

FIRST DIVISION

[G.R. No. 180504, October 05, 2011]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDWIN ULAT Y AGUINALDO @ PUDONG, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is an appeal of the Decision^[1] dated May 30, 2007 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01800 entitled, *People of the Philippines v. Edwin Ulat y Aguinaldo @ Pudong*, which affirmed the Decision^[2] dated October 12, 2005 of the Regional Trial Court (RTC) of Makati, Branch 65, in Criminal Case No. 03-597. In said RTC Decision, the trial court found appellant Edwin Ulat y Aguinaldo @ Pudong guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 and imposed upon him the penalty of life imprisonment as well as a fine of Five Hundred Thousand Pesos (P500,000.00).

In an Information^[3] dated February 11, 2003, appellant was charged with violation of Section 5, Article II of Republic Act No. 9165, as set forth below:

That on or about the 10th day of February 2003, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, without the necessary license or prescription and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and distribute Methylamphetamine Hydrochloride, a dangerous drug, weighing zero point zero two (0.02) gram, in consideration of P100.00.

Appellant pleaded "not guilty" to the charge leveled against him when arraigned on March 3, 2003.^[4] Thereafter, trial commenced.

The prosecution's version of the events leading to appellant's arrest and his being charged with the above-mentioned offense was summarized as follows:

On February 10, 2003, a confidential informant relayed information regarding the illegal drug pushing activities of one alias Pudong along Seabird Street, Barangay Rizal, Makati City to Barangay Chairman Dreu, head of the Makati Anti-Drug Abuse Council (MADAC, for brevity) Cluster 6 (TSN, Aug. 6, 2003, p. 5).

Consequently, the MADAC Cluster 6, in coordination with the Makati

Police Drug Enforcement Unit (Makati DEU, for brevity), met and decided to go to the place of alias Pudong at Seabird Street, Barangay Rizal, Makati City to verify if alias Pudong is indeed selling illegal drugs and to conduct an entrapment operation under the supervision of PO1 Randy Santos. During the briefing, it was agreed that one of the MADAC volunteers, Armando Pol-ot (Pol-ot, for brevity), together with the confidential informant, would act as poseur-buyer and buy illegal drugs from alias Pudong that very same day. The pre-arranged signal for the back-up team to know that the transaction was already consummated would be the poseur-buyer's act of lighting a cigarette. The buy-bust money was then marked and was handed to the poseur-buyer (TSN, Aug. 6, 2003, pp. 6-8, 10; TSN, Aug. 10, 2005, p. 9).

Thus, at about 7:15 p.m. of February 10, 2003, Pol-ot and the confidential informant went to Seabird Street, Barangay Rizal, Makati City on foot while the rest of the team rode a tricycle and followed the two. Upon reaching the place, the members of the back-up team positioned themselves 10 to 15 meters from where Pol-ot and the confidential informant were, so they could see the transaction take place (TSN, Aug. 10, 2005, pp. 10-12).

Meanwhile, Pol-ot, who was then accompanied by the confidential informant, approached alias Pudong and was introduced by the informant as a buyer in need of shabu. Alias Pudong asked how much and Pol-ot replied "Piso lang naman", meaning One Hundred Pesos only. Thereafter, alias Pudong took the marked money and left. Upon his return, he handed Pol-ot a small plastic sachet containing suspected substance. Pol-ot then gave the pre-arranged signal and lighted a cigarette, signifying that the transaction was consummated (TSN, Aug. 6, 2003, pp. 9-10).

Upon seeing the pre-arranged signal, PO1 Santos and Rogelio Patacsil (Patacsil, for brevity) approached alias Pudong and apprehended him. Pol-ot then identified himself as member of the MADAC. Alias Pudong was then ordered to empty the contents of his pockets and the marked money was recovered. PO1 Santos immediately asked alias Pudong his real name. PO1 Santos then informed him of the nature of his arrest and apprised him of his Constitutional rights in Tagalog. Thereafter, alias Pudong was brought to the barangay hall of Barangay Rizal to have the incident listed in the barangay blotter. The confiscated substance contained in the plastic sachet which Pol-ot bought from alias Pudong was then marked "EUA" (TSN, Aug. 6, 2003, pp. 23-24; TSN, Aug. 10, 2005, pp. 13-15)

Subsequently, alias Pudong was brought to the Makati DEU office for proper investigation. The duty investigator prepared a request for laboratory examination of the specimen (the substance contained in the plastic sachet bought from the accused) marked "EUA" and a drug test for the accused (TSN, Aug. 6, 2005, pp. 15-16).

P/Insp. Richard Allan B. Mangalip conducted the laboratory examination on the contents of the plastic sachet marked "EUA" and it tested positive for Methylamphetamine Hydrochloride (TSN, May 6, 2003, pp. 4-9).

