

FIRST DIVISION

[G.R. No. 192913, June 13, 2013]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOEL REBOTAZO Y ALEJANDRIA, ACCUSED-APPELLANT.

D E C I S I O N

SERENO, C.J.:

Before us is a Notice of Appeal^[1] dated 9 September 2009 from the Decision^[2] of the Court of Appeals (CA) in CA-G.R. CEB CR-HC No. 00443. The CA affirmed the Decision^[3] of the Regional Trial Court (RTC), Branch 30, Dumaguete City in Criminal Case Nos. 16394 and 16395, convicting appellant Joel Rebotazo y Alejandria of violating Sections 5 and 11, Article II of Republic Act No. 9165 (R.A. 9165) or the Comprehensive Dangerous Drugs Act of 2002.

As culled from the records, the prosecution's version is herein quoted:

On February 27, 2003, at around 3:00 in the afternoon, informant Orly Torremocha went to the National Bureau of Investigation (NBI) office in Dumaguete City to report that appellant was selling several sachets of shabu in his possession. The informant also told the NBI that he was going to meet with appellant later, as the latter was looking for a motorcycle to be used in looking for his missing wife.

Based on this information, the NBI planned a buy-bust operation and formed a buy-bust team, which was composed of: (1) NBI Agent Miguel Dungog; (2) Atty. Dominador Cimafranca; (3) Louie Diaz; and (4) Torremocha. For lack of personnel, Diaz, son of the NBI Dumaguete chief, volunteered to be the poseur-buyer. It was planned that appellant and Torremocha would pass by Shakey's Pizza Plaza in Rizal Boulevard on board a motorcycle. Diaz would then flag them down and discreetly ask where he could buy shabu.

After a briefing, at around 4:30 in the afternoon of the same day, the buy-bust team, with the exception of Torremocha, proceeded to Shakey's and positioned themselves in strategic locations to ensure that they can witness the entrapment. With the team was media representative Ivan Bandal.

As planned, appellant and Torremocha passed by Shakey's on board a motorcycle. Diaz flagged them down, and Torremocha introduced him to appellant. After a brief conversation, Diaz told appellant that he was interested in buying shabu and handed to him the ₱300 marked money. In exchange, appellant handed to Diaz a plastic sachet containing white crystalline substance.

Upon completing the transaction, Diaz executed the pre-arranged signal by removing his cap. Dungog and Cimafranca then rushed to Diaz and appellant's location and effected the latter's arrest. Appellant was subjected to a body search, and, in the process, voluntarily informed the NBI agents that he had another sachet of shabu inside one of his socks. Dungog recovered the said sachet, as well as some money from appellant's wallet, including the marked money given by Diaz. Dungog also marked the two (2) plastic sachets with the following initials: (1) NBI-DUMDO-02/20/03/REBOTASO/BB/01; and (2) NBI-DUMDO-02/20/03/REBOTASO/Pos/02. Photographs were also taken of appellant with the seized items. After being informed of his constitutional rights, appellant was brought to the NBI office.

At the NBI office, Dungog conducted an inventory of the seized items in the presence of appellant, media representative Maricar Aranas, and a representative from the Department of Justice. The NBI Dumaguete Chief likewise prepared a letter request for laboratory examination of the seized substance, which Dungog brought to the Philippine National Police Crime Laboratory, Negros Oriental Provincial Office.

Police Inspector Josephine L. Llana received the request and examined the specimen, which tested positive for Methamphetamine Hydrochloride. The results of the laboratory examination were embodied in Chemistry Report No. D-026-37.

Appellant also underwent a drug test, and tested positive for the presence of Methamphetamine Hydrochloride.^[4] (Citations omitted)

On the other hand, appellant's version is as follows:

The accused claimed that on February 27, 2003, one Orly Torremocha let him ride on his motorcycle and they went around the city. He knew this Orly Torremocha as he was his schoolmate at NOHS and has been his long time friend. After a while, they went to Shakey's at Rizal Boulevard as Torremocha invited the accused for snacks. They seated themselves outside of the main store, as there were also tables there for customers. They first ordered siopao but since there was none, they instead ordered pizza. While they waited for their order, this Torremocha was busy texting on his cell phone. After a while, a certain Louie Diaz came and handed money to Torremocha. The money was placed on the table. Torremocha then got a lighter and something that was lengthy which contained shabu. After cutting the lengthy something, Torremocha gave half of it to Diaz who then left. After about three [sic] minutes, NBI Agents Dungog and Cimafranca rushed and pointed something to him. The accused raised his hands, but remained seated. The NBI agents searched him but found nothing on him. The accused was arrested, but was not informed of his constitutional rights. The accused was brought to the NBI Office and was searched again. The agents did not recover anything from him as in the earlier search made on him. At the time of his arrest, the accused was wearing pants, a T-shirt and slippers only. The accused had no socks at that time. The accused was forced to sign a document known

as Inventory of Dangerous Drugs dated February 20, 2003. The accused had no lawyer at that time. The accused complained to the inquest prosecutor that he was forced to sign a document without being explained [sic] as to what it was all about.^[5]

Consequently, on 30 June 2003, two amended informations were filed against the appellant for violation of Sections 5 and 11, Article II of R.A. 9165. The two amended informations are quoted herein below:

In Criminal Case No. 16394:

That on or about the 27th day of February 2003, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there, wilfully, unlawfully and feloniously sell and deliver to one NBI poseur-buyer approximately 0.12 gram of Methamphetamine Hydrochloride, commonly called "shabu," a dangerous drug.

