

FIRST DIVISION

[G.R. No. 185848, August 16, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MICHAEL SEMBRANO Y CASTRO, ACCUSED-APPELLANT.**

D E C I S I O N

PEREZ, J.:

Accused-appellant MICHAEL SEMBRANO y CASTRO (appellant) is before this Court appealing from the 18 June 2008 Decision^[1] of the Court of Appeals in CA-G.R. HC No. 02762 captioned '*People of the Philippines v. Michael Sembrano y Castro.*' The Court of Appeals affirmed his conviction^[2] by the Regional Trial Court of Quezon City (RTC, QC) for the crimes of illegal sale and illegal possession of *shabu*, a dangerous drug, in violation of Sections 5 and 11, Article II, of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.^[3]

The antecedent facts

On 26 July 2004, the operatives of the Station Anti-Illegal Drugs (SAID) of the Novaliches Police Station arrested appellant in broad daylight, in the course of a buy-bust operation and after a follow-up search on him.

On 28 July 2004, the Assistant City Prosecutor of Quezon City in the National Capital Region (QC-NCR) filed two separate Informations against him for (1) illegal sale and (2) illegal possession of *shabu*, a dangerous drug. The two cases were raffled to Branch 82 of the RTC, QC and docketed as Criminal Cases Nos. Q-04-128370 and Q-04-128371, imputing the following acts against him:

Criminal Case No. Q-04-128370

That on or about the 26th day of July 2004, in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver transport or distribute any dangerous drug, did, then and there, willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point twelve (0.12) gram of white crystalline substance containing of *Methylamphetamine Hydrochloride*, a dangerous drug.^[4]

Criminal Case No. Q-04-128371

That on or about the 26th day of July 2004, in Quezon City, Philippines, the said accused, not being authorized by law to possess any dangerous

drug, did, then and there, willfully, unlawfully and knowingly have in his/her/their possession and control, zero point twenty seven (0.27) gram of white crystalline substance containing *Methylamphetamine Hydrochloride*, a dangerous drug.^[5]

Sembrano was arraigned on 19 April 2005 and with the assistance of counsel, pleaded not guilty to the charges.^[6] Pre-trial proceedings having been terminated, trial on the merits ensued.

During trial, the prosecution presented the testimonies of the following witnesses: (1) Police Officer 1 (PO1) Jomar Manaol; and (2) Police Officer 1 (PO1) Kingly James Bagay.

The combined testimonies of PO1 Manaol and PO1 Bagay sought to establish that at around 3:00 o'clock in the afternoon of 26 July 2004, an informant of the police arrived at the SAID of the Novaliches Police Station. The confidential informant relayed information regarding illicit drugs trade operations conducted by a certain Michael Sembrano alias 'Takol' in the area of Gulod in Novaliches, Quezon City.

Superintendent (Supt.) Ramon Perez, head of SAID, formed a buy-bust team composed of PO1 Jomar Manaol, SPO1 Cesar Futol, PO1 Kingly James Bagay, PO1 Neil John Dumlao, and PO1 Fernando Salonga. SPO1 Futol prepared the pre-operation report for the team. The group then proceeded to Ignacio Street corner Villareal Street in Gulod, Novaliches, Quezon City for the entrapment operation.

The group arrived at the designated area at around 3:30 o'clock in the afternoon. PO1 Manaol was designated poseur-buyer. He was handed two (2) One Hundred Peso bills which he marked with his initials 'JAM' on the lower right side thereof, right below the image of the Philippine Flag. PO1 Manaol, together with the confidential informant, then proceeded to the target site. The other members of the team, including witness PO1 Bagay, acted as back-up and positioned themselves about twenty-five meters away from where PO1 Manaol and the confidential informant were.

