

THIRD DIVISION

[G.R. No. 185164, June 22, 2009]

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. FREDERICK
RICHIE TEODORO Y DELA CRUZ, ACCUSED-APPELLANT.**

DECISION

NACHURA, J.:

On appeal is the May 27, 2008 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02549 which affirmed the joint decision^[2] rendered by Branch 214 of the Regional Trial Court (RTC) of Mandaluyong City, finding appellant Frederick Richie Teodoro y Dela Cruz guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

On June 3, 2004, in the RTC of Mandaluyong City, two (2) separate informations were filed against appellant charging him, in the first, with violation of Section 11, Article II of R.A. No. 9165. Docketed as Criminal Case No. MC-04-8227-D, the first Information^[3] alleges, as follows:

That on or about the 28th day of May 2004 in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not having been lawfully authorized to possess any dangerous drug, did, then and there willfully, unlawfully, and knowingly have in his possession and under his custody and control One (1) heat-sealed transparent plastic sachet containing 0.06 gram of white crystalline substance, which was found positive to the test for Methamphetamine Hydrochloride, commonly known as "Shabu", a dangerous drug without the corresponding license and prescription, in violation of the above-cited law.

The other Information^[4] docketed as Criminal Case No. MC-04-8228-D, charges appellant with violation of Section 5, Article II, also of R.A. No. 9165, allegedly committed in the following manner:

That on or about the 28th day of May 2004 in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, without having been lawfully authorized by law, did, then and there willfully, unlawfully, and feloniously sell, deliver and distribute to PO1 MARLON CLIMACOSA, a poseur-buyer, One (1) heat-sealed transparent plastic sachet containing 0.04 gram of white crystalline substance, which was found positive to the test for Methamphetamine Hydrochloride, commonly known as "Shabu", a dangerous drug, for the amount of Two (2) pieces of P100.00 bills with

Serial Nos. RF390501 and NS581977, Philippine Currency, without the corresponding license or prescription, in violation of the above-cited law.

On arraignment, accused-appellant, assisted by counsel, pleaded "Not Guilty" to both charges. Thereafter, a joint trial ensued.

The People's version of the facts shows that on May 23, 2004, Police Senior Inspector Rodrigo Flores Gadiano (PSI Gadiano), Chief of the Intelligence Unit of Mandaluyong City Police, received information from a confidential asset that a man named Richie was conducting illegal activities at Matamis Street, Barangay Hulo, Mandaluyong City. Acting on the information, PSI Gadiano instructed Police Officer 2 Robert Posadas (PO2 Posadas), PO1 Edgar Antipasado (PO1 Antipasado), and PO1 Marlon Climacosa (PO1 Climacosa) to conduct surveillance. During the surveillance conducted from May 23-27, 2004, the group confirmed that appellant was involved in selling illegal drugs at his home in 741 Matamis Street, Barangay Hulo, Mandaluyong City.^[5]

On May 28, 2003, a team, composed of SPO1 Ronaldo de Castro (SPO1 de Castro), SPO1 Romeo Rico (SPO1 Rico), PO1 Climacosa, PO1 Antipasado, PO2 Arsenio Calilong (PO2 Calilong), PO1 Edwin Gonocruz (PO1 Gonocruz), and PO2 Posadas, was organized to conduct a buy-bust operation at the target site. PO1 Climacosa was designated as poseur-buyer while the remaining members of the team served as back up. At the same time, PSI Gadiano coordinated with the Philippine Drug Enforcement Agency (PDEA) on the conduct of the buy-bust operation.^[6]

Two (2) marked P100.00 bills with serial numbers RF390501 and NS581977 were handed to PO1 Climacosa.^[7]

Around 5:30 o' clock in the afternoon of the same day, the team proceeded to the area.^[8]

PO1 Climacosa approached appellant who was then standing by the gate of 741 Matamis Street, Barangay Hulo, Mandaluyong City and said, "*Pre, iskor ako ng dalawang piso pang gamit lang.*" Appellant replied "*sandali lang.*" PO1 Climacosa gave appellant the two marked P100.00 bills. Appellant, in turn, handed to PO1 Climacosa a sachet containing a white crystalline substance. PO1 Climacosa removed his cap to signal the consummation of the sale transaction to the other team members who were positioned some 10 meters away.^[9]

