

SECOND DIVISION

[G.R. No. 196146, March 12, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FREDDIE LADIP Y RUBIO, ACCUSED-APPELLANT.**

D E C I S I O N

PEREZ, J.:

Before this Court is an appeal from the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03635 affirming *in toto* the Decision^[2] in Criminal Case No. Q-06-144482 rendered by the Regional Trial Court (RTC), Branch 103 of Quezon City. The RTC Decision found Freddie Ladip y Rubio (accused) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Facts

The accused was charged under the Information^[3] docketed as Criminal Case No. Q-06-144482 for violation of Section 5, Article II of R.A. No. 9165 (illegal sale of dangerous drugs), which reads as follows:

That on or about 7th day of December, 2006, in Quezon City, accused without lawful authority did then and there willfully and unlawfully sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport, or act as broker in the said transaction, a dangerous drug, to wit: zero point thirteen (0.13) gram of white crystalline substance containing [methamphetamine] hydrochloride.

Upon arraignment, the accused pleaded not guilty to said charge.^[4] Thereafter, a full-blown trial ensued.

The Prosecution's Version of Facts

The prosecution presented Police Officer (PO) 1 Marcelino Sibal (PO1 Sibal) and PO1 Romeo Tayag (PO1 Tayag), who both testified that while on duty in the morning of 7 December 2006, together with other police operatives namely: PO2 Zamora, PO1 Almario, and PO2 Salas, at the Station Anti-Illegal Drugs (SAID) - Station Operation Task Group, Quirino Police Station (PS-09), Anonas Road, Project 2, Quezon City, a male confidential informant came to the station and provided them with the information that a certain Freddie Ladip was selling illegal drugs in Area 1, *Barangay* Batasan, Quezon City. Consequently, a buy-bust operation was conducted on the same day whereupon the accused was arrested for selling methamphetamine

hydrochloride or *shabu*.^[5]

As narrated during the trial, PO1 Sibal, who acted as poseur-buyer, and the informant went to a house located in the abovementioned area around 1 o'clock in the afternoon of 7 December 2006, wherein the accused was already waiting for them outside the said house. The informant introduced PO1 Sibal to the accused as a buyer of *shabu*. Accused immediately inquired as to the quantity of *shabu* that he intends to purchase by asking, "*magkano?*" PO1 Sibal replied that he wanted to buy P300.00 worth of *shabu*. Accused then asked for the payment, for which PO1 Sibal readily gave him the marked money consisting of three 100-peso bills. In return, accused handed to PO1 Sibal a transparent heat-sealed plastic sachet containing white crystalline granules. Upon the exchange and conveyance of *shabu* and the marked money having been completed, PO1 Sibal gave the pre-arranged signal by removing the cap from his head to signify to his back-up team, strategically stationed near the scene of the crime, that the transaction was consummated. Afterwards, the accused was arrested by the team.^[6]

While the accused was being apprehended, a certain Perlyn Urbano y Dela Cruz (Perlyn) suddenly emerged before them, hysterically shouting and asking why her husband was being arrested, and even attempted to prevent the police operatives from consummating said arrest. Simultaneously, PO1 Tayag, being one of the back-up team, approached them and recovered another heat-sealed plastic sachet on the ground near Perlyn. Thereafter, both accused and Perlyn were brought to the police station where they were detained and investigated.^[7]

It was further stated under oath that, prior to the turnover of the evidence to the investigator-on-duty in said station, PO1 Sibal and PO1 Tayag revealed that they placed their respective markings on the two (2) small heat sealed transparent plastic sachets,^[8] denominated as MS-FL-12-07-06 and RT-PU-12-07-06. Subsequently, an inventory of the seized items was made in the presence of the police operatives and the arrested persons. Photographs of the arrested persons, the marked money, and the seized items were likewise taken, followed by various requests for laboratory examination of said specimens, and for drug dependency examination of the arrested persons.^[9] Later on, the subject sachets were brought to the Quezon City Police District (QCPD) Crime Laboratory.