They waited until appellant arrived at around 5:00 o'clock in the afternoon. Upon appellant's arrival, the confidential informant introduced PO1 Manaol to him as an interested buyer of *shabu*. PO1 Manaol handed the two marked One Hundred Peso bills to appellant, who, in turn, handed one (1) plastic sachet containing white crystalline substance to him. The transaction having been consummated, PO1 Manaol executed their pre-arranged signal and scratched his head. When the other members of the team saw PO1 Manaol execute the pre-arranged signal, they immediately proceeded to their location and arrested appellant.

PO1 Manaol recovered the suspected *shabu* subject of the sale from appellant and placed his initials JAM thereon. PO1 Bagay was also able to retrieve the buy-bust money from appellant's right hand. A follow-up frisk on appellant resulted in the confiscation of two other plastic sachets of white crystalline substance suspected to be *shabu*, from the right hand pocket of his shorts. Immediately after retrieving the evidence, PO1 Bagay marked the confiscated sachets with his initials KJB.

After his arrest, the police officers took appellant to the police station where he was

turned over to the desk officer and to the on-duty investigator. PO1 Bagay, who had custody of the confiscated evidence, turned over the seized three (3) plastic sachets of white crystalline substance to the investigator. PO1 Manaol and PO1 Bagay executed a Joint Affidavit of Arrest and signed the Inventory of Seized Drugs/Item prepared by SPO1 Cesar Futol.

The confiscated items were transmitted on the same day by the investigator on-duty, through PO1 Salonga, PO1 Manaol and PO1 Bagay to the Philippine National Police (PNP) Crime Laboratory for examination.

A forensic examination of the contents of the seized sachets as conducted by Police Senior Inspector (P/S Insp.) Leonard T. Arban, Forensic Chemical Officer yielded the following results in Chemistry Report No. D-698-04:

SPECIMEN SUBMITTED:

Three (3) heat-sealed transparent plastic sachets, each containing white crystalline substance with the following markings and recorded net weights:

A (JAM - MCS) = 0.12 gram

B (KJB - MCS1) = 0.10 gram

C (KJB - MCS2) = 0.17 gram

FINDINGS:

Qualitative examination conducted on the above-stated specimens gave POSITIVE result to the tests for Methylamphetamine Hydrochloride, a dangerous drug.^[7]

Expectedly, the defense had an entirely different version, with Sembrano testifying on the witness stand. He narrated that at around 1:00 o'clock in the afternoon of 26 July 2004; he was buying lumber somewhere along Quirino Highway in Novaliches, Quezon City, when a maroon Tamaraw FX stopped in front of him. The occupants thereof, PO1 Bagay and PO1 Manaol, alighted from the vehicle and arrested him. After being arrested, the police officers took him to Station 4 whereupon he was required to sign a document. Sembrano learned later on that the police officers filed a case against him for violation of Republic Act No. 9165. When asked on the witness stand if he knew the two police officers, Sembrano answered in the affirmative, having met the two since he had been their police asset since 23 April 2003. In support of his claim, Sembrano presented a copy of an Oath of Loyalty and Agent's Agreement to prove he was indeed a police asset. On cross examination, however, he testified that the police officers he mentioned were not signatories to the Oath of Loyalty and Agent's Agreement he presented in court.

The RTC found accused-appellant guilty as charged in Criminal Cases Nos. Q-04-128370 and Q-04-128371. Weighing the body of evidence submitted by both parties, the trial court gave little credence to appellant's unsubstantiated claim that

he was a police asset and ascertained that the prosecution established all the elements of illegal sale and illegal possession of a dangerous or prohibited drug.

Thus, in its Decision dated 14 February 2007, the trial court rendered judgment disposing as follows:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

a) Re: Criminal Case No. Q-0-4128370, accused MICHAEL SEMBRANO is hereby found guilty beyond reasonable doubt a (sic) of a violation of Section 5, Article II of R.A. No. 9165, and accordingly, he is hereby sentenced to suffer the penalty of LIFE IMPRISONMENT and to pay a fine in the amount of FIVE HUNDRED THOUSAND PESOS (P500,000.00) PESOS;

b) Re: Criminal Case No. Q-04-128371, said accused is likewise found guilty beyond reasonable doubt of violation of Section 11, Article II of the same Act and, accordingly, he is hereby sentenced to suffer the indeterminate penalty of imprisonment of TWELVE (12) YEARS and one (1) DAY as MINIMUM to FOURTEEN (14) YEARS as MAXIMUM and to pay a fine in the amount of THREE HUNDRED THOUSAND (P300,000.00) PESOS.^[8]

