSED-APPELLANTS.

D E C I S I O N

PEREZ, J.:

For our resolution is the appeal filed by accused-appellants Den Ando y Sabdullah (Den) and Sarah Ando y Bernal (Sarah) assailing the 10 December 2013 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR.-H.C. No. 05679.

Culled from the records^[2] were the following counter-statement of facts:

On 3 October 2006, an informant went at the Quezon City Anti-Drug Abuse Council (QADAC) to inform Police Officer 3 (PO3) Leonardo Ramos (PO3 Ramos) that a certain Ben was selling *shabu* at Maguindanao Street, Salam Mosque, *Barangay* Culiati, Quezon City. Thereafter, an entrapment team was formed consisting of PO1 Alexander Jimenez (PO1 Jimenez), PO1 Teresita Reyes (PO1 Reyes), PO2 Joseph Ortiz (PO2 Ortiz), and PO1 Peggy Lyn Vargas (PO1 Vargas). PO1 Vargas was designated as poseur-buyer and was provided with a P500.00 bill marked money.

The following day at about 4:00 a.m., the buy-bust team together with the informant proceeded to the designated area. PO1 Vargas and the informant went to the house of alias Ben along Maguindanao Street, Salam Mosque, Quezon City. The informant introduced alias Ben to PO1 Vargas who asked how much *shabu* she needed. The latter responded "*Limang piso po*" and handed over the P500.00 buy-bust money. Alias Ben called his wife and told her to give PO1 Vargas P500.00 worth of *shabu*. The wife took out from her bra a small plastic sachet containing a white crystalline substance and handed it to PO1 Vargas. Thereafter, PO1 Vargas threw her cigarette, which was the prearranged signal that the sale was already consummated. The other operatives responded and introduced themselves as police officers. PO2 Ortiz frisked alias Ben who was identified as accused-appellant Den and recovered from him the buy-bust money. PO1 Reyes apprehended the wife identified as accused-appellant Sarah. The sachet containing the white crystalline substance was marked with "PV-10-04-06" and sent to the crime laboratory for examination. The examination showed that the contents of the plastic sachet weighed 0.15 gram and are positive for methylamphetamine hydrochloride or *shabu*.

Accused-appellants denied the charges against them. Accused-appellants claimed that at around 4:30 in the morning of 4 October 2006, they were at home with their children when police officers knocked and pushed their door. The police officers ordered them to bring "it" out but they did not know what to bring out. The officers

then searched their house. After thirty (30) minutes, they were brought to QADAC where they were detained. Accused-appellants further claimed that during their detention, police officer Leonardo Ramos demanded P50,000.00 from them in exchange for their release. However, they were unable to put up the amount. They were presented for inquest on 9 October 2006 for violation of the anti-drugs law.

Rulings of the Lower Courts

In a Decision dated 6 June 2012,^[3] the Regional Trial Court (RTC), Branch 82, Quezon City, found the accused-appellants guilty beyond reasonable doubt of violating Sections 5, Article II of Republic Act (R.A.) No. 9165^[4] and sentenced them to suffer the penalty life imprisonment and to each pay a fine in the amount of P500,000.00.

The RTC gave full credence to the testimonies of PO1 Vargas and PO2 Ortiz who conducted the buy-bust operation against the accused-appellants, and rejected the self-serving defenses of denial and alibi of accused-appellants. The RTC noted that other than their claim that a demand for money was made by the police officers in exchange for their release, no convincing and credible evidence was presented by the defense. It held that there is absence of any evidence that could belittle or otherwise overcome the presumption in favor of the police officers.^[5]

On intermediate appellate review, the CA affirmed the RTC's ruling. It held that the elements necessary for the conviction for illegal sale of dangerous drugs are present in the instant case. The CA agreed with the RTC in giving weight to the testimonies of the prosecution witnesses, and held that the arresting officers have preserved the integrity and evidentiary value of the seized items.

Our Ruling

We find the appeal bereft of merit. Thus, we affirm the accused-appellants' guilt.

We find no reason to reverse the RTC's findings, as affirmed by the CA. Similarly, we give full credit to the positive, unequivocal, spontaneous and straightforward testimonies of the police officers pointing to accused-appellants as the seller of the confiscated *shabu*. We have consistently held that trial courts have the distinct advantage of observing the demeanor and conduct of witnesses during trial. Hence, their factual findings are accorded weight, absent any showing that certain facts of relevance and substance bearing on the elements of the crime have been overlooked, misapprehended or misapplied.^[6] This is with more reason on prosecutions involving illegal drugs, which depend largely on the credibility of the police officers who conducted the arrest or buy-bust operation.^[7]

To secure a conviction for illegal sale of dangerous drugs, it is necessary that the prosecution is able to establish the following essential elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and its payment. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence. Then delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.^[8] Here, all the aforesaid elements necessary for accused-

appellants' prosecution have been sufficiently established, clearly showing that they indeed committed the offense charged. PO1 Vargas, the designated poseur-buyer, testified during trial how she was able to purchase from accused-appellants P500.00 worth of *shabu*. The prosecution was able to duly establish that the sale between PO1 Vargas and accused-appellants actually took place. The item seized, which tested positive for the presence of Methamphetamine Hydrochloride, was likewise positively and categorically identified during trial.

Indeed, what is important in prosecutions for illegal sale of prohibited drugs is that the prohibited drug sold and delivered by the accused-appellants be presented before the court and that the accused-appellants be identified as the offender by the prosecution witnesses.^[9] We note that in the instant case these were successfully done by the prosecution.

We agree with the lower courts that in the absence of any intent or ill-motive on the part of the police officers to falsely impute commission of a crime against the accused-appellants, the presumption of regularity in the performance of official duty is entitled to great respect and deserves to prevail over the bare, uncorroborated denial and self-serving claim of the accused of frame-up.^[10] This presumption in favor of the apprehending officers can be rebutted only if clear and convincing evidence is presented to prove either of two things: (1) that they were not properly performing their duty, or (2) that they were inspired by any improper motive.^[11] None of these were presented to overturn the presumption.

Accused-appellants contended that the police officers failed to comply with the provisions of Section 21, paragraph 1 of R.A. No. 9165,^[12] which provides for the procedure in the custody and disposition of seized drugs. They claimed that no prior surveillance was made on them prior to the buy bust operation. Likewise, they alleged that no justifiable reason was given for the absence of a representative from the media, the Department of Justice, any elective public official or a counsel/representative of the accused-appellants, who must sign the inventory of the seized items; and that the marking was not made at the scene of the crime.

We find these arguments untenable. The alleged non-compliance with Section 21 of R.A. No. 9165 was not fatal to the prosecution's case because the apprehending team properly preserved the integrity and evidentiary value of the seized drugs.^[13] In *People v. Ganguso*,^[14] this Court held that prior surveillance is not a prerequisite for the validity of an entrapment operation especially when the buy-bust team members were accompanied to the scene by their informant. Further, there is nothing in the Rules which say that the arrest is invalid and the seized item inadmissible in evidence, if the physical inventory and marking was not done at the place of arrest. In fact, in *People v. Sanchez*,^[15] the Court instructs that in case of warrantless seizures such as a buy-bust operation, the physical inventory and photograph shall be conducted at the nearest police station or office of the apprehending officer/team, whichever is practicable.

Anent the absence of the enumerated representatives during the inventory, the explanation was made by PO1 Vargas when she testified that the police officers tried to secure the coordination of the *barangay* officials but they refused to sign any document. At any rate, the accused-appellants were present during the inventory.