

SECOND DIVISION

[G.R. No. 199403, June 13, 2012]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. GOMER S. CLIMACO, APPELLANT.

DECISION

CARPIO, J.:

The Case

This is a consolidated criminal case filed against appellant Gomer S. Climaco (Climaco) for violation of Sections 5 and 11 of Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002) for illegal possession (Criminal Case No. 4911-SPL) and illegal sale (Criminal Case No. 4912-SPL) of methamphetamine hydrochloride, a dangerous drug.

The Regional Trial Court (RTC) of San Pedro, Laguna, Branch 31, in its Decision dated 20 January 2009 (RTC Decision), found Climaco guilty beyond reasonable doubt of the crime of illegal possession of methamphetamine hydrochloride, a dangerous drug, and sentenced him to imprisonment of 12 years and 1 day to 14 years and 8 months with a fine of ₱300,000.00 in Criminal Case No. 4911-SPL.^[1] In Criminal Case No. 4912-SPL, the RTC found Climaco guilty beyond reasonable doubt of the crime of illegal sale of methamphetamine hydrochloride, and sentenced him to life imprisonment with a fine of ₱500,000.00. On appeal, the Special Fifteenth Division of the Court of Appeals (CA), in its Decision dated 29 March 2011 (CA Decision), affirmed the RTC Decision.^[2] Climaco appealed to this Court by filing a Notice of Appeal in accordance with Section 3(c), Rule 122 of the Rules of Court.^[3]

Prosecution's Version

The prosecution's version of events is summarized in the RTC Decision:^[4]

The prosecution presented two (2) witnesses in the persons of PO1 Alai delon M. Ignacio, who gave his testimony on 5 January 2005, 8 February 2006 and 2 August 2006; and Forensic Chemist Donna Villa Huelgas, whose testimony was dispensed with on 5 January 2005 upon defense's admission of the existence of the following: 1) Written Request for Laboratory Examination as Exhibit "A"; 2) The Chemistry Report No. D-1102-04 as Exhibit "B"; 3) 1 ½ white envelope as Exhibit "C"; 4) the existence of two (2) plastic sachets with markings "GSC-1" as Exhibit "C-1"; and 5) another one with markings "GSC-2" as Exhibit "C-2".

PO1 Ignacio testified that he is a member of the Philippine National Police

since 15 October 1999 and was assigned at Intelligence Division, San Pedro Municipal Police Station. As member of the Intelligence Division, he was tasked to conduct surveillance operation and apprehend persons engaged in illegal drug activity. On 7 September 2004, he was on 24-hour duty at PAC base located at United Bayanihan, San Pedro, Laguna. At around 6:00 in the evening of the same day, PO1 Ignacio, SPO3 Samson, SPO4 Balverde, some members of the Laguna Special Operation Team, Members of the Provincial Intelligence and Investigation Division conducted a briefing regarding a drug operation against a certain Gomer Climaco, No. 5 in the drug watch list in San Pedro, Laguna. During the briefing, PO1 Ignacio was tasked to act as the poseur-buyer and SPO4 Almeda as the overall team leader. The buy-bust money was prepared, which consist of P500.00 bill and some boodle money. The team was also armed with a Warrant of Arrest for illegal drugs issued by Judge Paño. After the briefing, the team proceeded to the target area. When they arrived, PO1 Ignacio saw the suspect standing in front of his house. The other members of the team strategically positioned themselves. Since PO1 Ignacio already knew the suspect, PO1 Ignacio just told Gomer that he would buy shabu. Gomer entered his house and took something. When he came out, Gomer showed to PO1 Ignacio the shabu. PO1 Ignacio scratched his head to signal the team that item was shown to him and he would execute the buying of the shabu. After Gomer asked for the money and PO1 Ignacio gave it to him, SPO3 Samson and the rest of the team immediately moved in to effect the arrest of the suspect. Since he was caught in the act, Gomer did not resist anymore. The team likewise showed Gomer his warrant of arrest. PO1 Ignacio saw SPO3 Samson frisk and ask Gomer to empty his pockets. SPO3 Samson was able to recover another plastic sachet, which was inserted between Gomer's fingers. The plastic sachet, which was the product of the buy-bust, and the one recovered from Gomer were turned over to SPO4 Teofilo Royena, who turned them over to the Office of the Special Operation Group located at Brgy. Tubigan, Biñan, Laguna. The plastic sachet product of the buy-bust was marked TR-B, which means Teofilo Royena and the letter "B" means "Bust." While the plastic sachet recovered from Gomer was marked TR-R, which means Teofilo Royena and the letter "R" means "Recovered". PO1 Ignacio identified the accused Gomer Climaco in open court. He likewise identified his sworn statement. During the cross-examination, PO1 Ignacio admitted that he learned of the warrant of arrest on 7 September 2004 only. It was SPO4 Valverde who instructed PO Ignacio to conduct surveillance operation against Gomer, who was engaged in rampant selling of shabu.^[5]