Thereafter, PO1 Climacosa introduced himself and informed appellant that he was under arrest. Appellant resisted and ran away, but he was eventually accosted by PO1 Climacosa and the other members of the team.^[10] PO1 Antipasado then frisked appellant and found the marked money and another sachet of white crystalline substance in appellant's pocket.^[11]

Immediately, the team apprised appellant of his constitutional rights. Appellant was, thereafter, brought to the Mandaluyong Medical Center for medical check-up. From the hospital, appellant was turned over to the Criminal Investigation Division of the Mandaluyong City Police Station. In the said office, the confiscated sachets were marked as "MC" and "MC-1" by PO1 Climacosa and PO1 Antipasado, respectively. The marked two (2) P100.00 bills were turned over to the evidence

custodian, while the two (2) confiscated sachets were immediately brought to the Philippine National Police (PNP) Crime Laboratory in Eastern Police District (EPD) for laboratory examination. PSI Lourdeliza Cejes, Forensic Chemist, found the two (2) sachets of white crystalline substance to be positive for methamphetamine hydrochloride or *shabu*.^[12]

Accordingly, appellant was charged with violation of Sections 5 and 11, Article II of R.A. No. 9165 with the RTC of Mandaluyong City.

Denial, frame up and extortion were accused-appellant's main exculpatory line. In his Brief,^[13] appellant summarized the version of the defense as follows:

On May 28, 2004, at around two o'clock (2:00) in the afternoon, **FREDERICK RICHIE TEODORO** was at his house in Pantaleon Street washing the dishes, when three (3) male persons entered the place and introduced themselves as police officers. He was told not to move and PO1 Climacosa told him that "at last, we were able to get you Jimmy". The accused was quick to tell the policemen that he was not "Jimmy", and the person they were looking for lives in the other house. One of the policemen went to the house of certa[i]n "Jimmy". Meanwhile, PO1 Climacosa handcuffed the accused, while the other policeman searched the house. Unable to find anything, the policemen brought him to Mandaluyong Medical Hospital. Afterwards, he was brought to the Mandaluyong City Hall, where he met PO1 Posadas who asked him the whereabouts of the Muslims. He replied that he does not know any Muslim, and he was told to produce thirty thousand (P30,000.00) pesos. He told PO1 Posadas that he does not have money. Irrked by the accused's answer, PO1 Posadas pulled out from his drawer a small plastic sachet and lighter and was told that those are evidence against him.^[14]

The trial court, however, disbelieved appellant's defenses and rendered a judgment of conviction, viz.:

WHEREFORE, the prosecution having successfully established the guilt of the accused beyond reasonable doubt, he is hereby sentenced to suffer the following: (1) In **Criminal Case No. 04-8227-D** the penalty of imprisonment of **TWELVE (12) YEARS AND ONE (1) DAY and to pay a fine of Three Hundred Thousand Pesos (P300,000.00)** and, (2) In **Criminal Case No. 04-8228-D** accused is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT and to pay a fine of Five Hundred Thousand Pesos (P500,000.00)**.

Accused is credited in full of the preventive imprisonment he has already served in confinement.

Let the physical evidence subject matter of this case be confiscated and forfeited in favor of the State and referred to PDEA for proper disposition.

SO ORDERED.^[15]

The appellant filed an appeal before the CA, claiming that the prosecution failed to prove his guilt beyond reasonable doubt. He argued that the prosecution witnesses

had no personal knowledge of his alleged illegal activities. They merely relied on the information given by the confidential asset that he was engaged in the sale of illegal drugs. The prosecution, however, did not present their informant to establish that he is a drug peddler. The appellant, thus, contended that the prosecution failed to prove the charges against him. Appellant added that the chain of custody of the confiscated items had not been established, as the buy-bust team did not comply with Section 2 of Dangerous Drugs Board Regulation No. 1.^[16]

On May 27, 2008, the CA rendered the assailed Decision^[17] affirming appellant's conviction. Rejecting appellant's arguments, the CA held that the police officers acquired personal knowledge of appellant's illegal activities after they conducted the surveillance. Thus, the informant's testimony was no longer necessary to establish the fact that appellant was indeed engaged in the sale of illegal drugs. The CA, likewise, brushed aside appellant's argument that the evidence's chain of custody was not established.