Lastly, it was agreed upon by both parties to dispense with the testimony of the other prosecution's witness, Police Inspector (P/Insp.) Ma. Shirleen Ballete, and to enter instead the following stipulations:

- (1) That P/Insp. Ma. Shirleen Ballete is the Forensic Chemist who examined the specimen, subject matter of this case;
- (2) That there was a request made for an examination on the specimen;
- (3) That attached to the request are the two specimens, with the marking on each of the transparent plastic sachets, namely: MS-FL-12-07-06 and RT-PU-12-07-06;
- (4) That in view of the said request, Forensic Chemist Ma. Shirleen Ballete examined the specimen and prepared Chemistry Report No. D-525-2006 dated December 7, 2006 with the finding that said specimen, after qualitative examination

- conducted on the said specimen, gave positive result for the test of [methamphetamine] hydrochloride, a dangerous drug;
- (5) Likewise, said report has been properly subscribed and sworn to before the Administering Officer; and
- (6) That Forensic Chemist Ma. Shirleen Ballete merely conducted the examination on the specimens, but has no personal knowledge on how said specimens were recovered from the possession of the accused.^[10]

The Defense's Version of the Facts

On the other hand, the accused had a different version of the facts surrounding his arrest. To put substance to his position, the defense presented the accused and a certain Lerma Cui (Lerma) as witnesses.

Accused testified that at around 1 o'clock in the afternoon of 7 December 2006, he was engaged in a drinking session inside the house of his live-in partner's (Perlyn) friend (a certain Wilma) at *Barangay* Botocan, Quezon City.^[11] Suddenly, three men in civilian clothes arrived and searched the house but found nothing illegal. Nevertheless, the three men grabbed and handcuffed him and Perlyn,^[12] boarded them in a vehicle and brought them to a police station to show them the *shabu* without explaining where it came from.^[13]

To corroborate the testimony of the accused, Lerma testified that she was in the house of her friend Wilma having a drinking spree with them when the accused was unexpectedly and swiftly arrested by a group of three male individuals clad in civilian clothes for no apparent reason. She recalled that a member of said group informed them that they are looking for somebody, while the other began to search the house, and the third member of the group placed handcuffs on the accused and Perlyn. Shocked, Lerma gave witness that she and Wilma were not able to do anything to prevent such unlawful search and warrantless arrest.^[14]

The Ruling of the RTC

After trial on the merits, the RTC rendered a Decision^[15] finding the accused guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165 (for drug pushing). The dispositive portion of which is hereunder quoted as follows:

ACCORDINGLY, judgment is rendered finding the accused **FREDDIE LADIP Y RUBIO, GUILTY** beyond reasonable doubt of the offense of violation of Section 5 of RA 9165 (for drug pushing) as charged, and he is hereby sentenced to suffer a jail term of **LIFE IMPRISONMENT** and to pay a fine of P500,000.00. Only the sachet sold to PO^[1] Sibal covers the case against the accused. The other sachet picked up by PO^[1] Tayag cannot be held beyond reasonable doubt as having come from the accused. Nonetheless, the statutory penalty is still as stated above as per RA 9165.

The two (2) sachets of *shabu* involved in this case are ordered transmitted to PDEA thru DDB for disposal as per RA 9165.^[16]

The trial court ruled that the testimonies of the police operatives are credible and reliable. On the other hand, the denials of the accused were found to be negative, weak, and self-serving. It further pointed out that the marking of the subject sachets made only in the police station was reasonable considering that during the arrest, there was a commotion which resulted to a crowd build-up, thereby giving rise to the probability of risk to the life and limb of the police, had they stayed there much longer. Hence, such belated marking was therefore deemed justified.