Aside from the testimony of PO1 Alaindelon Ignacio (Ignacio), the following documentary exhibits were offered for the prosecution: (1) Exhibit "A" – Letter dated 7 September 2004; (2) Exhibit "B" – Chemistry Report No. D-1102-04; (3) Exhibit "C" – One-half white envelope; (4) Exhibit "C-1" – Plastic sachet with white crystalline substance with markings "GSC-1"; (5) Exhibit "C-2" – Plastic sachet with white crystalline substance with markings "GSC-2"; and (6) Exhibit "D" – Pinanumpaang Salaysay of PO1 Ignacio.^[6]

Defense's Version

Appellant Climaco, on the other hand, presented three witnesses and denied the prosecution's allegations of sale and possession of *shabu*. The defense's version of the events, as narrated in the RTC Decision, is as follows:

The defense presented three (3) witnesses in the persons of the accused himself, Gomer S. Climaco, who testified on 13 May 2008, Michael M. Basihan, who gave his testimony on 7 October 2008, and Cristina Gamboa Climaco, who gave her testimony on 25 November 2008.

Gomer S. Climaco testified that prior to 7 September 2004, he did not know SPO2 Wilfredo Samson and PO1 Alaindelon Ignacio. On 7 September 2004, Gomer, together with his wife and five (5) children, were inside their house. When Gomer was feeding the chicken in front of his yard, four (4) unidentified armed men suddenly arrived and frisked him. When nothing was found in his possession, the men handcuffed and brought him to the police station. At the police station, the men filed a case against him. Gomer denied having sold and delivered shabu to a police poseur-buyer and that he was in possession of shabu. During the cross-examination, Gomer said that while he was being frisked by the men, Gomer asked the men what was his violation. The men replied that somebody bought shabu from him. Gomer told the men that he did nothing wrong, but the men continued to handcuff him. Gomer was not aware that he was included in the list of top 20 illegal drug pushers. Gomer did not know of any ill motive on the part of the police officer why he would be charged with so grave an offense. He did not file any case against the police officer who arrested him.

Michael M. Basihan testified that Gomer Climaco was his neighbor in Bagong Silang. On 7 September 2004, Michael went to Gomer's manukan to gather guava fruits. When he arrived there, Gomer was tending to his cocks. While he was gathering guava fruits, Michael saw four (4) unidentified armed men suddenly barge into the premises and arrest Gomer. After he was handcuffed, Gomer was made to board a vehicle where he was brought to Jaka Subdivision. Michael could not remember whether it was morning or evening when Gomer was arrested by unidentified armed men because the incident happened a long time ago.

Cristina Gamboa Climaco testified that she is the wife of Gomer Climaco. She did not know SPO2 Wilfredo Samson and PO1 Alaindelon Ignacio. On 7 September 2004, she was inside their house taking care of her child. At around 3:00 in the afternoon of the same day, Gomer arrived in their house, who just came from Barangay Cuyab. After taking a bath, Gomer went outside of their house. While in front of their house, Gomer called the person taking care of his chickens. Gomer and that person went to the back of the house. Meanwhile, Cristina went inside the house. Although she was inside of the house, Cristina could see Gomer and the person through the window. At around 4:00 in the afternoon, Cristina saw four (4) unidentified armed men approach and ask something from Gomer. After a few minutes, Gomer left the back of the

house, while the men were left standing there. Cristina went out the house and saw her husband go toward the direction of St. Reymond. At around 6:00 in the evening, Cirstina went down from their house to ask Michael if he saw Gomer. Michael told Cristina that he saw Gomer loaded into a van by several men. During the cross-examination, Cristina said that she did not know of any reason why SPO2 Samson and PO1 Ignacio would arrest her husband.^[7]

