

THIRD DIVISION

[G.R. No. 187736, February 08, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FLORDELIZA ARRIOLA Y DE LARA, ACCUSED-APPELLANT.**

DECISION

MENDOZA, J.:

This is an appeal from the August 14, 2008 Decision^[1] of the Court of Appeals (CA), in CA-G.R. CR-HC. No. 02870, which affirmed the April 23, 2007 Decision^[2] of the Regional Trial Court, Branch 76, Malolos City, Bulacan (RTC).^[3] The RTC convicted accused Flordeliza Arriola (*Arriola*) of having committed a violation of Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

On December 17, 2002, Criminal Case No. 3503-M-2002 was filed with the RTC charging accused Arriola with illegal sale of dangerous drugs in violation of Section 5, Article II of R.A. No. 9165. The Information reads:

That on or about the 13th day of December, 2002, in San Jose del Monte, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without the authority of law and legal justification, did then and there wilfully, unlawfully and feloniously sell, deliver, dispatch in transit and transport dangerous drug consisting of four (4) heat-sealed transparent plastic sachets having a total weight of 0.186 gram.

Contrary to law.^[4]

The evidence for the prosecution would show that a buy-bust operation was conducted on December 13, 2002 based on an information received by Col. Makusi, the Chief of Police of San Jose del Monte, Bulacan, from a barangay tanod. On the basis of said report, surveillance was conducted around the house of Arriola located at Phase 1, Section 7 of Pabahay 2000. It was observed that men were going in and out of the house and that Arriola was peddling shabu therein.

Subsequently, a buy-bust operation team was formed to act on the intelligence report they had gathered. SPO4 Abelardo Taruc (*SPO4 Taruc*) was designated as the poseur-buyer and he was to be assisted by four (4) police aides and a civilian asset. Before going to the target site, they prepared the marked money that would be used. Two (2) one hundred (?100) peso bills with serial numbers LE627251 and FP609651 were marked by placing SPO4 Taruc's initial "AT" on the bills.

When the team reached Arriola's house, the civilian asset told Arriola that "Iiscore daw siya," referring to SPO4 Taruc who was just beside him. Arriola replied by asking, "Magkano?" The asset answered, "P200.00 po," and then simultaneously handed over the marked money. In exchange for the amount, Arriola gave them four (4) heat-sealed transparent plastic sachets containing crystalline substance. After the exchange of the marked money and the merchandise, SPO4 Taruc arrested Arriola. Upon her arrest, he recovered the marked money that was earlier paid to her. The asset, on the other hand, turned over the four (4) sachets that Arriola gave in exchange for the O200.00 paid to her.

After the operation, the buy-bust team brought Arriola and the seized articles to the police station, where the four (4) confiscated sachets of shabu were marked "AT" and "FA," the initials, of SPO4 Taruc and that of Flordeliza Arriola, respectively. Thereafter, they reported to the office of the Bulacan provincial police the successful buy-bust operation which resulted in the apprehension of Arriola. Also, a laboratory examination request for the seized articles was prepared and the said four (4) sachets of shabu were then brought to the Bulacan Provincial Crime Laboratory Office.

The resident forensic chemical officer, P/Insp. Nelson Cruz Sta. Maria (P/Insp. Sta. Maria), conducted a qualitative examination of the specimen submitted. His findings contained in Chemistry Report No. D-742-2002, showed that the four (4) sachets with markings AT-FA, Exhibits A-1 to A-4, containing white crystalline substance yielded a positive result of the presence of methylamphetamine hydrochloride, a dangerous drug.

Arriola, however, has a different version of what happened on the day of the buy-bust operation. According to her, at around 2:00 o'clock in the afternoon of December 13, 2002, she was at home with her child resting when all of a sudden policemen with firearms kicked the door of her house. She tried to block the door but she was shoved aside by one of the men. She told them not to push because she was pregnant but to no avail since one of them simply said, "Wala akong pakialam." She also testified that one of the men asked her if she knew the whereabouts of a certain Ogie dela Cruz. When she answered that the man they were looking for was not residing in her house but in the "kanto" or corner, she was the one who was brought to the precinct.

Arriola further testified that while at the police station, they entered the office of the Chief of Police, Col. Makusi, where she was asked her name and her address. Then, he brought out a plastic sachet which he took from another room. Later, she was brought outside the office and escorted to a room with a group of men where she was made to point at the plastic sachet. Afterwards, she was brought back to the office of Col. Makusi but this time SPO4 Taruc was already inside. It was at this moment when he asked her, "Gusto mong makalaya? Pagbigyan mo lang ako ng kahit isang gabi." Arriola replied by saying that she would not agree to his proposal because, to begin with, she did not commit any crime. This reply angered SPO4 Taruc. In sum, she was saying that there was no valid buy-bust operation as everything was a set-up. The drugs as well as the marked money were all just taken from the table of Col. Makusi and not from her as claimed by the prosecution.

On April 23, 2007, RTC rendered the assailed decision convicting Arriola. The

dispositive portion of the decision reads:

WHEREFORE, accused Flordeliza Arriola y Lara is hereby convicted for sale of the dangerous drugs methylamphetamine hydrochloride commonly known as shabu in violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002" and is sentenced to suffer life imprisonment and to pay the fine of five hundred thousand pesos (Php500,000.00).

The specimen subject matter of this case which consists of four (4) heat sealed transparent plastic sheets having a total weight of 0.186 gram is hereby confiscated in favor of the government. The Clerk of Court is directed to dispose of said specimen in accordance with the existing procedure, rules and regulations.

Furnish both parties of this judgment and the Provincial Jail Warden.

