

FIRST DIVISION

[G.R. No. 186392, January 18, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARCOS SABADLAB Y NARCISO @ "BONG PANGO," ACCUSED-
APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is an appeal assailing the Decision^[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 02690 dated July 31, 2008, which affirmed the Decision^[2] of the Regional Trial Court (RTC) of Makati convicting accused-appellant Marcos Sabadlab y Narciso of violation of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

On September 22, 2006, accused-appellant was charged with violation of Sections 5 and 11 of Republic Act No. 9165, as follows:

CRIMINAL CASE NO. 06-1837:

The undersigned Prosecutor accuses MARCOS SABADLAB y NARCISO @ "BONG PANGO" of the crime of Violation of Section 5 of R.A. 9165, committed as follows:

That on or about the 21st day of September, 2006, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously sell, distribute and transport Methylamphetamine Hydrochloride, weighing zero point zero two (0.02) gram, which is a dangerous drug, in consideration of five hundred [sic] (Php300.00) pesos, in violation of the above-cited law.^[3]

CRIMINAL CASE NO. 06-1838:

The undersigned Prosecutor accuses MARCOS SABADLAB y NARCISO @ "BONG PANGO" of the crime of Violation of Section 11 of R.A. 9165, committed as follows:

That on or about the 21st day of September, 2006, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have in his possession, direct custody and control Methylamphetamine

Hydrochloride (Shabu) weighing zero point zero two (0.02) gram, which is a dangerous drug, in violation of the above-cited law.^[4]

Trial ensued, during which the prosecution presented Police Officer (PO) 3 Eusebio Lowaton, Jr. (PO3 Lowaton) and Makati Anti-Drug Abuse Council (MADAC) Operative Miguel Castillo (MADAC Castillo).

PO3 Lowaton, a police officer in the Makati Central Police Station assigned to the Station Anti-Illegal Drugs-Special Operation Task Force (SAID-SOTF), testified that at around 9:00 a.m. on September 21, 2006, an informant came to their office, together with operatives from the MADAC. The informant and the operatives reported that a certain "Bong" was engaged in delivering and selling *shabu*. The informant told PO3 Lowaton that he personally bought *shabu* from said "Bong." The SAID-SOTF officers went through their records and learned that said "Bong" had a previous record related to illegal drug activities. SAID-SOTF coordinated with the Philippine Drug Enforcement Agency (PDEA) through fax by sending a Pre-operational Report/Coordination Sheet, stating that it received information that one "Narciso Sabadlab" is engaged in illegal drug trade.^[5] PDEA, in turn, sent SAID-SOTF a Certificate of Coordination^[6] for an operation in Dapitan Street, Bgy. Guadalupe Nuevo, Makati City, with one "Narciso Sabadlab" as target.^[7] A team composed of PO3 Lowaton and three other police officers, some MADAC operatives, and the informant, was formed to conduct a buy-bust operation. In preparation, the team leader marked three one hundred-peso bills to be used in the operation with the initials "ATS," standing for "Angel T. Sumulong."^[8]

Before alighting at the area of the operation at Dapitan Street, Guadalupe Nuevo, Makati City, the informant told PO3 Lowaton that the person standing at the corner was their subject. The informant introduced PO3 Lowaton to accused-appellant as the buyer. The accused-appellant, who was carrying his son at the time,^[9] asked PO3 Lowaton how much he was going to buy. PO3 Lowaton replied that he will buy P300.00 worth. The accused-appellant took a plastic sachet from his pocket and gave it to PO3 Lowaton. PO3 Lowaton handed P300.00 to accused-appellant. PO3 Lowaton reversed his cap to signal the completion of the transaction. He thereafter introduced himself as a police officer, arrested the accused-appellant, and informed him of his constitutional rights and nature of his arrest.^[10]

PO3 Lowaton instructed his back-up MADAC personnel to conduct a body search on the accused-appellant. The P300 in marked money and another plastic sachet was recovered from the accused-appellant. PO3 Lowaton marked the sachet sold to him and the one recovered from the accused-appellant with "EBL-1" and "EBL-2," respectively.^[11]

The accused-appellant was then brought to SAID-SOTF, while the two plastic sachets were turned over to the Scene of the Crime Operation (SOCO) for laboratory examination. PO3 Lowaton prepared an Acknowledgment Receipt^[12] turning over the two plastic sachets, the marked money and another P60 recovered from accused-appellant to a certain PO2 Castillo.^[13] The sachets marked EBL-1 and EBL-2 were forwarded to the PNP Crime Laboratory for laboratory examination.^[14] Forensic Chemist Police Senior Inspector Abraham Verde Tecson prepared Physical

Science Report No. D0649-06S reporting his finding that EBL-1 and EBL-2, each weighing 0.02 grams, gave positive results for methylamphetamine hydrochloride.

