

FIRST DIVISION

[G.R. No. 147230, April 29, 2003]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. REYNALDO REMERATA Y REMOQUILLO @ "REY", AND GLORIA OCHOA Y REMERATA @ "OYETH" (AT LARGE), ACCUSED.

REYNALDO REMERATA Y REMOQUILLO @ "REY", APPELLANT.

D E C I S I O N

YNARES-SANTIAGO, J.:

The Philippine National Police, Narcotics Command, based at Camp Gen. Pantaleon Garcia, Imus, Cavite received a tip from a confidential informer that appellant Reynaldo Remerata and his sister Gloria Ochoa were engaged in the sale of *shabu* or methamphetamine hydrochloride. The informant had reportedly told Remerata and Ochoa that a prospective buyer from Manila was interested in purchasing 200 grams of *shabu*. Acting on this lead, Police Senior Inspector Nolasco Cortez formed a team composed of PO1 Aldrin Agravante, PO3 Alberto Colaler, SPO1 Male, SPO1 Yatco, PO3 Luna, PO3 Padernal and PO3 Almojeda for the purpose of conducting a buy-bust operation. Agravante was designated as the poseur-buyer. The team prepared a briefcase containing bills of P1,000.00, P20.00 and P10.00 denominations, and bogus money.

At 8:30 in the evening of April 10, 1999, some members of the team coordinated with the San Pedro Police, while the rest proceeded to the target area on San Vicente Street, San Pedro, Laguna. PO3 Colaler drove the lead car with PO1 Agravante and the confidential informant on board. The other members of the team rode in two back-up vehicles. When they reached the designated area, Agravante and the confidential informant alighted from the car in front of a vacant house. Moments later, a man and a woman approached them. The confidential informant introduced them to Agravante as Reynaldo Remerata and Gloria Ochoa; and Agravante was introduced as the prospective buyer of *shabu*. Appellant and Ochoa asked Agravante if he brought the money, and the latter opened the briefcase he was carrying. Ochoa left to get the merchandise.

After ten minutes, Ochoa returned carrying two transparent plastic bags and told PO1 Agravante, "*ito na ang bato,^[1] akin na ang pera.*" PO1 Agravante took the plastic bags and slightly opened the briefcase to show them the money inside. Then he took out his white handkerchief and wiped his face, which was the pre-arranged signal that the deal had been consummated. He drew his gun and introduced himself as a police officer. Appellant responded, "*Ah, police Ka? Walang pulis-pulis dito sa San Pedro.*" A commotion ensued and Ochoa was able to flee. PO3 Colaler, who was running towards the scene, fired a warning shot in the air. Together, they chased Ochoa but failed to catch her. Appellant was brought to Camp Gen. Pantaleon Garcia in Imus, Cavite.

Police Inspector Lorna Tria, the Forensic Chemical Officer of the PNP Crime Laboratory, Regional Office IV, Camp Vicente Lim, conducted a laboratory examination of the representative sample of the white crystalline substance contained in two heat-sealed transparent plastic bags recovered from Ochoa. She concluded that the specimen yielded positive result for the presence of methamphetamine hydrochloride or *shabu*.^[2]

On July 30, 1999, an Information was filed against appellant Reynaldo Remerata y Remoquillo @ "Rey" and glori Ochoa y Remerata @ "Oyeth" for Violation of Section 15, Article III of Republic Act No. 6425, also known as the Dangerous Drugs Act of 1972, as amended, committed as follows:

That on or about April 10, 1999, in the Municipality of San Pedro, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, said accused, without authority of the law, conspiring, confederating and mutually helping one another, did then and there, wilfully, unlawfully and feloniously, sell and pass-on to a poseur-buyer for TWO HUNDRED THOUSAND PESOS, genuine an boodle money, methamphetamine hydrochloride (*shabu*) weighing 205.55 grams.

