

SECOND DIVISION

[G.R. No. 195777, June 19, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FERDINAND CASTRO Y LAPENA, ACCUSED-APPELLANT.**

DECISION

PEREZ, J.:

We review the conviction^[1] of accused-appellant for violation of Sections 5 and 11, Article II of Republic Act No. 9165 (R.A. 9165).^[2] The Court of Appeals affirmed with modification^[3] the trial court's decision finding him guilty beyond reasonable doubt of the crimes charged, and denied the motion for reconsideration.^[4]

The Facts

On 14 July 2003, accused-appellant pleaded "not guilty" to the charges of illegal sale and illegal possession of methamphetamine hydrochloride (*shabu*)^[5] before the Regional Trial Court of Pasig City.

During pre-trial, the presentation of the prosecution witness, Forensic Chemist Senior Police Inspector Annalee R. Forro (Sr. Police Inspector Forro), was dispensed with^[6] after the parties stipulated on the following:

1. The due execution and genuineness of the Request for Laboratory Examination dated May 8, 2003 x x x and the stamp showing receipt thereof by the PNP Crime Laboratory x x x;
2. The due execution and genuineness, as well as the truth of the contents, of [Chemistry] Report No. D-849-03E issued by Forensic Chemist Police Inspector Annalee R. Forro of the PNP Crime Laboratory x x x, the finding and conclusion as appearing on the report x x x and the signature of the forensic chemist x x x[;]
3. The existence of the plastic sachets, but not their source or origin, the contents of which was the subject of the Request for Laboratory Examination, x x x and x x x (the plastic sachets).^[7]

On trial, the following witnesses were presented: PO1 Allan Mapula^[8] (PO1 Mapula) and PO1 Michael Familiara^[9] (PO1 Familiara), both of the Station Drug Enforcement Unit, Eastern Police District, Pasig City Police Station – for the prosecution; and the accused-appellant,^[10] Arturo Millare^[11] (Millare) and Romeo dela Cruz^[12] (dela Cruz) – for the defense.

The version of the prosecution was summarized by the Court of Appeals in the following manner:

On May 7, 2003, while on duty at the Drug Enforcement Unit (DEU) of the Pasig City Police Station, [PO1 Familara] received a telephone call from a confidential informant who reported that a certain "Fredie" (later identified as appellant) was selling illegal drugs at Kalamansi Street, Napiko, Barangay Manggahan, Pasig City.

PO1 Familara relayed the information to his superior, SPO4 Danilo Tuano. Initially, a buy-bust team, composed of PO3 Carlo Luna as team leader, PO1 Familara, and [PO1 Mapula,] as poseur-buyer was organized to apprehend appellant. The team coordinated with the Philippine Drugs Enforcement Agency (PDEA) and the buy-bust money, a P100 denomination bill, was marked with the initials "AVM".

The team proceeded to Kalamansi Street, x x x around midnight of the same day. Thereat, the informant approached the members of the team. He then accompanied PO1 Mapula to appellant. In their meeting, the [i]nformant introduced PO1 Mapula to appellant as a buyer of illegal drugs.

Appellant asked PO1 Mapula how much shabu he wanted to buy, to which the latter replied one hundred Pesos (P100.00). PO1 Mapula handed appellant the buy-bust money. In return, appellant gave PO1 Mapula one plastic sachet containing white crystalline substance which he took from his right pocket.

PO1 Mapula put his cap on, which was the pre-arranged signal to the other members of the buy-bust team that the sale has been consummated. After introducing himself as a police officer, he arrested appellant. The other team members surfaced and converged on the scene. PO1 Familara frisked appellant and asked him to empty his pockets. Two pieces of transparent plastic sachets and the buy-bust money were found in his possession and confiscated. While at the scene of the buy-bust operation, PO1 Mapula marked the sachet of shabu which was the subject of the sale with "AVM/FLC 05/08/03", which stood for PO1 Mapula and appellant's initials. The other two plastic sachets retrieved from appellant's pocket were marked by PO1 Familara with "MRF" and "FLC", which stood for Michael R. Familara and Ferdinand L. Castro's initials.

Appellant was brought to the police station for further questioning. PO1 Mapula personally brought the three seized plastic sachets containing white crystalline substance to the Philippine National Police Crime Laboratory for examination together with the written Request for Laboratory Examination. The qualitative tests conducted by Forensic Chemist, Sr. Police Inspector x x x (Forro) on the contents of the sachets proved positive for methamphetamine hydrochloride or shabu.^[13]

The defense gave a different version of the story. Thus:

On May 7, 2003, around 11 in the evening, appellant was engaged in a drinking spree with his friends, Arthur [Millare] and Luloy [dela Cruz], in front of his house at 1170 Kalamansi Street, Dapigo, Pasig City. Past midnight, he excused himself from the group to prepare for his trip to Nueva Ecija the following morning.

When he was about to enter the gate of his house, four persons suddenly confronted him. Two of them, who were identified as PO1 Mapula and PO1 Familiara grabbed him. He asked why he was being arrested, but did not get a reply. His name, age and address were then taken by the police officers. He was thereafter charged with possession and sale of illegal drugs.

[Millare] corroborated appellant's testimony. He stated that he saw appellant being pushed toward his house by four men who had just alighted from a white car without a plate number. He saw appellant being handcuffed. He shouted and asked, "*Pare, anong kasalanan mo, bakit ka nakaposas?*" but received no response. He went to inform appellant's mother about the incident. They rushed to the scene of the incident but the four officers had already left with appellant.

