

FIRST DIVISION

[G.R. No. 198820, December 10, 2012]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO LAPASARAN Y MEDINILLA a.k.a. "MAO," ACCUSED-APPELLANT.

DECISION

LEONARDO-DE CASTRO, J.:

Before this Court is an appeal of the March 28, 2011 **Decision**^[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 03919^[2] affirming the February 3, 2009 **Joint Decision**^[3] of the Regional Trial Court (RTC), Branch 267, Pasig City (Taguig City Station) in Criminal Cases No. 15081-D-TG and 15082-D-TG, both entitled *People of the Philippines v. Renato Lapasaran y Medilla a.k.a. "Mao,"* and finding appellant Renato Lapasaran guilty beyond reasonable doubt of illegal possession and sale of methamphetamine hydrochloride, in violation of Section 11(3) and Section 5(1), Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

On September 14, 2006, two separate informations^[4] were filed against appellant, charging him of illegal possession and illegal sale of a dangerous drug, which read:

Criminal Case No. 15081-D-TG

That, on or about the 12th day of September 2006, in the [City] of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the [appellant], without being authorized by law to possess any dangerous drug, did, then and there willfully, unlawfully, feloniously and knowingly possess one (1) heat-sealed transparent plastic sachet with markings B("RML-1") containing 0.07 gram of white crystalline substance, which substance was found positive to the test for Methylamphetamine Hydrochloride, also known as *shabu*, a dangerous drug, in violation of the above-cited law.

Criminal Case No. 15082-D-TG

That, on or about the 12th day of September 2006, in the [City] of Taguig, Philippines, and within the jurisdiction of this Honorable Court, the [appellant], without being authorized by law, to sell or otherwise dispose of any dangerous drug, did, then and there willfully, unlawfully, feloniously and knowingly sell, deliver, distribute and give away to PO1 Alexander A. Saez, who acted as poseur[-]buyer, 0.08 gram of white crystalline substance contained in one (1) small heat-sealed transparent plastic sachet with markings A("RML"), for and in consideration of the amount of Php200.00, which substance was found positive to the test for Methylamphetamine Hydrochloride, also known as *shabu*, a dangerous drug, in violation of the above-cited law.

On arraignment, appellant pleaded not guilty for the crimes charged.^[5] After pre-trial was conducted, joint trial on the merits ensued.

The prosecution presented Police Officer (PO) 1 Alexander Saez, PO2 Emmanuel Maglana, and PO2 Victor Flores as witnesses.

The defense, on the other hand, presented Mr. Rexal Merida, Ms. Maria Ferrer, Perfecto Lapasaran, and appellant as witnesses.

After the testimonies of the respective witnesses, the RTC summarized its finding of facts as follows:

[Appellant] was arrested after a buy bust operation was conducted against him at around 5:30 in the afternoon of 12 September 2006 in front of his residence at Block 51, Lot 25 Purok 2, San Felipe Street, Upper Bicutan, Taguig City, Metro Manila after receiving reports from an informant on his supposed illegal drug activities. During the said operation, PO1 Saez acted as the poseur buyer who pretended to be a drug user wherein he used 2 marked P100.00 bills, or the total sum of P200.00. After being introduced by their informant to their “target person” PO1 Saez handed the said bills to the accused and the latter, in turn, purportedly gave a plastic sachet containing suspected shabu which he chose out of the 2 sachets supposedly shown to him. When PO1 Saez gave the pre-arranged signal PO2 Maglana then rushed to the scene to assist him. The accused was then arrested by PO2 Maglana and recovered by PO1 Saez from him were the marked bills as well as another plastic sachet containing suspected shabu. As such [appellant] Lapasaran was then brought to the police headquarters for investigation wherein the arresting officers executed a joint affidavit regarding the incident. Likewise, the accused was duly booked per the Booking and Information Sheet dated 12 September 2006 wherein x x x it was indicated that the [appellant] was arrested at around “5:30 PM, 12 September 2006 in front of Blk 51 lot 25, Purok 2, San Felipe [S]treet, Upper [B]icutan, Taguig [C]ity.”

Incidentally, and prior to the above operation, the police operatives under the Station Anti-Illegal Drugs Special Operation Task Force (SAID- SOTF) of the Taguig City Police Station prepared a Pre-[O]peration Report/Coordination Sheet dated 11 September 2006. On account thereof, the Philippine Drug Enforcement Agency (PDEA) issued a Certificate of Coordination also dated 11 September 2006 certifying that indeed a coordination was made by the personnel of the above unit with their office.

