

SECOND DIVISION

[G.R. No. 199219, April 03, 2013]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GERRY OCTAVIO Y FLORENDO AND REYNALDO CARIÑO Y MARTIR, ACCUSED-APPELLANTS.

DECISION

PEREZ, J.:

For review of this Court is the appeal filed by Gerry Octavia (Octavia) and Reynaldo Carino (Carino) assailing the 29 March 2011 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03900. The CA affirmed the Decision of the Regional Trial Court (RTC), Branch 65, Makati City finding both accused guilty of violating Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Drugs Act of 2002.

The Antecedents

On 21 August 2007, three (3) separate Informations were filed before the Regional Trial Court (RTC), Makati City for violations of R.A No. 9165. The first information charges Gerry Octavio y Florendo with violation of Section 5 thereof in the following manner:

CRIMINAL CASE NO. 07-1580

That on or about the 16th day of August, 2007, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without the necessary license or prescription and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away Php200.00 worth of [Methamphetamine] Hydrochloride (Shabu) weighing zero point zero two (0.02) gram, a dangerous drug.^[2]

The second information charges the same accused with violation of Section 11 of the same law allegedly committed as follows:

CRIMINAL CASE NO. 07-1581

That on or about the 16th day of August, 2007, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess and/or use dangerous drugs and without any license or proper

prescription, did then and there willfully, unlawfully and feloniously have in his possession, custody and control two (2) plastic sachets of Methamphetamine Hydrochloride (Shabu) each weighing zero point zero two (0.02) gram or a total of zero point zero four (0.04) gram, which is a dangerous drug, in violation of the aforesaid law.^[3]

The third information charges Reynaldo Cariño y Martir (Cariño) of violating Section 11 of R.A. No. 9165, to wit:

CRIMINAL CASE NO. 07-1582

That on or about the 16th day of August, 2007, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess and/or use dangerous drugs and without any license or proper prescription, did then and there willfully, unlawfully and feloniously have in his possession, custody and control two (2) plastic sachets of [Methamphetamine] Hydrochloride (Shabu) each weighing zero point zero two (0.02) gram or a total of zero point zero four (0.04) gram, which is a dangerous drug, in violation of the aforesaid law.^[4]

Version of the Prosecution:

At around 7:00 o'clock in evening of 16 August 2007, an informant went to the Office of the Makati Anti-Drug Abuse Council (MADAC) to report the alleged rampant illegal drug trafficking activities of Gerry Octavio alias "Buboy" at Pateros Street, *Barangay Olympia*, Makati City.^[5]

On the basis of this report, an anti-narcotics team was formed to conduct a buy-bust operation with MADAC operatives Danilo Baysa (Baysa) and Danilo Sumudlayon (Sumudlayon) as the designated poseur- buyer and immediate back-up, respectively. Two (2) pieces of One Hundred Peso bills were pre-marked to be utilized as buy-bust money. Proper coordination was made with the Philippine Drug Enforcement Agency (PDEA) before the team, together with the asset, proceeded to the target area.^[6]

Upon arrival at the designated area, the team spotted Octavio conversing with another male person along an alley. MADAC operative Baysa and the asset approached the duo while the rest of the team strategically positioned themselves. The asset, who was familiar with the subject, introduced MADAC operative Baysa as a "scorer" or user of *shabu*. The other male person, however, tried to convince MADAC operative Baysa to buy *shabu* from him instead, at the same time showing two (2) pieces of small heat-sealed transparent plastic sachets containing suspected *shabu*. The subject then introduced his companion to MADAC operative Baysa as alias "Nano" before asking him how much he wanted to purchase. MADAC operative Baysa intimated that he needed P200.00 worth of *shabu*, while simultaneously handing over the marked money to the subject who, in turn, gave him one (1) small heat-sealed transparent plastic sachet containing suspected *shabu*.

The transaction having been consummated, MADAC operative Baysa executed the pre-arranged signal to the rest of the team for assistance. Taking their cue, [PO1 Michelle V. Gimena] (PO1 Gimena) and MADAC operative Sumudlayon rushed to the scene. Meanwhile, MADAC operative Baysa introduced himself before effecting the arrest of the subject, who was later identified as the herein accused Gerry Octavio y Florendo. A routine body search upon his person yielded the marked money, two (2) pieces of small plastic sachets containing suspected *shabu* and another two (2) P100 bills. MADAC operative Sumudlayon, on the other hand, was able to arrest alias "Nano," who was later identified as the herein accused Reynaldo Cariño y Martir. Two (2) pieces of heat-sealed transparent plastic sachets containing the same illegal substance were recovered from his possession.

