

SECOND DIVISION

[G.R. No. 191754, April 11, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GREGORIO FELIPE Y CALINGANGAN, ACCUSED-APPELLANT.**

D E C I S I O N

PERALTA, J.:

Appellant Gregorio Felipe (Felipe) seeks the reversal of the Decision¹ of the Court of Appeals (CA), dated December 3, 2009, in CA-G.R. CR-H.C. No. 03038, which in turn affirmed *in toto* the Decision of the Regional Trial Court (RTC), Laoag City, Branch 13, in Criminal Case No. 13251-13 convicting him of Violation of Section 5, Article II of Republic Act (RA) No. 9165.

The factual and procedural antecedents are as follows:

On January 11, 2007, an Information^[2] for Violation of Section 5, Article II of RA No. 9165 was filed against Felipe, the accusatory portion of which reads:

That on or about the 10th day of January 2007. in the city of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without any authority, did then and there willfully, unlawfully and feloniously sell and deliver to a police poseur buyer methamphetamine hydrochloride (sic) "Shabu" weighing more or less 0.6411 (excluding plastic container), in violation of the aforecited law.

CONTRARY TO LAW.

Upon his arraignment, Felipe pleaded not guilty to the charge. Consequently, trial on the merits ensued.

Evidence for the Prosecution

On January 10, 2007, at around 6:00 o'clock (sic) in the evening, Edwin Rumbaoa, a confidential police informant, went to the intelligence office of the Laoag City Police Station and reported to SPO3 Rovkmanuel Balolong (or "SPO3 Balolong"), Chief of Intelligence Division, that there was a transaction involving a certain "Gorio," (sic) herein [Felipe], for the delivery of "shabu" worth P6,000.00 to a prospective buyer at the Rizal Park in Laoag City. SPO3 Balolong immediately relayed the information to the Chief of Police, Police Superintendent Wilson Lopez, who instructed him to organize a team to conduct a buy-bust operation. SPO3 Balolong then presided over a briefing, wherein he designated PO2 Randy Diego

(or "PO2 Diego") as poseur-buyer, while he and SPO3 Arthur Mateo (or "SPO3 Mateo") would act as back-up security.

At around 6:45 o'clock (sic) in the evening, while still in the investigation office, the confidential informant contacted [Felipe] to confirm the transaction and informed the ialter of the description of the prospective buyer as one wearing a white bull cap, white t-shi't and maong short pants, who would be waiting in front of Rizal Park along the northernmost part of Ablan Avenue, Laoag City at around 7:00 o'clock (sic) in the evening. Thereafter, PO2 Diego proceeded to the area on board a motorcycle, while the rest of the members of the team followed riding on a separate vehicle. PO2 Diego positioned himself at the designated place, while the rest of the members of the group parked their vehicle in front of Mariano Marcos State University.

After about fifteen (15) minutes, PO2 Diego, who went directly to the northernmost part of Rizal Park riding on his motorcycle, saw [Felipe] driving a tricycle coming from the south. [Felipe] parked his tricycle north of the place where PO2 Diego was. When [Felipe] saw PO2 Diego, he immediately approached the latter and uttered "*Ne daytoyen ti ideliberko kenka*" ("here is the thing I am going to deliver to you"). [Felipe] then handed over the "shabu" contained in a Hope brand cigarette case to PO2 Diego who, upon examination that the case contained two (2) plastic sachets of white crystalline substance, pocketed the same and introduced himself as a police officer. Thereafter, PO2 Diego arrested [Felipe] who resisted and tried to free himself. Upon seeing the commotion from where they positioned themselves, SPO3 Balolong and SPO3 Mateo immediately went to assist PO2 Diego. They restrained [Felipe], informed him of his constitutional rights and he was taken to the Laoag Police Station where the incident was recorded in the police blotter.

The two (2) plastic sachets of "shabu" were marked by PO2 Diego with his initials "RD" at the police station and were turned-over to SPO2 Loreto Ancheta (or "SPO2 Ancheta") who recorded the receipt of said evidence in his logbook and marked the same with "LCPS" which stands for Laoag City Police Station and "GF" for [Felipe's] name. Afterwards, SPO2 Ancheta delivered the two (2) plastic sachets to the Ilocos Norte Provincial Crime Laboratory Office at Camp Captain Valentine S. Juan, Laoag City, where they were received by SPO3 Diosdado Mamotos in the presence of P/Insp. Chris Cabatic, the Forensic Chemist Officer. After a qualitative examination of the contents of two (2) plastic sachets, the same tested positive for methamphetamine hydrochloride, a prohibited drug.^[3]

Evidence for the Defense

For his defense, [Felipe] averred that on January 10, 2007, at around 6:30 o'clock (sic) in the evening, he was ferrying a passenger that he picked up in front of PLDT office in Laoag City to Marcos Stadium. After

his passenger alighted from the tricycle, he decided to park at the northeastern part of Rizal Park and wait for other passengers.' While thereat, somebody suddenly grabbed his collar and hands. When he looked, he saw PO2 Diego with three (3) companions whom he was not able to recognize. He asked PO2 Diego why was he (sic) being held and the latter answered that he was being put under arrest. His hands were cuffed at his back by PO2 Diego's companions. He asked them again what his fault was, but the group told him that they will go to the police station. While [Felipe] was being pulled and boarded on his tricycle, he pleaded for his freedom and afterwards, shouted for help from the tricycle drivers around, but to no avail.

