

SECOND DIVISION

[G.R. No. 175832, October 15, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SALVADOR SANCHEZ Y ESPIRITU, ACCUSED-APPELLANT.**

DECISION

BRION, J.:

This case confronts us once more with the buy-bust of a prohibited drug and the procedural difficulties this type of operation poses for the police as well as for the prosecution.

On appeal is the September 11, 2006 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01095. The CA affirmed the April 14, 2005 Decision^[2] of the Regional Trial Court (RTC), Branch 103, Quezon City, that found the accused-appellant Salvador Sanchez y Espiritu (*appellant*) guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (R.A.) No. 9165 (the Comprehensive Dangerous Drugs Act of 2002), meriting him the penalty of life imprisonment.

ANTECEDENT FACTS

The prosecution charged the appellant before the RTC with violation of Section 5, Article II of R.A. No. 9165 under an Information that states:

x x x

That on or about the 6th day of April 2003 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 zero two (0.02) grams of white crystalline substance containing methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.^[3]

The appellant pleaded not guilty to the charge.^[4] The prosecution presented its lone witness - SPO2 Levi Sevilla (*SPO2 Sevilla*) - in the trial on the merits that followed. The appellant and his witness, Nida Detera (*Nida*), took the stand for the defense.

The RTC summarized the material points of the testimony of SPO2 Sevilla as follows:

x x x while he was on Station 3 duty at Talipapa, Novaliches, Quezon City on April 6, 2003 a confidential informant arrived at around 4:30 noon

and reported that there is a person who has been selling shabu. An entrapment team was formed consisting of himself as poseur buyer, SPO1 Brigido An, PO3 Virgilio Bernardo, PO2 Manny Paulilis and PO1 Cecil Collado. A pre-operational report was submitted of the undertaking. At 5:00 p.m., the team was dispatched to the target area - at the far end Lualhati Street, Manotok Subd., Baesa, Quezon City. PO Sevilla put his initial "LS" on the money given to him to be used at the entrapment.^[5]

At the place, which is a squatter's colony located at the edge or side of Lualhati St., PO Sevilla and his informant walked towards the place pointed by the informant and met the drug pusher. The informant introduced PO Sevilla to the pusher. The informant and the pusher talked for a while. Thereafter, PO Sevilla talked to the latter. He told him that he badly needs shabu *para pumayat*. x x x PO Sevilla then gave the pusher P100.00 (the marked money) and in return the pusher gave him a plastic sachet of shabu.^[6]

After receiving the plastic sachet, PO Sevilla scratched his head as a pre-arranged signal to his colleagues who were deployed nearby. Said other policemen rushed to the crime scene while PO Sevilla grabbed the right hand of the accused and introduced himself as a cop. The accused was frisked and PO Sevilla recovered the P100.00 marked money bill (Exh. G) in the right side pants pocket of the accused who was later brought to Station 3. PO Sevilla identified the transparent plastic sachet on which he placed his initial "LS" and the initial "SS" of the accused (Exh. E).^[7]

On cross examination, PO Sevilla reiterated his testimony adding that whenever he is tasked as a poseur buyer he always gives as reason that he wanted to be thinner and drug pushers never questioned him about that. PO Sevilla, who was wearing a crew cut in court said that when he bought shabu from the accused his hair style was different. It was his first time to entrap at that place as a poseur buyer. Their marked Anfra van was parked along Quirino Highway, Quezon City from where he and the informant walked to Lualhati Street for about 10 minutes as the target scene was about 100 meters away. He reiterated that their Pre-op Report was sent to PDEA and given a control number.^[8] *[Italics and footnotes referring to the pertinent parts of the records supplied]*

The RTC dispensed with the testimony of Forensic Chemist John Paul Puentespinas after the parties stipulated that "the items allegedly confiscated from the accused were submitted to the crime laboratory for examination and the findings were put into writing."^[9]

In the hearing of December 4, 2003, the prosecution offered the following as exhibits:

Exhibit "A" - the request for laboratory examination of the specimen confiscated from the appellant;

