

THIRD DIVISION

[G.R. No. 181599, August 20, 2008]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. SALVADOR
DURLAO Y AGLIAM, ALIAS "PANDORA", APPELLANT.**

D E C I S I O N

YNARES-SATIAGO, J.:

This is an appeal from the September 17, 2007 Decision^[1] of the Court of Appeals in CA-G.R. CR No. 02392, which affirmed the January 12, 2004 Decision^[2] of the Regional Trial Court of Urdaneta City, Branch 46, finding appellant Salvador Dumlao guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act 9165, or the Comprehensive Dangerous Drugs Act of 2002 and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00 and the costs.

On March 5, 2003, an Information^[3] was filed charging appellant with the crime of illegal sale of dangerous drugs, the accusatory portion of which reads as follows:

That on or about 5:00 o'clock in the afternoon of October 29, 2002, at Brgy. Macalong, Asingan, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously *sell one (1) heat-sealed transparent plastic bag, containing Methamphetamine Hydrochloride (SHABU) a dangerous drug, weighing 0.07 gram.*

CONTRARY to Republic Act 9165, otherwise known as "Comprehensive Dangerous Drugs Act of 2002."

Appellant pleaded "not guilty" when arraigned.

During pre-trial conference, the parties stipulated on the identity of appellant and his lack of authority to possess or sell shabu; that the sachet containing some substance that was recovered from appellant was brought to the PNP Crime Laboratory and was found to be methamphetamine hydrochloride, a dangerous drug.^[4]

Trial on the merits thereafter ensued.

The facts as found by the trial court and affirmed by the Court of Appeals are as follows:

The evidences of the prosecution and the defense are in harmony as to the fact that on October 29, 2002 the accused was arrested by members of PNP Asingan, Pangasinan and was detained thereafter. There is

likewise no conflict on the following: Identity of the accused as charged in the information; The shabu in question was brought to the PNP Crime Laboratory upon a letter request of the Chief of Police of Asingan, Pangasinan; and the PNP Crime Laboratory examined the shabu and the same was found to be positive to the test of methamphetamine hydrochloride, a dangerous drug. These matters were admitted by the defense during the pre-trial conference. The conflict lies on how and why the accused was arrested and detained.

The prosecution claims that the Asingan Police Station, after a previous surveillance confirming the illegal activities of the accused of selling shabu, planned and carried out a buy-bust operation on October 29, 2002. SPO1 Natividad, who was designated as buyer, went to the house of the accused accompanied by two assets. Another police officer, PO2 Manuel B. Abella, positioned himself few meters away from the accused's house as back-up. After some preliminary talk and introduction, SPO1 Natividad handed to the accused two 100-peso bills, which were earlier given by the Chief of Police to be used in the buy-bust operation. The accused left thereafter. When he returned, the accused delivered the shabu to Natividad. Thereupon, the accused was arrested.

On the other hand, the accused who was the lone defense witness, claims that in the afternoon of October 29, 2002 he was visited by Jun-jun Castillo and a companion. After talking to them, during which he also served snacks, he accompanied them to the road. Then he sat down on a bench at the side of the road where a person was already seated. Jun-jun Castillo, who crossed to the other side of the road, shouted "arrest him." And the accused was immediately arrested by the person seated beside him, whom he later came to know as Police Officer Natividad. The accused was bodily searched but nothing was taken from him. At the police station, he was again bodily searched and nothing was found. The accused came to know only the reason of his arrest when Brgy. Capt. Mangosong arrived and informed him he was arrested for selling shabu which is not true.^[5]

The trial court found the prosecution's version more credible and accordingly found appellant guilty as charged. The dispositive portion of the Decision reads:

WHEREFORE, the Court finds herein accused SALVADOR DUMLAO Y AGLIAM alias "Pandora" GUILTY beyond reasonable doubt of Violation of Section 5 of Republic Act No. 9165 (Illegal Sale of Dangerous Drug) and hereby imposes penalty of life imprisonment. The accused is likewise ordered to pay a fine of P500,000.00 and the costs.

SO ORDERED.^[6]

Appellant filed an appeal alleging that the trial court erred in giving credence to the testimony of the arresting officers; and that the pre-operation orders and post operation reports regarding the buy-bust operation should have been presented in order to prove that the operation was validly conducted.

Moreover, appellant argued that the prosecution failed to show that the qualitative

examination of the specimen allegedly recovered from him was done and completed; that if the testimony of police officer Natividad that he gave the marked money to appellant during the entrapment operation is to be believed, then the police officers could not have presented the same in court during trial as it was with the appellant; and that Natividad was unsure whether he gave the money to appellant before or after receiving the plastic sachet.

On September 17, 2007, the Court of Appeals rendered the assailed Decision, disposing thus:

WHEREFORE, premises considered, the appeal is hereby DENIED and the assailed Decision dated January 12, 2004 rendered by the Regional Trial Court (RTC) of Urdaneta City, Branch 46, convicting accused-appellant in Criminal Case No. U-12462 is AFFIRMED.

SO ORDERED.^[7]

The appellate court held that the testimonies of the police officers involved in a buy-bust operation deserve full faith and credit, given the presumption that they have performed their duties regularly; that the non-presentation of the pre-operation orders and post-operation results cannot exculpate appellant from criminal liability because the same do not affect the legality of the buy-bust operation; that the finding of Forensic Chemist Bessara that the substance recovered from appellant was "shabu" has not been overcome by convincing evidence and enjoys the presumption of regularity; and that the alleged inconsistencies in Natividad's testimony refer to minor details which did not affect the substance of the testimony.

Hence the instant petition.

On April 9, 2008, the Court directed the parties to file their supplemental briefs, if they so desire, within 30 days from notice. On June 5, 2008, the Office of the Solicitor General manifested that it is no longer filing a supplemental brief. To date, appellant has not filed his supplemental brief; he is therefore deemed to have waived filing the same. Consequently, the case is deemed submitted for resolution.

The petition lacks merit.

The pertinent portion of Sec. 5, Art. II of Republic Act 9165 provides:

SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

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