

SECOND DIVISION

[G.R. No. 201725, July 18, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOY
ALCALA Y NOVILLA, ACCUSED-APPELLANT.**

DECISION

PEREZ, J.:

Before this Court is an appeal from the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 04053 affirming the Decision^[2] in Criminal Case No. Q-04-129946 rendered by the Regional Trial Court (RTC), Branch 82 of Quezon City. The RTC Decision found Joy Alcala y Novilla (accused) guilty beyond reasonable doubt for 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 Facts

The accused was charged under the Information^[3] docketed as Criminal Case No. Q-04-129946 for violation of Section 5, Article II of R.A. No. 9165, which reads as follows:

That on or about the 30th day of September, 2004, in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there, willfully (sic) and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point zero two (0.02) gram of white crystalline substance containing methylamphetamine hydrochloride, a dangerous drug.^[4]

Upon arraignment, the accused pleaded not guilty to said charge.^[5] Trial thereafter ensued.

The factual findings of the trial court, as affirmed by the appellate court, are stated as follows:

The Version of the Prosecution

Around 5 o'clock in the afternoon of September 30, 2004, a female informant came to the Anti-Illegal Drugs Special Operation Task Force of the Central Police District, Station 11, Quezon City, to report the illegal drug activities of a certain alias Joy in the vicinity of Lantana St., Barangay Immaculate Conception, Cubao, Quezon City. Thereupon,

P/Insp. Erwin Guevarra formed a buy-bust team composed of SPO1 Mario Abong, PO2 Anthony Pamilar, PO3 Jose Castuciano, PO2 Jonathan Caranza and PO2 Erwin Bautista, who was designated as poseur buyer. The team was briefed on the details of the buy-bust operation against alias Joy and PO2 Bautista was given buy-bust money, a one hundred peso bill, which he marked with his initials "EB". Thereafter, a pre-operation report was prepared.

Past 6:00 p.m. of the same day, the team arrived at the target area. The informant and Bautista sought alias Joy, who was later identified as appellant, Joy Alcala. The rest of the operatives followed at a distance and positioned themselves according to their plan. Along Lantana St., the informant saw and approached appellant. He introduced PO2 Bautista as a buyer of shabu. Then, appellant asked him, "*Iiskor kayo, magkano?*" PO2 Bautista replied "*piso lang*", meaning P100.00 worth of shabu. Appellant took a small plastic sachet containing white crystalline substance from the right front pocket of her pants and then asked for payment. PO2 Bautista handed her the marked money and then took the plastic sachet from appellant. Thereafter, PO2 Bautista lighted a cigarette, the pre-arranged signal that the sale was consummated. The other members of the team converged on the scene and arrested appellant. Appellant was asked to empty her pockets, after which, the buy bust money was recovered.

Appellant was brought to the police station. Thereat, the confiscated plastic sachet was marked by PO2 Bautista with the letters "EB-JA". He then and turned it over to the duty desk officer, PO3 Castuciano, who prepared the standard request for laboratory examination. The specimen and the request were brought by PO2 Pamilar to the PNP Crime Laboratory. After a qualitative examination conducted by forensic chemist, Victor Calub Drapete, it was reported that the contents of the plastic sachet EB-JA proved positive for the presence of methylamphetamine hydrochloride or shabu, a dangerous drug.

The Defense Version

On September 30, 2003,^[6] appellant accompanied her friend, alias Baba, to Police Station 11, purportedly, to talk to a very important person there. However, while they were in the station, she was arrested and ordered detained by the woman whom alias Baba talked to. She kept crying inside the detention cell but nobody helped her. She did not see her friend nor the woman anymore. Appellant vehemently denies the accusation against her and claims that she does not know the cause of her detention.^[7]

The Ruling of the RTC

After trial on the merits, the RTC rendered a Decision^[8] finding the accused guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165. The

dispositive portion of which is hereunder quoted as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding accused **JOY ALCALA y NOVILLA** *guilty* beyond reasonable doubt of a violation of Section 5, Article II of R.A. No. 9165. Accordingly, she is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine in the amount of **Five Hundred Thousand** (P500,000.00) **PESOS**.