The dispositive portion of the CA Decision reads:

WHEREFORE, in view of the foregoing, the appeal is hereby **DISMISSED**. The joint decision of the Regional Trial Court Mandaluyong City, Branch 214, in Criminal Case Nos. MC-04-8227-D and MC-04-8228-D is **AFFIRMED**.

SO ORDERED.^[18]

Appellant is now before this Court submitting for resolution the same matters argued before the CA. Through his Manifestation and Motion in Lieu of Supplemental Brief,^[19] appellant stated that he will not file a Supplemental Brief and, in lieu thereof, he will adopt the Appellant's Brief he had filed before the appellate court. The Office of the Solicitor General (OSG) likewise manifested that it is no longer filing a supplemental brief.^[20]

Appellant primarily assails the non-presentation of the confidential asset to establish that he was indeed peddling drugs. Thus, he insists that the prosecution failed to prove his guilt beyond reasonable doubt.

After examining the records, we find no reason to overrule the findings of the trial court as affirmed by the Court of Appeals.

Contrary to appellant's assertion, the illegal sale of shabu is established by the clear testimony of PO1 Climacosa who acted as the poseur-buyer during the buy-bust operation. He testified as to his own personal knowledge of the sale that had taken place. Senior Police Officer 1 Rico and PO1 Antipasado corroborated PO1 Climacosa's testimony.

The testimonies of the prosecution witnesses established that appellant was caught in the act of selling a sachet containing substances which turned out to be positive for shabu to PO1 Climacosa. And as soon he was arrested, he was frisked by the arresting officers, in the course of which a sachet also containing a substance which likewise turned out to be positive for *shabu* was found in his pocket.

That the informant was not presented by the prosecution does not prejudice the State's case, as all the elements of illegal sale and possession of *shabu* by appellant were satisfactorily proved by testimonial, documentary and object evidence. At best, the testimony of the informant would only have been corroborative of the testimonies of PO1 Climacosa, SPO1 Rico and PO1 Antipasado. It is not indispensable.

As held by this Court in *People v. Lopez*:^[21]

In general, the presentation of an informant in an illegal drugs case is not essential for conviction nor is it indispensable for a successful prosecution because his testimony would be merely corroborative and cumulative. In a case involving the sale of illegal drugs, what should be proven beyond reasonable doubt is the fact of the sale itself. Hence, like the non-presentation of the marked money used in buying the contraband, the non-presentation of the informer would not necessarily create a hiatus in the prosecution's evidence^[22]

Thus, in *People v. Marilyn Naquita*,^[23] we rejected a similar contention, holding that:

The presentation of an informant is not a requisite in the prosecution of drug cases. The failure of the prosecution to present the informant does not vitiate its cause as the latter's testimony is not indispensable to a successful prosecution for drug-pushing, since his testimony would be merely corroborative of and cumulative with that of the poseur-buyer who was presented in court and who testified on the facts and circumstances of the sale and delivery of the prohibited drug. Failure of the prosecution to produce the informant in court is of no moment, especially when he is not even the best witness to establish the fact that a buy-bust operation has indeed been conducted. Informants are usually not presented in court because of the need to hide their identities and preserve their invaluable services to the police. It is well-settled that except when the accused vehemently denies selling prohibited drugs and there are material inconsistencies in the testimonies of the arresting officers, or there are reasons to believe that the arresting officers had motives to falsely testify against the accused, or that only the informant was the poseur-buyer who actually witnessed the entire transaction, the testimony of the informant may be dispensed with as it will merely be corroborative of the apprehending officers' eyewitness accounts.

In the case under consideration, none of the exceptions are present that would make the testimony of the confidential informant indispensable. As admitted by appellant, the police officers who testified against her were not known to her before her arrest. We likewise do not find material inconsistencies in their testimonies. Further, the informant is a person different from the poseur-buyer. What we find vital is appellant's apprehension while peddling and possessing dangerous drugs by PO1 Cosme and PO1 Llanderal.

Appellant further claims that the prosecution failed to establish the evidence's chain of custody because the buy-bust team failed to strictly comply with Section 21^[24] of