SO ORDERED.^[5]

Aggrieved by the pronouncement of the RTC, Arriola interposed an appeal with the CA. On August 14, 2008, the CA denied the appeal and affirmed the RTC decision based on the testimony of SPO4 Taruc whom the said court considered to be the best witness as he was the poseur-buyer.

According to the CA, the account of SPO4 Taruc, the poseur-buyer, was corroborated in every material detail by the affidavits executed under oath by the buy-bust team, debunking the version of Arriola that what transpired was a set-up. The CA held that denial and frame-up were intrinsically weak defenses as they were viewed with disfavor as they could easily be concocted.

As to the position of Arriola that the buy-bust operation was illegal because of the absence of coordination between the buy-bust team and the Philippine Drug Enforcement Agency (PDEA), the CA debunked it citing *People v. Sta. Maria*^[6] where the Court held that there is nothing in R.A. No. 9165 which indicates an intention on the part of the legislature to consider an arrest made without the participation of the PDEA illegal and evidence obtained pursuant to such an arrest inadmissible.

Finally, the CA also agreed with the RTC that failure of the operatives to strictly comply with Section 21 of R.A. No. 9165 was not fatal. It did not render the arrest of Arriola illegal and the evidence gathered against her inadmissible. As noted by the CA, the alleged violations of Sections 21 and 86 of R.A. No. 9165 were never raised before the RTC but were brought out for the first time only on appeal. This, according to the CA, was against the ruling in the case of *People v. Uy*^[7] where it was held that when a party wants a court to reject the evidence offered, he must so state in the form of objection. In other words, one cannot raise said question for the first time on appeal.

Hence, the present appeal.

From the records, the following are the principal issues raised by the Arriola for our consideration, to wit:

I.

WHETHER OR NOT THERE WAS REALLY A BUY-BUST OPERATION.

II.

WHETHER OR NOT THE CHAIN OF CUSTODY RULE HAS BEEN PROPERLY OBSERVED.

III.

WHETHER OR NOT NON-COMPLIANCE WITH THE REQUIREMENTS OF SECTION 21 OF R.A. NO. 9165 IS DETRIMENTAL TO THE PROSECUTION'S CASE.

The Court finds no merit in the petition.

On the first issue, Arriola argues that no buy-bust operation took place but rather a frame-up with her as the victim. She stuck to her story that when the policemen arrived at her house, they were looking for a certain Ogie Dela Cruz. And when she could not help them, she was brought to the police station where all the evidence against her were produced by Col. Makusi.

Time and again, this Court has ruled that alibi and frame up are weak forms of defense usually resorted to in drug-related cases. In this regard, the Court is careful in appreciating them and giving them probable value because this type of defense is easy to concoct. This Court is, of course, not unaware of instances when our law enforcers would utilize means like planting evidence just to extract information, but then again the Court does realize the disastrous consequences on the enforcement of law and order, not to mention the well-being of society, if the courts, solely on the basis of the police officers' alleged rotten reputation, accept in every instance this form of defense which can be so easily fabricated. It is precisely for this reason that the legal presumption that official duty has been regularly performed exists. Bare denial cannot prevail over the positive identification by SPO4 Taruc of Arriola as the one who sold them the *shabu*.^[8] For the defense position to prosper, the defense must adduce clear and convincing evidence to overcome the presumption that government officials have performed their duties in a regular and proper manner.^[9] This, unfortunately, Arriola failed to supply. What she made was a bare allegation of frame-up without presenting any credible witness that would support her claim.

Furthermore, she failed to show any motive on the part of the arresting officers to implicate her in a crime she claimed she did not commit. On this point, it is good to note the case of *People v. Dela Rosa*, where this Court held 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.^[10] In fact, Arriola herself testified that it was the first

time she saw SPO4 Taruc and the rest of the arresting team and that she did not know of any motive why SPO4 Taruc or any of the police aides would arrest her.^[11] Thus, there could be no reason for SPO4 Taruc or any member of the buy-bust team to begrudge her since they did not know each other. This only goes to show that she was not arrested by reason of any personal vendetta or prejudice on the part of the raiding team as what Arriola was trying to impress. The simple fact was that she was caught in *flagrante delicto* peddling prohibited drugs.

In the prosecution of illegal sale of dangerous drugs, the following elements must be established: (1) identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment thereof.^[12] What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti*. The delivery of the contraband to the poseur-buyer and the receipt of the marked money consummate the buy-bust transaction between the entrapping officers and the accused.^[13] In other words, the commission of the offense of illegal sale of dangerous drugs, like *shabu*, merely requires the consummation of the selling transaction, which happens the moment the exchange of money and drugs between the buyer and the seller takes place.

In the present case, all the elements have been clearly established during the direct and cross-examination of SPO4 Taruc:

Fiscal:

Q: What happened when you reached the place?

A: We conducted the buy bust operation, Sir.

Q: How did you carry out the buy bust?

A: After I gave the money to our civilian asset, we proceeded to the house, Sir, of the target.

Q: And when you said you proceeded to the house of Flordeliza together with your civilian asset, what happened next?

A: The civilian asset gave the P200.00 to Flordeliza in exchange of what Flordeliza gave him, the 4 sachet of shabu, Sir. And after that, I arrested her and introduced myself as a police officer.

Q: Who actually received the 4 pieces of sachet?

A: The civilian asset who is in my company.

Fiscal

Q: How far were you when the exchange was made?

A: Just beside him.

Fiscal

Q: You said you arrested her, what did you do upon the arrest of Flordeliza?

A: After I have arrested her, I brought her to our police station and marked the evidence with my initials and prepared the request for the laboratory examination for me to bring the items for examination.

Q: What happened to the 4 sachets handed to by Flordeliza to your asset?

A: I marked them with my initials to prepare the request to be brought to the crime laboratory.

Fiscal