Exhibit "B" - the Initial Laboratory Report prepared by Forensic Chemist Paul Jerome Puentespinas;

Exhibit "C" - the Confirmatory or Final Chemistry Report No. D-366-03 prepared by Forensic Chemist Paul Jerome Puentespina;

Exhibit "D" - sworn Certification to show that the Chemistry Report was subscribed and sworn to before an Administering Officer;

Exhibits "E", "E-1" and "E-2" - the specimen taken from the appellant; the initials of Forensic Chemist Puentespina; and the initials of the police officer who arrested the accused and who received the specimen in exchange for the buy bust money, respectively;

Exhibit "F" - the brown envelope where the seized evidence was placed after it was examined by Forensic Chemist Puentespina;

Exhibits "G" and "G-1" - the buy bust money and the initials written therein of the poseur buyer, respectively;

Exhibits "H" and "H-1" - the Joint Affidavit of the entrapment team and the signature therein by SPO2 Sevilla, respectively.

The defense objected to Exhibits "E," "E-1," "E-2," "G" and "H," contending that the appellant "had nothing to do with the specimen presented before the court," and that the confiscated specimen resulted from an illegal arrest. On Exhibit "G," the defense argued that no evidence of powder was ever presented by the prosecution witness. The defense likewise objected to the presentation of Exhibit "H" on the ground that its contents were self-serving.

The appellant gave a different version of the events in his testimony of January 30, 2005. He narrated that at around 5:25 in the afternoon of April 6, 2003, he was in his house putting his children to sleep when three (3) police officers suddenly barged into his house, searched the premises, frisked him, and forced him to come with them.^[10] He recognized one of the policemen as "Sir Levi," a former colleague of his uncle, Sonny Catiis, at the police station. The police officers then handcuffed him and asked him to get into a police vehicle. He begged them and shouted, *"Sir you already frisked me in the house and you did not find anything, you might just plant evidence in my pocket, please do not do so."* The police brought him to Police Station 3, Talipapa, Quezon City, and placed him in a detention cell without an investigation being conducted.^[11]

While inside his cell, the police showed him a plastic sachet and said that it was the shabu taken from him. SPO2 Sevilla asked him to call his uncle, but he refused to do so; he feared that his uncle would think that the confiscated shabu was really taken from him.^[12]

Nida testified that she was at the kitchen of the appellant's house doing the laundry between 2:00-3:00 in the afternoon of April 6, 2003, when she heard loud knocks on the door. The appellant, who was in bed, stood up and opened the door.^[13] A person entered, pushed the appellant backwards, and handcuffed him. This person then ordered the appellant to sit down so he (the appellant) could be asked questions. A total of four persons, all male, entered the house. Afterwards, the

appellant and she were frisked; a lighter was taken from her, but nothing was seized from the appellant.^[14]

The RTC primarily considered the reputation of SPO2 Sevilla in giving weight to his testimony, and held that "PO Sevilla has been a frequent witness in drugs cases and he has already established his credibility before this court." Its decision of April 14, 2005 found the appellant guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165. It imposed on him the penalty of life imprisonment and ordered him to pay a fine of P50,000.00.

The appellant appealed to the CA, with the appeal docketed as CA-G.R. CR-H.C. No. 01095. In its decision of September 11, 2006, the CA affirmed the RTC decision.

In his brief^[15] on appeal, the appellant contends that the court *a quo* gravely erred in finding him guilty beyond reasonable doubt for violation of R.A. No. 9165. He maintains that the court's order of conviction was merely based on the good reputation SPO2 Sevilla has established with the court based on the many drug cases he had handled. The trial court, too, wrongly interpreted the appellant's appearance and demeanor because "his head was bowed and his eyes were dreamy and sad."^[16]

The defense harps, too, on the prosecution's failure to prove that the sachets allegedly recovered from the appellant were the ones submitted to the forensic chemist for examination, as well as its failure to follow the proper chain of custody in handling the seized evidence. It was only the arresting officer who testified that he confiscated the sachet from the accused. The police officer who conducted the subsequent investigation and to whom the confiscated sachet was allegedly turned over was not identified nor presented as witness. Hence the identity of the evidence presented against the appellant is doubtful.^[17]