That the accused is positive for use of Methamphetamine as reflected in Chemistry Report No. CDT-018-07. [sic]

Contrary to Section 5, Article 2 of R.A. 9165 (Comprehensive Dangerous Drugs Act of 2002)."

In Criminal Case No. 16395:

That on or about the 27th day of February 2003, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there, wilfully, unlawfully and feloniously possess and keep approximately 0.07 gram of Methamphetamine Hydrochloride, commonly called "shabu," a dangerous drug.

That the accused is positive for use of Methamphetamine as reflected in Chemistry Report No. CDT-018-03.

Contrary to Section 11, Article 2 of R.A. 9165 (Comprehensive Dangerous Drugs Act of 2002)."

After the case was raffled to the Regional Trial Court, Branch 30, Dumaguete City, appellant was arraigned, and he pleaded not guilty. The two cases were then consolidated and jointly tried.^[6]

On 16 May 2006, the RTC rendered a Joint Judgment,^[7] the dispositive portion of which is herein quoted:

WHEREFORE, in the light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 16394, the accused Joel Rebotazo y Alejandria is hereby found GUILTY beyond reasonable doubt of the offense of illegal sale of 0.12 gram of Methamphetamine or shabu in violation of Section 5, Article II of R.A. No. 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The 0.12 gram of Methamphetamine or shabu is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 16395, the accused Joel Rebotazo y Alejandria is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 0.07 gram of Methamphetamine or shabu in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The 0.07 gram of Methamphetamine or shabu is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.

In its ruling, the RTC gave more weight to the evidence presented by the prosecution. It relied on the testimony of Louie Diaz, the poseur-buyer who narrated how the illegal sale took place, presented in court the evidence of the *corpus delicti*, and positively identified appellant as the seller of the *shabu*.^[8] It also gave credence to the testimony of the two police officers, Police Inspector Josephine S. Llana and National Bureau of Investigation (NBI) Agent Miguel Dungong, who were both "presumed to have acted regularly in the performance of their official functions, in the absence of clear and convincing proof to the contrary or that they are motivated by ill will."^[9]

Upon intermediate appellate review, the CA rendered a Decision^[10] on 31 July 2009, to wit:

WHEREFORE, in the light of the foregoing, the joint judgment rendered by the Regional Trial Court of Negros Oriental, Branch 30 of Dumaguete City dated May 16, 2006 is hereby **AFFIRMED** *in toto*.

SO ORDERED.

In convicting appellant of the crimes charged, the CA affirmed the factual findings of the RTC^[11] on the premise that witnesses Diaz and Dungog had clearly and

convincingly established his guilt beyond reasonable doubt. The fact that the CA did not find any ill motive on the part of these witnesses to falsely implicate appellant^[12] only bolstered his conviction.

Moreover, the factual discrepancies pointed out by appellant referred only to minor and insignificant details, which, "when viewed with the prosecution witnesses' clear and straightforward testimonies, do not destroy the prosecution of the case."^[13] These discrepancies have in fact been clearly explained by the witnesses in their testimonies.

ISSUE

From the foregoing, the sole issue before us is whether or not the RTC and CA erred in finding the testimonial evidence of the prosecution witnesses sufficient to warrant appellant's conviction for the crimes charged.

THE COURT'S RULING

Appellant argues^[14] that the RTC and CA erred in appreciating the factual evidence on record. In particular, he notes that the prosecution failed to establish the existence of the marked money supposedly recovered. When Prosecutor Escorial asked witness Diaz why the serial numbers the former read from a bunch of peso bills presented in evidence were not marked, Diaz was unable to answer.^[15] Later in the proceedings, the prosecution managed to offer only two supposedly marked bills, but no explanation was offered as to why the third bill was missing.^[16]

Appellant also harps on some factual discrepancies, to wit:

1. The Prosecution admitted that the inventory report does not contain the signature of any elected official (*Pls. see Pre-Trial Order*).
2. The prosecution admitted that in his affidavit, the arresting officer NBI Agent Miguel Dungog named **Ivan Bandal** as the media representative, while in the inventory report, the named media representative is **Maricar Aranas** (*Kindly see Pre-Trial Order*).
3. Prosecution admitted that the inventory report is dated February 20, 2003, seven (7) days before the date of the alleged incident, which is February 27, 2003.
4. The marking on Specimen "A" (evidence-shabu, prosecution's Exh. "D") bears the date "02/20/03" which is **February 20, 2003**, seven (7) days before the date of the alleged incident in question, **February 27, 2003** (*pls. see TSN November 7, 2005, p. 3*). The marking on Specimen "B" (evidence-shabu, prosecution's Exh. "E") bears the date "02/20/03" which is **February 20, 2003**, seven (7) days before the date of the alleged incident in question, which is **February 27, 2003** (*pls. see TSN November 7, 2005, p. 4*).^[17]