[Dela Cruz] alleged that he was the drinking buddy of appellant at the time he was arrested and confirmed the foregoing defense witnesses' testimonies.^[14]

After trial, the court convicted accused-appellant of both crimes.^[15]

On appeal, the Court of Appeals affirmed^[16] the decision of the trial court but modified the penalty imposed for illegal possession of *shabu* from *six (6) years and one (1) day of prision mayor as minimum to twelve (12) years and one (1) day of reclusion temporal as maximum* to *imprisonment of twelve (12) years and one (1) day as minimum, to fourteen (14) years and eight (8) months as maximum, and payment of a fine of three hundred thousand pesos (P300,000.00).*

The motion for reconsideration of the decision was likewise denied by the Court of Appeals.^[17]

Before this Court, both the prosecution and the defense opted not to file their respective supplemental briefs. We, thus, refer to their briefs and re-examine the position of the accused-appellant that: (1) the equipoise rule should have been applied in his favor inasmuch as the testimonies of the witnesses for the prosecution and the defense are all self-serving; (2) the warrantless arrest is invalid; and (3) the seized item proceeding from such arrest is inadmissible in evidence.

Our Ruling

We sustain the conviction of accused-appellant.

To secure a conviction for illegal sale of *shabu*, the following elements must be present: "(a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing."^[18] The prosecution must show that the transaction or sale actually took place, coupled with the presentation of the *corpus delicti* as evidence.^[19]

We find these present in the case at bar.

PO1 Mapula testified that accused-appellant, not being authorized by law, sold a sachet of *shabu* to PO1 Mapula during a buy-bust operation; that he was introduced by the informant as the person who wanted to buy *shabu*; that he told accused-appellant that he wanted to buy a hundred peso-worth of *shabu*; that accused-appellant asked for and received the marked money; that accused-appellant thereafter handed PO1 Mapula the substance, which later tested for *shabu*.^[20] The testimony of PO1 Mapula was corroborated on material points by PO1 Familiar.^[21] Also, the prosecution was able to present in court the item subject of the sale including the marked money tendered to accused-appellant.

The presence of the elements of the crime of illegal possession of *shabu* has likewise been sufficiently established, to wit: "(a) the accused [was] in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession [was] not authorized by law; and (c) the accused freely and consciously possessed the drug."^[22] When asked to empty his pocket, accused-appellant produced therefrom two (2) more transparent plastic sachets containing white substance, which also tested positive for *shabu*. Such possession was likewise unauthorized by law.

The defense posits that the equipoise rule should have been applied in his favor inasmuch as the testimonies of the witnesses for the prosecution and the defense are all self-serving.

We cannot agree. The equipoise rule does not apply because the testimonies of the prosecution witnesses are, in fact, credible based on settled legal principles and doctrines applicable to the particular factual circumstances of the case.

Thus, we have said, time and again, that "findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings."^[23] Also, "the determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, is accorded full weight and credit as well as great respect, if not conclusive effect."^[24]

We find nothing in the records that would justify a deviation from the findings of the trial court and the appellate court. Supported by evidence, the arresting officers rendered a straightforward narration of the details of the operation relative to the following: (1) the receipt of an information as to the illegal drugs activity in the area where accused-appellant was apprehended; (2) the organization of the buy-bust team; (3) the preparations made for the purpose; (4) the entrapment itself leading to the arrest of accused-appellant; (5) the marking of the seized items; and (6) the

eventual delivery of the specimens to the crime laboratory.

Neither did the defense prove that there was ill-motive or bad faith on the part of the team to falsely impute upon him the commission of these grave offenses.^[25] The doctrine of presumption of regularity in the performance of official duty, therefore, applies. As explained in *People v. Tion*:^[26]

x x x Unless there is clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duty, their testimonies on the buy-bust operation deserve full faith and credit. **Settled is the rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers, for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary suggesting ill motive on the part of the police officers or deviation from the regular performance of their duties.** The records do not show any allegation of improper motive on the part of the buy-bust team. Thus, the presumption of regularity in the performance of duties of the police officers must be upheld.^[27] (*Citations omitted; emphasis supplied*)

Necessarily, the finding of the credibility of the testimonies of the arresting officers should prevail over the testimonies of the accused-appellant and his friend-witnesses especially so when their respective testimonies were inconsistent on material points.

Witness Millare testified that upon peeping through the window and seeing accused-appellant in handcuffs, he shouted, "*Pare, anong kasalanan mo, bakit ka nakaposas?*"^[28] On the other hand, dela Cruz testified that Millare was upstairs when the latter shouted "*Pare, ano ba 'yang nangyayari d'yan sa baba at bakit ka hinuhuli?*"^[29]

Even assuming that these were not substantial enough to doubt the credibility of the testimonies of the defense witnesses, we cannot simply disregard the contradicting testimonies of the accused-appellant on one hand and his witnesses on the other as to the place where the arrest was made.

From the context of the testimony of accused-appellant on cross-examination, he was arrested outside his house in front of his drinking buddies Millare and dela Cruz. Pertinent portions of the transcript of stenographic notes read:

- Q - What were you exactly doing when the police officers arrived and grabbed you?
A - I was on my way home, I was actually closing the gate, sir.
Q - Do I take it to mean that you were already alone, [M]r. Witness?
A - No, sir in front of me were my two (2) friends, sir.
x x x
x