

FIRST DIVISION

[G.R. No. 191266, June 06, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DARIUS BAUTISTA Y ORSINO @ DADA, ACCUSED-APPELLANT.**

D E C I S I O N

VELASCO JR., J.:

The Case

This is an appeal from the August 20, 2009 Decision ^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03300, which affirmed the April 16, 2008 Decision ^[2] in Criminal Case No. 04-231073 of the Regional Trial Court (RTC), Branch 2 in Manila. The RTC found accused Darius O. Bautista (Bautista) guilty of violating Section 5, Article II of Republic Act No. (RA) 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

The Facts

The charge against the accused stemmed from the following Information dated October 18, 2004:

Criminal Case No. 04-231073

That on or about October 15, 2004, in the City of Manila, Philippines, the said accused, not being authorized by law to sell, trade, deliver or give away any dangerous drug, did then and there willfully, unlawfully and knowingly sell zero point zero three four (0.034) gram of white crystalline substance containing methamphetamine hydrochloride, known as "shabu" a dangerous drug.

Contrary to law. ^[3]

The case was originally tried jointly with Criminal Case No. 04-231074 against Armando Marcos y Balderama @ Onyo (Marcos), Bautista's brother-in-law, for violation of Sec. 11(3), Art. II of RA 9165. The instant appeal, however, relates only to accused Bautista in Criminal Case No. 04-231073, as Marcos, the accused in Criminal Case No. 04-231074, was acquitted by the RTC. Both cases arose out of the same facts and circumstances. Accordingly, common evidence was then presented during the trial.

At the arraignment, the accused, who was assisted by counsel, pleaded not guilty to the offense charged. Trial proceeded after the pre-trial.

During the trial, the prosecution offered the testimonies of Police Officer 2 Jonathan Ruiz (PO2 Ruiz) and PO2 Crispino Ocampo (PO2 Ocampo) both of the Western Police District's (WPD's) District Anti-Illegal Drugs-Special Operations Task Group (DAID-SOTG) on United Nations Avenue, Ermita, Manila. On the other hand, the defense presented, as its witnesses, the accused; co-accused Marcos; Irene Manabat (Manabat), a *kakanin* (native delicacy) vendor; and Anna Marie Ignacio (Ignacio), accused's neighbor and operator of a video *karera*. [4] At the pre-trial, the parties likewise stipulated the qualifications of Forensic Chemist Elisa G. Reyes (Reyes), and sought that the following documents be marked and admitted: [5]

- Exh. A Letter Request for Laboratory Examination
- Exh. A-1 Stamp receipt appearing at the bottom portion of Exh. "A"
- Exh. B One (1) heat-sealed transparent plastic sachet containing white crystalline substance with marking "AMB"
- Exh. B-1 One heat-sealed transparent plastic sachet containing white crystalline substance with marking "DBO"
- Exh. B-2 Small brown envelope with marking D-1589-04
- Exh. C Chemistry Report No. D-1589-04
- Exh. C-1 Findings and Conclusions
- Exh. C-2 Signatures appearing at the bottom
- Exh. D Joint Affidavit of Apprehension
- Exh. D-1 Page 2 of Joint Affidavit of Apprehension
- Exh. D-2 Signatures of the police officers
- Exh. E Booking Sheet and Arrest Report of Darius Bautista
- Exh. E-1 Booking Sheet and Arrest Report of Armando Marcos
- Exh. F Letter Request to the prosecutor, showing that both accused were properly booked and that inquest was properly conducted within the reglementary period.