The Branch Clerk of Court is hereby directed to transmit to the Philippine Drug Enforcement Agency the dangerous drugs subject hereof for proper disposition and final disposal.^[9]

The trial court concluded that the evidence presented by the prosecution sufficiently satisfied the quantum required for accused's conviction. It found the testimonies of the police officers who participated in the buy-bust operation credible and reliable since absence of any showing of ill-motive on their part to concoct trumped-up charges, they enjoy the presumption of regularity in the performance of their duties.^[10] On the other hand, the denial of the accused was found to be unsubstantiated by any convincing and credible evidence. Hence, being considered as a negative, weak, and self-serving evidence, accused's bare denial cannot prevail over the positive testimony of the prosecution's witnesses and the physical evidence which supported said judgment of conviction.^[11]

The Ruling of the CA

On intermediate appellate review, the CA affirmed the RTC's Decision convicting the accused. It ruled that the prosecution was able to sufficiently bear out the statutory elements of the crime. The elements of the sale of illegal drugs between accused and PO2 Erwin Bautista (PO2 Bautista), as poseur-buyer, have been duly established by the prosecution, considering that there was actual delivery of the prohibited drug to the poseur-buyer and actual receipt by the seller of the marked money. These established factual findings consummated the buy-bust transaction between the entrapping police officers and the drug dealer.^[12] Moreover, the appellate court 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 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. The prosecution, therefore, must simply show that the seized item recovered from accused was the same item presented in court and found to be an illegal/prohibited drug. These were all established and proven beyond reasonable doubt in the instant case.^[13]

In addition, the CA gave no credence to the defense of the accused of denial. It ruled that a denial is a weak defense which cannot prevail against the positive testimony of the police officers acting in the performance of their official duty, which appeared more credible and adequately supported by evidence on record. Thus, a

denial which is unsubstantiated by clear and convincing evidence is not worthy of credence.^[14] Lastly, it pointed out that any allegation of a violation of fundamental rights during custodial investigation is relevant and material only in cases where extrajudicial admission or confession extracted from the accused becomes the basis of their conviction. Since no such extrajudicial admission or confession was extracted from appellant during her custodial investigation in the present case, such argument was therefore unmeritorious.^[15]

Upon elevation of this case before this Court, the Office of the Solicitor General manifested that it will no longer file its supplemental brief and, instead, will adopt all the arguments in its brief filed before the CA.^[16] While in the Supplemental Brief^[17] filed by accused through the Public Attorney's Office, she raises the issue that the court *a quo* gravely erred in convicting the accused notwithstanding the prosecution's failure to establish the chain of custody and integrity of the alleged seized illegal drugs for failure to comply with the mandatory procedures under Section 21 of R.A. No. 9165. Accordingly, it is her contention that the court *a quo* gravely erred in convicting the accused despite the prosecution's failure to prove his guilt beyond reasonable doubt.

The Issue

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.

We find no valid reason to depart from the time-honored doctrine that where the issue is one of credibility of witnesses, and in this case their testimonies as well, the findings of the trial court are not to be disturbed unless the consideration of certain facts of substance and value, which have been plainly overlooked, might affect the result of the case.^[18]

Upon perusal of the records of the case, we see no reason to reverse or modify the findings of the RTC on the credibility of the testimony of the prosecution's witnesses, less so in the present case, in which its findings were affirmed by the CA. It is worthy to mention that, in addition to the legal presumption of regularity in the performance of their official duty, the court *a quo* was in the best position to weigh the evidence presented during trial and ascertain the credibility of the police officers who testified as to the conduct of the buy-bust operation and in preserving the integrity of the seized illegal drug.

Nonetheless, for academic discussion, it has been consistently ruled that for the successful prosecution of offenses involving the illegal sale of drugs under Article II, Section 5 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.^[19] In other words, there is a need to establish beyond reasonable doubt that the accused actually sold and delivered a prohibited