Thereafter, both of the accused, as well as the confiscated items were brought to the SAID-SOTF office for further investigation and later to the PNP Crime Laboratory for drug test and examination, respectively.^[7]

Version of the Defense

Both accused vehemently denied the charges against them. Accused Cariño maintained that at around 6:00 c'clock in the evening of 17August 2007, he was resting inside his house when four (4) men suddenly entered. They asked him if he was Cesar Martir, referring to his cousin who resided next door. When he did not respond, they handcuffed and boarded him inside their vehicle. One of those on board was MADAC operative Ed Monteza who previously invited him to the barangay hall in connection with an investigation regarding persons suspected to be drug peddlers within the neighborhood. Upon seeing him, MADAC Ed Monteza allegedly told his companions that they arrested the wrong person ("*Hindi iyan ang target natin.*") Thus, the men returned to the house of Cesar Martir but the latter was already nowhere in sight. They later proceeded to the SAID-SOTF and MADAC office, passing through Pateros Street, Brgy. Olympia, Makati City, where his co-accused Gerry Octavio was also arrested.

For his part, accused Octavio narrated that at around 6:30 o'clock in the evening of 16 August 2007, he was walking along Pateros Street on his way to the house of Sylvia Lopez. Since he worked as a car painter, he was supposed to estimate the cost of materials needed to repaint her vehicle. Along the way, he caught sight of an incoming Mitsubishi L-300 van. When it stopped in front of him, two (2) armed men alighted therefrom and wanted to know where he was going. They likewise accused him of using illegal drugs ("*Siguro i-iscore ka, ano?*"). Although he denied the accusation, they handcuffed and boarded him just the same inside their vehicle. Once inside, he saw MADAC operative Eduardo Monteza who arrested him sometime in 2003. He likewise saw his co-accused Reynaldo Cariño already on board the van. Upon arrival at the SAID-SOTF office, the men asked if they knew the whereabouts of Cesar Martir. They allegedly threatened to file charges against the accused if they refused to provide any information about him. Since the accused were unable to give any information, an investigator accordingly produced plastic sachets of *shabu* which were allegedly recovered from them.^[8]

Upon arraignment, both accused pleaded not guilty to the offenses charged. After pre-trial, trial on the merits ensued.

Ruling of the RTC

On 23 March 2009, the trial court rendered a decision finding both accused guilty beyond reasonable doubt of the offenses charged. In Criminal Case No. 07-1580, accused Octavio was sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00. In Criminal Case No. 07-1581, he was sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum, to fourteen years (14) and eight (8) months as maximum and to pay a fine of P300,000.00. Cariño, for his part, was sentenced in Criminal Case No. 07-1582 to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum, to fourteen years (14) and eight (8) months as maximum and to pay a fine of P300,000.00.^[9]

The RTC found that the prosecution succeeded in proving beyond reasonable doubt the guilt of the two accused for violation of Sections 5 and 11, Article II, R.A. No. 9165. It ruled that the evidence presented during the trial adequately established that a valid buy-bust operation was conducted by the operatives of the MADAC, as well as the SAID-SOTF, Makati City on 16 August 2007 upon proper coordination with the PDEA.^[10] On the other hand, accused Octavio and Cariño failed to present substantial evidence to establish their defense of frame-up. The RTC ruled that frame-up, as advanced by the herein accused, is generally looked upon with caution by the court because it is easy to contrive and difficult to disprove. Like *alibi*, frame-up as a defense had invariably been viewed with disfavor as it is common and standard line of defense in most prosecutions arising from violation of the Dangerous Drugs Act.^[11]

The Ruling of the Court of Appeals

The CA affirmed the decision of the RTC, upon a finding that all of the elements of illegal sale and illegal possession of dangerous drug have been sufficiently established by the prosecution. It found credible the statements of prosecution witnesses Baysa, Sumudlayon and *Barangay* Captain Victor Del Prado (*Barangay* Captain Del Prado) about what transpired during and after the buy-bust operation. Further, it ruled that the prosecution has proven as unbroken the chain of custody of evidence. The CA likewise upheld the findings of the trial court that the buy-bust operation conducted enjoyed the presumption of regularity, absent any showing of ill-motive on the part of the police operatives who conducted the same.

The CA found accused-appellants' defenses of denial and frame-up unconvincing and lacked strong corroboration.^[12]

ISSUE

Accused-appellants raised in their brief a lone error on the part of the appellate court, to wit:

The court-a-quo gravely erred in finding the accused-appellants guilty beyond reasonable doubt of the crime charged.^[13]