On the same day of the arrest of the [appellant], an inventory was prepared by PO1 Saez regarding the items confiscated from him as shown by the Certificate of Inventory dated 12 September 2006. In connection therewith, a request for laboratory examination was made by P/SInsp. Eufronio Obong, Jr. regarding the above evidence allegedly recovered from the accused, particularly, “(t)wo (2) small heat sealed (t)ransparent plastic sachet[s] containing white crystalline substance suspected to be shabu and marked as follows: “RML” (Item subject of sale) and “RML-1” (item being confiscated from the possession of Renato M. Lapasaran).” Aside therefrom, another request for the conduct of a drug test examination on the accused was submitted by the prosecution.

A Physical Science Report No. D-623-U6S dated 13 September 2007 was then received from P/Insp. Bonifacio wherein her findings were that “(q)ualitative examination conducted on the above-stated specimen (2) heat-sealed transparent plastic sachets) gave POSITIVE result to the tests for the presence of Methylamphetamine hydrochloride, a dangerous drug.”^[6] (Citations omitted.)

The RTC found that the prosecution established the essential requisites of the crimes charged.

It found appellant guilty beyond reasonable doubt of the crimes charged, sentencing him as follows:

WHEREFORE, and the foregoing considered, the Court finds that:

1. [Appellant] Renato Lapasaran y Medinilla is GUILTY beyond reasonable doubt of possessing 0.07 gram of methylamphetamine hydrochloride, or shabu, a dangerous drug, without authority in violation of Section 11, 3rd paragraph, Article II of RA No. 9165, as alleged in the Information in Criminal Case No. 15081-D-TG and he is hereby sentenced to suffer the penalty of imprisonment of TWELVE (12) YEARS AND ONE (1) DAY of *reclusion temporal*, as minimum, up to TWENTY (20) YEARS of *reclusion temporal*, as maximum, to pay a fine of P300,000.00 and to suffer the accessory penalties provided for by law; and,
2. [Appellant] Renato Lapasaran y Medinilla is also GUILTY beyond reasonable doubt of selling 0.08 gram of methylamphetamine hydrochloride, or shabu, a dangerous drug, without authority in violation of Section 5, 1st paragraph, Article II of RA No. 9165, as alleged in the Information in Criminal Case No. 15082-D-TG and he is hereby sentenced to suffer the penalty of life imprisonment, to pay a fine of P500,000.00 and to suffer the accessory penalties provided for by law.

With costs *de officio*.^[7]

On February 25, 2009, appellant, thru his counsel, filed his notice of appeal.^[8]

On August 19, 2009, the Court of Appeals required appellant's counsel to submit his Brief.^[9] However, counsel failed to file the appellant's Brief. The Court of Appeals thus resolved to direct the Public Attorney's Office to appoint a counsel *de officio* to represent appellant.^[10]

Appellant asserts that the prosecution failed to prove beyond reasonable doubt his commission of the crimes charged. He argues that no testimony was presented by the prosecution to attest to the police officer's compliance with Section 21, Article II of Republic Act No. 9165 and to establish that the chain of custody rule had been complied with.^[11]

The Court of Appeals affirmed *in toto* the RTC decision stating:

WHEREFORE, premises considered, the appeal is **DISMISSED** and the assailed Joint Decision dated February 3, 2009 of the RTC, Branch 267, Pasig City (Taguig City Station) in Criminal Case Nos. 15081-D-TG and 15082-D-TG is hereby **AFFIRMED**.^[12]

Hence, this appeal.

Appellant reiterates that there was non-compliance with Section 21, Article II of Republic Act No. 9165. Hence, his lone assignment of error is stated in the following manner:

THE COURT A *QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE BEYOND REASONABLE DOUBT THE CORPUS DELICTI OF THE OFFENSES CHARGED*.^[13]

The appeal must be dismissed for lack of merit.

Sections 5(1) and 11 of Republic Act No. 9165, also known as the Comprehensive Dangerous Drugs Act of 2002, 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.

x x x x

SEC. 11. Possession of Dangerous Drugs. - 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

(5) 50 grams or more of methamphetamine hydrochloride or “shabu”;

x x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu,” or other dangerous drugs such as, but not limited to, MDMA or “ecstasy,” PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

For prosecution for both illegal sale and illegal possession of a dangerous drug, the *corpus delicti* of the offenses is the dangerous drug itself, in this case *shabu*. In *People v. Alcuizar*,^[14] this Court stated that:

The dangerous drug itself, the *shabu* in this case, constitutes the very *corpus delicti* of the offense and in sustaining a conviction under Republic Act No. 9165, the identity and integrity of the *corpus delicti* must definitely be shown to have been preserved. This requirement necessarily arises from the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise. Thus, to remove

any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused-appellant; otherwise, the prosecution for possession under Republic Act No. 9165 fails.^[15] (Citation omitted.)