Seeking recourse from his conviction by the trial court, the appellant elevated the case to the Court of Appeals via Notice of Appeal. Insisting on his innocence, the defense questioned the admissibility of the confiscated evidence on the ground of illegality of appellant's arrest. The defense also attacked the credibility of the prosecution witnesses, claiming their stories are unbelievable and should have led to the dismissal of the charges.

According credence to the evidence of the prosecution, the Court of Appeals promulgated its Decision on 18 June 2008, where the appellate court affirmed the findings and conclusions of the trial court, but reduced the penalty imposed in the illegal possession case to six (6) years and one (1) day of *prision mayor* as minimum to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal* as maximum.^[9]

Appellant is now appealing his conviction to this Court, as a final recourse, praying that he be absolved of the charges. Instead of filing supplemental briefs, the defense and the prosecution adopted the arguments in their respective appellate briefs submitted before the Court of Appeals.

Thus, this Court is tasked to resolve the following assignment of errors:

I. THE TRIAL COURT GRAVELY ERRED IN NOT FINDING THAT APPELLANT WAS ILLEGALLY ARRESTED AND AS SUCH, THE SACHETS OF SHABU ALLEGEDLY RECOVERED FROM HIM WERE

INADMISSIBLE IN EVIDENCE.

II. THE TRIAL COURT GRAVELY ERRED IN GIVING CREDENCE TO THE INCREDIBLE TESTIMONIES OF THE PROSECUTION WITNESSES.

III. THE TRIAL COURT GRAVELY ERRED IN FINDING APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

The defense challenges the RTC and Court of Appeals rulings, anchored on its claim that the warrantless arrest against appellant was unlawful. Consequently, applying the 'fruit of the poisonous tree' doctrine, any evidence allegedly obtained during such unlawful warrantless arrest cannot be used as evidence. The defense proffers that the illegal drugs allegedly seized from appellant during the buy-bust operation should have been declared inadmissible. Alleging he is a victim of frame-up by the police officers, appellant attacks the credibility of the prosecution witnesses. In sum, appellant seeks acquittal on the ground that the prosecution failed to prove his guilt beyond reasonable doubt.

Coming from an entirely different perspective, the Office of the Solicitor General (OSG), representing the prosecution, disagrees with the aforementioned contentions from the defense side. It counters that the sachets of *shabu* were seized from appellant during a buy-bust operation. Thus, any opposition thereto with respect to its admissibility on the ground that said sachets were seized during an illegal arrest is unfounded. As for the testimonies of the prosecution witnesses, the testimony of the poseur-buyer, in particular, was corroborated by the police operatives on material points.

We find no merit in the appeal.

Conviction is proper in prosecutions involving **illegal sale** of regulated or prohibited drugs if the following elements are present: (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 thereto.^[10] What is material is proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited or regulated drug.^[11] We reiterate the meaning of the term *corpus delicti* which is the actual commission by someone of the particular crime charged.^[12]

Having weighed the arguments and evidence propounded by the defense and the prosecution, this Court is satisfied that the prosecution discharged its burden of establishing all the elements of illegal sale of regulated or prohibited drugs and proved appellant's guilt beyond reasonable doubt.

The collective testimonies of the prosecution witnesses, as well as the documentary evidence offered in court, provide a detailed picture of the sequence of events leading to the consummation of the transaction, the very moment PO1 Manaol received the drug from accused-appellant, the seller. The foregoing is the very *corpus delicti* of the offense.

Whatever doubt concerning appellant's culpability is now beyond question after he was caught in a buy-bust operation conducted by the operatives of the Novaliches