The prosecution counters with the argument that the trial court's findings on the credibility of SPO2 Sevilla and the lack of it with respect to the appellant and his witness Nida, should be given great weight and respect, as the trial court had the chance and the prerogative to hear and appreciate these matters at the trial. SPO2 Sevilla described in a clear and unwavering manner how the police team planned for and conducted the buy-bust operation, and how he marked the plastic sachet of shabu he bought from appellant immediately after the latter's arrest. Even the statement regarding the credibility of SPO2 Sevilla, a frequent witness before the trial court in drug cases, does not mean that the trial court was biased. If at all, it only meant that the trial court had known SPO2 Sevilla and had often observed his demeanor as a witness.

The prosecution further argues that the evidence for the defense is incredible and doubtful judging from the testimonies of the appellant and his witness Nida. While the appellant testified that his alleged unlawful arrest transpired at 5:25 p.m. of April 6, 2003, his witness Nida testified with certainty that she witnessed the arrest take place on the same date between 2:00 p.m. and 3:00 p.m. as she saw the time on the wall clock. Moreover, the appellant himself admitted that he had no knowledge of any adverse reason or ill motive that would induce the arresting police officers to falsely implicate him. To the prosecution, this lack of ill motive supports the view that SPO2 Sevilla testified to the truth and his acts should enjoy the

presumption of regularity.

As to the *corpus delicti*, the prosecution stresses that it fully proved that the item recovered from the appellant is positive for shabu. The request for laboratory examination of the specimen confiscated from the appellant; the initial laboratory report showing that the item bought and/or seized from appellant is positive for shabu; and the final chemistry report were all formally offered in evidence, without any objection from the appellant. The defense, in fact, agreed to stipulate on the contents and the veracity of the forensic examinations made relative to the item recovered from the appellant. The *corpus delicti* having been proven and even admitted by the appellant, there was nothing more for the prosecution to establish; it had proven beyond reasonable doubt all the elements of the illegal sale of dangerous drugs, specifically - (a) the identity of the buyer and seller, the object and the consideration; and (b) the delivery of the things sold and the payment therefor.

THE COURT'S RULING

After due consideration, we resolve to acquit the appellant for the prosecution's failure to prove his guilt beyond reasonable doubt.

**Non-observance of the
requirements of Section 21,
paragraph 1 of Article II
of Republic Act No. 9165**

In considering a criminal case, it is critical to start with the law's own starting perspective on the status of the accused - *in all criminal prosecutions, he is presumed innocent of the charge laid unless the contrary is proven beyond reasonable doubt.*^[18] Thus, while the charge was laid after a preliminary finding that a probable cause existed showing that a crime had been committed and the accused was probably guilty thereof, the criminal trial itself starts with the substantive presumption of the innocence on the part of the accused, rebuttable only by proof of his guilt beyond reasonable doubt. The burden of such proof rests with the prosecution which must rely on the strength of its case rather than on the weakness of the case for the defense. Proof beyond reasonable doubt, or that quantum of proof sufficient to produce a moral certainty that would convince and satisfy the conscience of those who act in judgment, is indispensable to overcome the constitutional presumption of innocence.^[19]

To prove the legitimacy of the police buy-bust operation, the prosecution presented the following: (a) a pre-operation report bearing Unit Control Number 0504-03-07 signed by the desk officer, police chief and team leader of the station drug enforcement unit, which indicated the type, time and general area of operation, the type of vehicles and firearms to be used, and the respective names of the team leader, poseur-buyer and members of the buy-bust team; (b) a photocopy of the marked money; and (c) the joint affidavit of the entrapment team signed by the poseur-buyer, SPO2 Sevilla, and PO1 Collado. The operation yielded a plastic sachet containing shabu allegedly confiscated from the appellant.

A buy-bust operation is a form of entrapment employed by peace officers to