When [Felipe] arrived at the police station, he was allegedly locked up inside a room and SPO3 Balolong, whom he had known for a long time as he would usually convey passengers at the police headquarters, suddenly went inside and asked, "is he the one?" and immediately punched him on the abdomen. [Felipe] was then asked by SPO3 Balolong who the operator of his tricycle was and he answered that it was a certain Ian Ganitano. SPO3 [Balolong] again asked whether it was "Ian Ganitano or Virgilio Ganitano?" He answered that Virgilio Ganitano is the father of Ian Ganitano. SPO3 Balolong said that if that was the case, then [Felipe] was a follower of Virgilio Ganitano. [Felipe] answered that he was not, after which, SPO3 Balolong punched him again on the abdomen.

Thereafter, PO2 Diego allegedly handed a Hope cigarette pack to SPO3 Balolong who asked [Felipe] if he was smoking. [Felipe] answered in the affirmative and SPO3 Balolong said, "here also is a shabu. where did this come from? From Virgilio?" [Felipe] replied that he did not know about any "shabu" contained in the cigarette pack. PO2 Diego then frisked him and took away his cellular phone and wallet. The police officers then asked [Felipe] if he wanted a *palit-ulo* to which he asked what *palit-ulo* means. The police officers explained that if he gives information where Virgilio Ganitano was keeping "shabu" and from where he sourced it, they will arrest Virgilio Ganitano. instead of [Felipe]. However. [Felipe] answered that he did not know anything about the "shabu" being kept by Virgilio Ganitano. Thereafter, SPO3 Balolong led [Felipe] inside a room and the other police officers, and since they were the only ones inside the room now, [Felipe] could freely tell him everything about Virgilio Ganitano who should be charged in court. [Felipe], however, told SPO3 Balolong that he did not know anything about Ganitano's keeping "shabu" and had he known it. he would have told them at the first instance. The police officers then brought [Felipe] out and placed him in a detention cell at the police headquarters and filed A the instant case against him.^[4]

On September 28, 2007, the RTC, after finding that the prosecution has established all the elements of the offense charged against Felipe, rendered a Decision^[5] convicting Felipe of Violation of Section 5, Article II of RA No. 9165. The dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding accused Gregorio Felipe GUILTY beyond reasonable doubt of illegal delivery of shabu and is therefore sentenced to suffer (he penalty of life imprisonment and to pay a fine of P500,000.00 The two (2) plastic sachets of shabu subject hereof, weighing 0.6411 gram(s), is hereby confiscated, the same to be disposed as the law prescribes.

SO ORDERED.^[6]

Aggrieved, Felipe appealed the Decision before the CA, which was later docketed as CA-G.R. CR-ILC. No. 03038.

On December 3, 2009, the CA rendered a Decision^[7] affirming *in toto* the decision of the RTC, the dispositive portion of which reads:

WHEREFORE, premises considered, the assailed decision of the RTC of Laoag City, Branch 13, dated September 28, 2007. is hereby **AFFIRMED IN TOTO**.

SO ORDERED.

In affirming the decision of the RTC, the CA ratiocinated that Felipe's contention of lack of credibility of the prosecution witnesses and his theory of frame-up was unfounded. The CA concluded that indeed, a legitimate buy-bust operation occurred, as such, there can be no question as to the guilt of Felipe. Moreover, contrary to Felipe's allegation, the CA found that the proper procedure in the custody and disposition of the seized drugs was followed by the police officers who were involved in its handling.

Felipe now comes before this Court for relief.

In a Resolution dated July 2, 2010, the Court required the parties to file their respective supplemental briefs, if they so desire. In their respective Manifestations, the parties waived the filing of their supplemental briefs and, instead, adopted their respective briefs filed before the CA.

Hence, Felipe raises the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE LACK OF PROOF THAT THE ACCUSED-APPELLANT KNOWINGLY SOLD AND DELIVERED THE DANGEROUS DRUGS.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT BASED ON THE HIGHLY INCREDIBLE TESTIMONIES OF THE

PROSECUTION WITNESSES.

III

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO ESTABLISH THE CHAIN OF CUSTODY OF THE DRUG SPECIMENS.^[10]

Felipe posits that he was merely convicted based on the inference that an alleged valid buy-bust operation was conducted. Felipe maintains that it was incredulous to believe the testimony of P02 Diego that he handed the pack of cigarettes which contained the "shabu" to him, considering that he did not know who P02 Diego was. Also, the fact that he did not receive any buy-bust money from P02 Diego and that the alleged operation purportedly went down at a public place, which is highly improbable and contrary to logic, supported his allegation that no buy-bust operation occurred. Felipe also argues that he was framed-up and arrested to be used by the police to apprehend a certain Virgilio Ganitano, a suspected "shabu" peddler.

Moreover, Felipe contends that the chain of custody of the alleged illegal drugs was highly questionable, considering that it was not marked at place of the arrest, but only when they reached the Laoag City Police Station.

On the other hand, the State, represented by the Office of the Solicitor General (OSG), maintains that the trial court and the CA correctly found

Felipe guilty beyond reasonable doubt of the crime charged and that his conviction should be sustained by this Court.

Simply stated, the issue in this case is whether or not the prosecution has proven the guilt of Felipe for illegal sale of dangerous drugs beyond reasonable doubt.

We rule in the affirmative.

Generally, the Court will not disturb the findings of the trial court on the credibility of witnesses, as it was in the better position to observe their candor and behavior on the witness stand. Evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court; it had the unique opportunity to observe the witnesses and their demeanor, conduct, and attitude, especially under cross-examination. Its assessment is entitled to respect unless certain facts of substance and value were overlooked which, if considered, might affect the result of the case.^[11]

Although not constrained to blindly accept the findings of fact of trial courts, appellate courts can rest assured that such facts were gathered from witnesses who presented their statements live and in person in open court. In cases where conflicting sets of facts are presented, the trial courts are in the best position to recognize and distinguish spontaneous declaration from rehearsed spiel, straightforward assertion from a stuttering claim, definite statement from tentative disclosure, and to a certain degree, truth from untruth.^[12]