Reyes conducted the laboratory examination of the specimen that is subject of the case. But her testimony, not having personal knowledge of the subject incident, was dispensed with by the RTC. [6]

The Prosecution's Version of Facts

The prosecution presented PO2 Ruiz as its first witness. He testified that a confidential informant called the WPD's office several times on October 15, 2004 to report that a certain person called "Dada" was engaged in dealing illegal drugs along Mata Street, Tondo, Manila. A buy-bust operation was, therefore, organized by Police Inspector Angel De Leon (P/Insp. De Leon) of the WPD. The buy-bust team was composed of PO2 Ruiz, PO2 Ocampo, PO2 Rhumjalie Salazar, PO2 Dranred Cipriano, and PO1 Erwin Castro. [7] For this purpose, PO2 Ruiz was designated as the poseur-buyer and a one hundred-peso bill, which was to serve as the buy-bust money, was marked with "JR," representing the initials of PO2 Ruiz. [8]

He narrated that on the same day, at about 11:30 in the evening, the buy-bust team organized by the WPD went to Mata Street in Tondo, Manila, the site pointed

out by the confidential informant, in order to execute the buy-bust operation. [9] The team first went around the area, then met with the confidential informant for the operation. The team saw "Dada" standing along Mata Street. While PO2 Ruiz and the confidential informant proceeded to approach "Dada," the rest of the buy-bust team hid themselves in a place where they could have a good view of the buy-bust operation that was to transpire, [10] which was about five to seven meters away. [11] During the operation, the informant introduced PO2 Ruiz as a buyer of *shabu*. [12] PO2 Ruiz then handed the marked money to "Dada" in exchange for a plastic sachet, which "Dada" took out from his right front pocket. [13] At this instance, PO2 Ruiz identified himself to "Dada" as a police officer and then made the pre-arranged signal to his colleagues by removing his ball cap. [14] Accused was arrested and brought to the DAID-SOTG. [15] PO2 Ruiz ordered accused to empty his pocket and recovered the marked money. [16] Marcos, who was within the vicinity accompanying "Dada," was likewise arrested. [17] PO2 Ruiz marked the plastic sachet with "DBO," the initials of accused, and thereafter turned it over to the investigator. [18] The investigator then turned the plastic sachet over to the WPD's Crime Laboratory for examination. [19]

PO2 Ocampo was presented by the prosecution as the second witness. He testified that on October 15, 2004, P/Insp. De Leon directed a number of police officers to conduct a buy-bust operation against a certain "Dada." Since PO2 Ocampo was very familiar with the target area for being a nearby resident, he volunteered to be part of the buy-bust team. He confirmed that PO2 Ruiz was designated as the poseur-buyer. When PO2 Ruiz and the informant went to the target area to conduct the buy-bust operation, PO2 Ocampo went to his residence, which was two blocks away from the target area, for approximately 30 minutes. Upon his return to the target area, PO2 Ruiz informed him that the operation had been consummated and two persons were arrested. The buy-bust team then brought the arrested persons to the police station for investigation. [20] PO2 Ocampo stated that he and PO2 Ruiz were also present when the accused and Marcos were turned over to the investigator. [21] PO2 Ocampo properly identified accused Bautista ("Dada") and Marcos in the RTC. [22]

The Defense's Version of Facts

The accused was presented as the first witness for the defense. He stated that on October 15, 2004 between 9 o'clock to 9:30 in the evening, he was inside his neighbor's house playing video *karera* with Marcos and five other people. [23] While they were playing video *karera*, about eight police officers suddenly arrived and announced, "*Huwag kayong tatakbo mga pulis kami.*" (Do not run. We are police officers.) The accused testified that right after the verbal warning, the police officers frisked them. Thereafter, the five other persons in the house were released, and only the two of them, the accused and Marcos, were arrested. [24] They were then brought to the DAID-SOTG office on United Nations Avenue in Manila for investigation. [25]

The defense presented Manabat as its second witness. She testified that on October 15, 2004, she was at the video *karera* on 348 Mata Street, Tondo, Manila, when the

arrest happened. She was there to have her money changed into coins. At the time, Ignacio, the owner and operator of the video *karera*, and some children were also present. She said that two persons in civilian clothes suddenly appeared and asked who the owner of the video *karera* was. Marcos answered that he did not know. Thereafter, accused and Marcos were frisked and then arrested. She further testified that accused and Marcos resisted by holding on to a steel bar such that Marcos' hand had to be burned by a cigarette in order for him to let go of it. [26]

The defense then presented Marcos as the third witness. Marcos, a pedicab driver, testified that on October 15, 2004 at 10 o'clock in the evening, while he was at the video *karera*, two persons arrived asking him who the owner of the video *karera* was. He replied that he did not know. [27] He and accused were then frisked and forced to go with the said persons to the DAID-SOTG office.