Thus, Section 21(1), Article II of Republic Act No. 9165 provides for the custody and disposition of the confiscated illegal drugs, to wit:

Section 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof[.]

Section 21(a), Article II of the Implementing Rules and Regulations of Republic Act No. 9165 further provides:

Section 21. Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

a) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]

From the foregoing, it may be gleaned that to establish the chain of custody in a buy-bust operation is as follows: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the

investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.^[16]

We agree with the finding of the Court of Appeals. A perusal of the records of the case revealed that after the dangerous drugs were seized from appellant, the same were marked “RML” and “RML-1” by the buy-bust team. PO1 Saez and PO2 Maglana then turned over “RML” and “RML-1” to investigating officer P/SInsp. Obong, who in turn, delivered the same to the PNP Crime Laboratory for examination at 10:50 p.m. of September 12, 2006. Based on the Physical Science Report No. D-623-06S, timed, dated and signed at 12:50 a.m., September 13, 2006 by Forensic Chemist P/SInsp. Bonifacio, “RML” and RML-1” tested positive for the presence of *shabu*.^[17] Lastly, both sachets were then presented and turned over by P/SInsp. Bonifacio to the court. The Certificate of Inventory,^[18] request for laboratory examination^[19] and the consequent testimonies in Court leaves no doubt in the Court’s mind that the chain of custody rule was duly followed.

Moreover, this Court has often said that the prosecution of cases involving illegal drugs depends largely on the credibility of the police officers who conducted the buy-bust operation. It is fundamental that the factual findings of the trial courts and those involving credibility of witnesses are accorded respect when no glaring errors, gross misapprehension of facts, or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds an even more stringent application where said findings are sustained by the Court of Appeals.^[20]

It is equally settled that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.^[21] Appellant in this case failed to present evidence of ill motive on the part of the police officers who conducted the buy-bust operation to have implicated appellant.

With respect to the penalties imposed by the courts *a quo*, the Court finds these proper.

Section 11, Article II of Republic Act No. 9165, penalizes the crime of illegal possession of less than five grams of *shabu* with imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00).

Thus, the RTC and the Court of Appeals properly penalized appellant with imprisonment of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum, as well as a fine of P300,000.00, since the said penalties are within the range of penalties prescribed by the above provision.

Section 5, Article II of Republic Act No. 9165 penalizes the crime of unauthorized sale of *shabu*, regardless of the quantity and purity thereof, with life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00).

Hence, the penalty of life imprisonment and a fine of P500,000.00 was correctly imposed by the RTC and the Court of Appeals for illegal sale of *shabu*.

WHEREFORE, the appeal is **DENIED**. The March 28, 2011 Decision of the Court of Appeals in CA-G.R. CR.-H.C. No. 03919 is **AFFIRMED**.

SO ORDERED.

[1] *Rollo*, pp. 2-23; penned by Associate Justice Remedios A. Salazar-Femando with Associate Justices Celia C. Librea-Leagogo and Michael P. Elbinias, concurring.

[2] Entitled *People of the Philippines v. Renata Lapasarany Medinilla a.k.a. "Mao."*

[3] CA *rollo*, pp. 13-28; penned by Judge Raul Bautista Villanueva.

[4] Records, pp. 1-2 and 16-17.

[5] Id. at 22 and 23.

[6] CA *rollo*, pp. 19-20.

[7] Id. at 28.

[8] Records, pp. 167-168.

[9] CA *rollo*, p. 34.

[10] Id. at 38.

[11] Id. at 46-65.

[12] *Rollo*, p. 23.

[13] CA *rollo*, p. 48.

[14] G.R. No. 189980, April 6, 2011, 647 SCRA 431.

[15] Id. at 437.

[16] *Ampatuan v. People*, G.R. No. 183676, June 22, 2011, 652 SCRA 615, 629-630.

[17] Records, p. 9.

[18] Id. at 13.

[19] Id. at 8.

[20] *Ampatuan v. People*, supra note 16 at 627-628.

[21] *People v. Dela Cruz*, G.R. No. 177324, March 30, 2011, 646 SCRA 707, 726.