The Decision of the Regional Trial Court

The RTC declared Climaco guilty of the crimes of illegal sale and illegal possession of methamphetamine hydrochloride or *shabu*, a dangerous drug. The dispositive portion of the RTC Decision reads:

WHEREFORE, in Criminal Case No. 4912-SPL, the Court finds the accused, Gomer S. Climaco, GUILTY beyond reasonable doubt of the crime of violation of Sec. 5 of R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and hereby sentences him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

In Criminal Case No. 4911-SPL, the Court finds the accused, Gomer S. Climaco, GUILTY beyond reasonable doubt of the crime of violation of Sec. 11 of R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and sentencing him to suffer imprisonment of twelve (12) years and one (1) day to fourteen (14) years and eight (8) months and to pay a fine of three hundred thousand pesos (P300,000.00).

The Branch Clerk of Court is directed to transmit to the Philippine Drug Enforcement Agency (PDEA), the plastic sachets subject matter of these cases, for said agency's appropriate disposition.

SO ORDERED.^[8]

The RTC found that the elements for the crimes of illegal sale and illegal possession of *shabu* were sufficiently established by the prosecution.^[9] The RTC held that Climaco's defense of frame-up is viewed with disfavor as it can be easily concocted.^[10] The RTC gave full faith and credit to the testimony of PO1 Ignacio, and declared the police officers who participated in the buy-bust operation were properly performing their duties because they were not inspired by any improper motive.^[11]

The Decision of the Court of Appeals

The CA affirmed the conviction of Climaco. The dispositive portion of the CA Decision reads as follows:

WHEREFORE, the appeal is DENIED and the judgment dated January 20, 2009 of the RTC in Criminal Case Nos. 4911-SPL and 4912-SPL finding

appellant Gomer S. Climaco guilty beyond reasonable doubt of violation of Sections 5 and 11 of Rep. Act No. 9165 is AFFIRMED.^[12]

The CA declared that all the elements of the crimes of illegal sale and illegal possession of dangerous drugs were proven.^[13] The CA found that based on the testimony of PO1 Ignacio, it was established that the chain of custody over the seized drugs was unbroken from the arresting officers to SPO4 Royena, and then to the forensic chemist for examination.^[14]

The Issue

The sole issue in this case is whether the guilt of Climaco for the crimes of illegal sale and illegal possession of *shabu*, a dangerous drug, was proven beyond reasonable doubt.

The Ruling of this Court

We resolve to acquit Climaco for the prosecution's failure to prove his guilt beyond reasonable doubt.

PO1 Ignacio, in his testimony, claimed that the dangerous drugs seized from Climaco were marked by SPO4 Teofilo Royena as "TR-B" and "TR-R."^[15] However, the Chemistry Report submitted to the trial court shows that the dangerous drugs examined and confirmed to be methamphetamine hydrochloride or *shabu* by the forensic chemist were marked as "GSC1" and "GSC2."^[16] Since what was seized ("TR-B" and "TR-R") by PO1 Ignacio from Climaco at the time of the buy-bust operation was different from the dangerous drugs submitted ("GSC1" and "GSC2") to the forensic chemist for review and evaluation, the chain of custody over the dangerous drugs was broken and the integrity of the evidence submitted to the trial court was not preserved, casting doubt on the guilt of Climaco.

Constitutional Presumption of Innocence; Weight of Evidence

The Constitution guarantees the accused's presumption of innocence until proven guilty. Section 14(2) of the Bill of Rights (Article III) provides that, in all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved.

Section 2, Rule 133 of the Rules of Court likewise states that, in a criminal case, the accused is entitled to an acquittal, unless his guilt is proved beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof, excluding possibility of error, which produces absolute certainty. Only moral certainty is required, or that degree of proof which produces conviction in an unprejudiced mind.

"Chain of Custody" Over the Confiscated Items

The elements necessary in every prosecution for the illegal sale of *shabu* are: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment.^[17] Similarly, it is essential that the transaction or sale be proved to have actually taken place coupled with the