The defense also presented Ignacio, the owner and operator of the video *karera*, as its witness. Ignacio testified that on October 15, 2004, she was at her house on 348 Mata St., Tondo, Manila, which was also where people played the video *karera*. She stated that at about 10 o'clock in the evening, three persons went inside her house and introduced themselves as police officers, while about three others waited outside. The police officers arrested two persons playing video *karera* in her house, [28] but the two resisted the arrest. [29] She said that she only knew one of the two arrested, Marcos, as he was her neighbor. She said further that besides the two persons arrested, three others were also playing video *karera* at the time of the arrest. One of them was a woman, which she identified to be her neighbor, Manabat. Finally, Ignacio stated that she was not arrested, notwithstanding the fact that she was operating a video *karera*, which was illegal. [30]

Ruling of the Trial Court

After trial, the RTC convicted the accused. The dispositive portion of its April 16, 2008 Decision reads:

WHEREFORE, judgment is hereby rendered as follows, to wit:

1. In Criminal Case No. 04-231073 finding accused, Darius Bautista y Orsino @ Dada, GUILTY, beyond reasonable doubt of the crime charged, he is hereby sentenced to life imprisonment and to pay a fine of P500,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs;
2. In Criminal Case No. 04-231074, for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt, we hereby ACQUIT, accused, Armando Marcos y Balderama @ Onyo, for the crime charged. Costs de officio.

The specimens are forfeited in favor of the government and the Branch Clerk of Court, accompanied by the Branch Sheriff, is directed to turn over with dispatch and upon proper receipt the said specimen to the Philippine Drug Enforcement Agency (PDEA) for proper disposal in accordance with the law and rules.

SO ORDERED. [31]

In finding for the prosecution and convicting the accused of the crime charged, the RTC gave credence to the testimonies of the witnesses for the prosecution. The RTC held that the testimonies of the prosecution's witnesses, who are police officers, should be given full faith and credit, absent any clear and convincing evidence that the members of the buy-bust team were inspired by any improper motive or were not properly performing their duties. [32] Accused failed to show any ill motive on the part of the police officers to testify falsely against him.

The RTC further held that the accused's claim of alibi is not substantiated and therefore not believable. The RTC likewise did not give credence to the testimonies of Manabat and Ignacio, whose testimonies showed several inconsistencies and discrepancies that raised doubt as to their credibility. [33]

On the other hand, the RTC acquitted Marcos of the crime charged, because the testimonies of the police officers led to the conclusion that only accused Bautista could be held guilty beyond reasonable doubt of the crime. As seen in the testimony of PO2 Ruiz, the confidential informant pointed out accused Bautista only as the seller of prohibited drugs and the buy-bust operation was, thus, conducted against him. The RTC held that PO2 Ruiz had no personal knowledge of the arrest of Marcos, as he was apprehended by a companion of PO2 Ruiz while PO2 Ruiz himself was busy arresting the accused, Bautista. [34] PO2 Cruz, the officer who arrested Marcos, failed to testify in court. Marcos could, therefore, not be convicted of the crime charged.

Ruling of the Appellate Court

On August 20, 2009, the CA affirmed the judgment of the RTC. The dispositive portion of the CA Decision reads:

WHEREFORE, the foregoing premises considered, the instant appeal is **DISMISSED** and the assailed Decision dated April 16, 2008 is **AFFIRMED**.

SO ORDERED. [35]

The CA held that the factual findings of the trial court should be given great weight, considering that they have been fully substantiated by the evidence on record. [36] The CA held that there was in fact no break in the custody of the *corpus delicti*, i.e., the confiscated dangerous drug, which in this case is methamphetamine hydrochloride or *shabu*. [37] Finally, the CA ruled that the alleged non-compliance with the provision of Sec. 21 of the *Comprehensive Dangerous Drugs Act of 2002* is not fatal, considering that the integrity and evidentiary value of the seized dangerous drug were properly preserved as can be gleaned from the facts of the case. [38]