CONTRARY TO LAW.^[3]

The Information was filed with the Regional Trial Court of San Pedro, Laguna, Branch 31, as Criminal Case No. 1226-SPL. Considering that Ochoa was at large, the case proceeded against appellant only. After he pleaded not guilty at his arraignment, trial on the merits followed.

In his defense, appellant denied the charges against him and alleged that on April 10, 1999 at 8:30 in the evening, he bought cigarettes at a store two houses away from his house. While he stood in front of the store with Chief Barangay Tanod Nesty Filipinia and Carlito Partoza, an unmarked car stopped in front of them. Two men, who turned out to be PO1 Agravante and PO3 Colaler, alighted and asked him if he is the brother of Oyeth Ochoa. He answered in the affirmative but told them that she was residing in Caloocan City. The police officers pointed their guns at Filipinia and Partoza and said, "*Wala kayong pakialam dito.*" Then they handcuffed appellant, blindfolded him and boarded him in the car. Appellant was brought to Camp Gen. Pantaleon Garcia where he was forced to sign a document. Thereafter, he was detained at the municipal jail of San Pedro, Laguna, and was told that he will not be released until they get hold of his sister.

Nesty Filipinia and Carlito Partoza corroborated appellant's testimony. Filipinia claimed that appellant used *shabu* but only occasionally and out of peer pressure. He tried to stop after being told of its harmful effects.

On January 11, 2001, the trial court rendered a decision the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered sentencing accused Reynaldo Remerata y Remoquillo @ Rey to suffer the penalty of *reclusion perpetua*, to pay a fine of P500,000.00 and to pay the costs of suit.

The officer-in-charge of this Court is hereby directed to turn-over the evidence consisting of 2 plastic bags containing 205.55 grams of *shabu* to the Dangerous Drugs Board for its proper disposition.

Considering that accused Gloria Ochoa y Remerata @ Oyeth has remained at-large to date, let the record of this case be sent to the files so as not to clog the criminal docket of this Court and let an alias warrant be issued for her immediate arrest.

SO ORDERED.^[4]

Hence this appeal, raising the following errors:

1. THE TRIAL COURT ERRED IN RELYING ON THE PRESUMPTION OF REGULARITY DESPITE OVERWHELMING *INDICIA* MILITATING AGAINST ITS INVOCATION.
2. THE TRIAL COURT ERRED IN NOT LENDING CREDENCE TO THE TESTIMONY OF DEFENSE WITNESSES, CARLITO PARTOZA AND ERNESTO FILIPINIA, CHIEF BARANGAY TANOD, WHO ALSO ENJOY PRESUMPTION OF REGULARITY.
3. THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED ON GROUND OF REASONABLE DOUBT.^[5]

The appeal is without merit.

It has been held that the testimonies of police officers involved in a buy-bust operation deserve full faith and credit, given the presumption that they have performed their duties regularly. This presumption can be overturned if clear and convincing evidence is presented to prove either of two things: (1) that they were not properly performing their duty, or (2) that they were inspired by any improper motive.^[6] Appellant failed to show that these two conditions were present. He merely enumerated seven “badges of improbability” as to whether the buy-bust indeed took place, saying that these should have militated against the presumption of regularity.

First, appellant claims that Ochoa’s escape from the scene is inexplicable because, with the exception of PO1 Agravante and the confidential informant, the rest of the seven-man team supposedly served as perimeter security to ensure that she and appellant do not escape. Thus, the version of the prosecution is inconsistent with the defense’s theory that Ochoa was not present during the confrontation between appellant and the NARCOM operatives.

We do not agree. The perimeter security provided by the police operatives was not a guarantee for the capture of Ochoa. It must be remembered that the members of the buy-bust team were not from San Pedro and, as such, could not have known every means of egress from the crime scene. On the other hand, Ochoa was presumably more familiar with the vicinity and its streets and alleys, having lived there since childhood.

Second, appellant points out that while PO1 Agravante initially testified that the