The following day, or on 11 February 2003, PO1 Santos and MADAC volunteers Pol-ot and Patacsil executed a sworn statement entitled "Pinagsanib na Salaysay ng Pag-aresto" in connection to the buy-bust operation which led to the arrest of appellant Edwin Ulat y Aguinaldo alias Pudong (TSN, Aug. 10, 2005, pp. 16-18; Records, p. 6).^[5]

On the other hand, the defense narrated a different version of the incident, to wit:

In the evening of 10 February 2003, at about 7:30 o'clock p.m., the accused, EDWIN ULAT (Ulat for brevity), was at home watching television when he saw five (5) to seven (7) men in front of their door whom he thought were looking for someone. He approached them and asked who they were looking for. Suddenly, a gun was poked at him and he was told to go with them to the barangay hall. Ulat then asked who they were but he was told not to ask question or else he might get hurt. Two (2) of the men forced him out of the house. He resisted but he was punched in the stomach and was dragged towards a blue Revo. The accused was likewise asked if he knew a certain Sandy. He denied knowing the said person. He was brought to the barangay hall and then to the Criminal Investigation Division (CID).^[6]

After due proceedings, the trial court convicted appellant of violation of Section 5, Article II of Republic Act No. 9165 in its Decision dated October 12, 2005. The dispositive portion of said Decision reads:

THE FOREGOING CONSIDERED, the court is of the opinion and so holds accused Edwin Ulat y Aguinaldo guilty beyond reasonable doubt of the offense charged. He is hereby sentenced to life imprisonment and is fined the sum of five hundred thousand pesos (Php500,000.00) without subsidiary imprisonment in case of insolvency.

The period of detention of the accused should be given full credit.

Let the dangerous drug subject matter of this case be disposed of in the manner provided for by law.^[7]

On review, the Court of Appeals, in its Decision dated May 30, 2007, affirmed the ruling of the trial court and disposed of the appeal in this wise:

WHEREFORE, premises considered, appeal is hereby DISMISSED for lack of merit and EDWIN ULAT y AGUINALDO should be made to suffer the penalty correctly imposed by the trial court.^[8]

Hence, appellant interposed the present appeal with this Court wherein he submits

the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY WITH VIOLATION OF SECTION 5, ARTICLE II OF R.A. 9165 DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE OFFENSE CHARGED BEYOND REASONABLE DOUBT.

II

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCONSISTENT AND CONTRADICTING TESTIMONIES OF THE PROSECUTION WITNESSES.^[9]

In the instant petition, appellant's chief argument highlights the fact that the witnesses for the prosecution allegedly presented conflicting testimonies on material points regarding the chain of custody of the illegal drug taken from appellant, resulting in the failure of the prosecution to sufficiently establish the *corpus delicti* and engendering doubt as to appellant's guilt.

In light of the attendant circumstances in the case at bar, the argument is persuasive.

The law presumes that an accused in a criminal prosecution is innocent until the contrary is proved. This basic constitutional principle is fleshed out by procedural rules which place on the prosecution the burden of proving that an accused is guilty of the offense charged by proof beyond reasonable doubt. Whether the degree of proof has been met is largely left for the trial courts to determine. However, an appeal throws the whole case open for review such that the Court may, and generally does, look into the entire records if only to ensure that no fact of weight or substance has been overlooked, misapprehended, or misapplied by the trial court.^[10]

Moreover, owing to the built-in dangers of abuse that a buy-bust operation entails, the law prescribes specific procedures on the seizure and custody of drugs, independently of the general procedures geared to ensure that the rights of people under criminal investigation and of the accused facing a criminal charge are safeguarded.^[11]

In this regard, Section 21, paragraph 1, Article II of Republic Act No. 9165 states:

1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.

Furthermore, Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165 expounds on the aforementioned provision of law:

(a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; *Provided, further*, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.

In the crime of sale of dangerous drugs, the prosecution must be able to successfully prove the following elements: "(1) identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor."^[12] Similarly, it is essential that the transaction or sale be proved to have actually taken place coupled with the presentation in court of evidence of *corpus delicti* which means the "actual commission by someone of the particular crime charged."^[13]

A meticulous review of the records of this case has led us to the conclusion that the prosecution failed to demonstrate with moral certainty that the identity and integrity of the prohibited drug, which constitutes the *corpus delicti*, had been duly preserved.

First, the records reveal that the prosecution did not establish the exact location where the confiscated illegal drug was marked and the identity of the person who marked it because of contradicting testimonies from the prosecution's witnesses.

According to witness Armando Pol-ot (Pol-ot), a Makati Anti-Drug Abuse Council (MADAC) civilian volunteer who acted as poseur-buyer in the entrapment operation, it was Police Officer 1 Randy Santos (PO1 Santos), the leader of the buy-bust team, who placed the marking on the confiscated sachet of *shabu* that was obtained from appellant. The relevant portion of the transcript is quoted here:

Q: Why do you say it is the same plastic sachet containing white crystalline substance delivered to you by alias Pudong?

A: Because of the markings, sir.