[15] This report was admitted with no objection from the defense.[16]

MADAC Castillo, another member of the team that conducted the buy-bust operation, corroborated the testimony of PO3 Lowaton. MADAC Castillo testified that he, together with certain persons named PO3 Ruiz, PO2 Julius Lique, MADAC Dezer, MADAC Balote and MADAC Ruben Salandanan, acted as back-ups of PO3 Lowaton in the operation, which was led by a certain female police officer called Waje.[17] PO3 Lowaton acted as the poseur-buyer. While he was still around 20-25 meters away from the scene of the crime, MADAC Castillo observed that there was an "exchange of something." MADAC Castillo then saw PO3 Lowaton reversing his cap, so he went near the place of transaction, where he was ordered by PO3 Lowaton to conduct a body search on the accused-appellant. MADAC Castillo told accused-appellant to empty his pocket. When the accused-appellant refused to do so, MADAC Castillo frisked him and recovered a plastic sachet, the marked money worth P300.00 (three P100 bills), and another P60.00 (three P20 bills) in his front right pocket.[18]

Only the accused-appellant testified for the defense. According to the accused-appellant, he was arrested on September 21, 2006 by PO3 Lowaton and his men in front of his house in Dapitan Street, Guadalupe Nuevo, Makati City. He was with his three children at this time, the eldest of which was five years old. Eight to ten men in civilian clothes alighted from their vehicle and were looking for a certain "Minyong." When he told them that he does not know said person, they started to force him to go with them. He asked them why they were taking him, but they did not reply and instead brought him to the SAID-SOTF office. In said office, he learned that he was being charged for drug peddling. He was forced to give a urine sample and was thereafter brought to the Ospital ng Makati.[19]

The accused-appellant testified that PO3 Lowaton had already previously arrested him and three others for playing *cara y cruz* on September 16, 2006 and was released when he paid PO3 Lowaton a total of P2,000.00. The accused-appellant denied the charges against him. His brother, Reymundo Sabadlab, his sister, Myrna Capco, and his wife, Edna Militar, are all undergoing trial for drug-related offenses.[20]

On December 8, 2006, the RTC rendered its Decision finding accused-appellant guilty. The dispositive portion of the Decision states:

WHEREFORE, it appearing that the guilt of accused MARCOS SABADLAB y NARCISO was proven beyond reasonable doubt, as principal, with no mitigating or aggravating circumstances, for violation [of] Section[s] 5 and 11, Article II of Republic Act 9165, he is hereby sentenced:

1. In Criminal Case No. 06-1837, to suffer life imprisonment and to pay a fine of P500,000.00;
2. In Criminal Case No. 06-1838, to suffer imprisonment for an indeterminate term of twelve [12] years and one [1] day, as minimum, to

fourteen ^[14] years, and eight ^[8] months, as maximum, and to pay a fine of P300,000.00; and

3. To pay the costs.

Let the two ^[2] plastic sachets each containing 0.02 gram of Methylamphetamine Hydrochloride be turned over to the PDEA for proper disposition.^[21]

Accused-appellant appealed. The case was raffled to the Thirteenth Division of the Court of Appeals and was docketed as CA-G.R. CR.-H.C. No. 02690.

On July 31, 2008, the Court of Appeals rendered its Decision affirming that of the RTC. Hence, the present recourse, where accused-appellant assigns the following errors:

I

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE TESTIMONY OF THE PROSECUTION WITNESSES.

II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTIONS 5 AND 11, ARTICLE II, R.A. NO. 9165.^[22]

Whether accused-appellant's guilt was established beyond reasonable doubt

The accused-appellant denied ownership of the *methylamphetamine hydrochloride* allegedly recovered by the police officers in the operation. He claimed that there was no legitimate buy-bust operation since the pre-operation report from the Makati Police Station and the Certificate of Coordination from the PDEA did not carry his name and instead mentions a certain "Narciso Sabadlab." The accused-appellant argued that the prosecution was not able to establish that he and this Narciso Sabadlab were the same person. The accused-appellant added that the absence of a prior surveillance rendered suspect the genuineness of the alleged buy-bust operation. Finally, accused-appellant asserted that it was contrary to human nature and experience for him to have carried his child while engaged in such nefarious activity.^[23]

In the recent case of *People v. Tion*, ^[24] this Court had the opportunity to discuss the weight given to testimonies of members of buy-bust teams in drug-related cases:

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. x x x.^[25]

Similarly, in another case, "[w]e have invariably viewed with disfavor the defenses of denial and frame-up for such defenses can easily be fabricated and are common ploy in prosecutions for the illegal sale and possession of dangerous drugs. In order to prosper, such defenses must be proved with strong and convincing evidence."^[26]

In the case at bar, accused-appellant failed to prove his allegation of denial and frame-up by strong and convincing evidence. He, in fact, presented no evidence to prove the same, and instead relied on the alleged irregularity in the buy-bust operation brought about by the inexact name mentioned in the Pre-operation Report from the Makati Police Station and the Certificate of Coordination from the PDEA. On this matter, the accused-appellant argued that the buy-bust operation was illegal as it was made without a close coordination with PDEA. The accused-appellant was apparently referring to Section 86 of Republic Act No. 9165, which provides:

Section 86. Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions. -- The Narcotics Group of the PNP, the Narcotics Division of the NBI and the Customs Narcotics Interdiction Unit are hereby abolished; however they shall continue with the performance of their task as detail service with the PDEA, subject to screening, until such time that the organizational structure of the Agency is fully operational and the number of graduates of the PDEA Academy is sufficient to do the task themselves: *Provided*, That such personnel who are affected shall have the option of either being integrated into the PDEA or remain with their original mother agencies and shall, thereafter, be immediately reassigned to other units therein by the head of such agencies. Such personnel who are transferred, absorbed and integrated in the PDEA shall be extended appointments to positions similar in rank, salary, and other emoluments and privileges granted to their respective positions in their original mother agencies.

The transfer, absorption and integration of the different offices and units provided for in this Section shall take effect within eighteen (18) months from the effectivity of this Act: *Provided*, That personnel absorbed and on detail service shall be given until five (5) years to finally decide to join the PDEA.

Nothing in this Act shall mean a diminution of the investigative powers of the NBI and the PNP on all other crimes as provided for in their respective organic laws: *Provided, however*, That when the investigation being conducted by the NBI, PNP or any *ad hoc* anti-drug task force is found to be a violation of any of the provisions of this Act, the PDEA shall