The Ruling of the CA

On appeal, the accused contended that the confiscated drugs were not marked immediately at the time and place of its seizure, and that the subsequent physical inventory thereof was not made in the presence of representatives from the Department of Justice (DOJ), the media, and any elected public official, in violation of Section 21 of R.A. No. 9165, thus, destroying the identity and integrity of the evidence against him; that there were inconsistencies in the testimonial evidence presented by the prosecution; and that ultimately, the prosecution miserably failed to prove the accused's guilt beyond reasonable doubt.^[17]

The CA affirmed *in toto* the decision of the RTC and dismissed the appeal.^[18] The appellate court ruled that the prosecution's evidence established the essential elements of the crime. It held that failure to comply with Section 21 of R.A. No. 9165 will not render the arrest of the accused illegal, nor will it result to the inadmissibility in evidence against the accused of the illegal drugs seized in the course of the entrapment operation. What is of utmost relevance is the preservation of the integrity and maintenance of the evidentiary value of the confiscated illegal drugs, for in the end, the same shall necessarily be the thrust that shall determine the guilt or innocence of the accused.^[19] More so, the CA emphasized that in the prosecution of offenses relating to illegal sale, peddling and conveyance of prohibited drugs, what is of material and pivotal importance is proof that the sale of drugs actually took place, coupled with the presentation of the *corpus delicti* as evidence,^[20] and furthermore, that there is no showing of any *indicia* of ill or improper motive on the part of the police operatives to impute such serious crime against accused as manifested by their witnesses' spontaneous and categorical declarations and account of the incident.^[21] These were all established and proven beyond reasonable doubt in the instant case.

When the case was elevated to this Court, accused, through the Public Attorney's Office, and the Office of the Solicitor General, both manifested that they would no longer file their respective supplemental brief and, instead, they would adopt all the arguments in their briefs filed before the CA.^[22] In his Appellant's Brief,^[23] accused raised the following assignment of errors: (a) the court *a quo* gravely erred in convicting the accused-appellant notwithstanding the prosecution's failure to establish the chain of custody and integrity of the alleged seized illegal drugs; (b) the court *a quo* gravely erred in convicting the accused-appellant notwithstanding the prosecution witnesses' incredible and highly inconsistent testimonies; and (c) the court *a quo* gravely erred in convicting the accused-appellant despite the

prosecution's failure to prove his guilt beyond reasonable doubt.

The Issues

Posed for resolution is whether or not the accused is guilty of illegal sale of dangerous drugs; and of similar importance is the course of the investigation and trial.

Ultimately, the above issues may be consolidated, to wit: whether or not the RTC and the CA erred in finding that the evidence of the prosecution was sufficient to convict the accused of the alleged sale of methamphetamine hydrochloride or *shabu*, in violation of Section 5 of R.A. No. 9165.

Our Ruling

The Court finds no merit in the appeal.

It has been consistently ruled that for the successful prosecution of offenses involving the illegal sale of drugs under Section 5, Article II of R.A. No. 9165, the following elements must be proven: (1) the identity of the buyer and seller, object and consideration; and (2) the delivery of the thing sold and the payment therefor.

[24] In other words, there is a need to establish beyond reasonable doubt that the accused actually sold and delivered a prohibited drug to another, and that the former indeed knew that what he had sold and delivered to the latter was a prohibited drug.[25] To reiterate, what is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, plus the presentation in court of *corpus delicti* as evidence.[26]

Contrary to the claim of accused, the prosecution was able to clearly recount how the buy-bust operation[27] was conducted, and the eventual submission of the subject sachet of *shabu* as part of its evidence. We note that during the direct examination of the prosecution's witness, PO1 Sibal, he categorically testified on the following factual antecedents:

- Q: On December 7, 2006 in what police station you were assigned?
- A: Station 9 Anti Illegal Drug.
- Q: Do you remember having reported for duty on said date?
- A: Yes, sir.
- Q: Who were with you at the time when you reported for duty?
- A: PO1 Romeo Tayag, PO1 Almario, PO2 Zamora and PO2 Salas.
- Q: While you were on the said station, what happened if you still recall?
- A: There was an informant who arrived in our station.
- Q: When this informant arrived in your station, what happened?
- A: He told us that a certain Freddie Ladip in Area 1 is selling shabu.

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