



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 231839

Present:

- versus -

BERSAMIN, C.J.,
DEL CASTILLO,
JARDELEZA,
GESMUNDO, and
CARANDANG, JJ.,

MICHAEL RYAN ARELLANO y
NAVARRO,
 Accused-Appellant.

Promulgated:

JUL 10 2019

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DECISION

BERSAMIN, C.J.:

The version and evidence of the State must be free of reasonable doubt to warrant the conviction of the accused for the crime charged against him. Any doubt must be resolved in favor of the accused in view of the presumption of his innocence.

The Case

Through this appeal, the accused-appellant assails the affirmance of his conviction for violations of Section 5, Section 11 and Section 12, all of Republic Act No. 9165 (Comprehensive Dangerous Acts Law of 2002) under the decision promulgated on November 9, 2016 by the Court of Appeals (CA).¹ He had been found and pronounced guilty beyond reasonable doubt of said crimes by the Regional Trial Court (RTC), Branch 13, in Laoag City, Ilocos Norte through the judgment rendered on September

¹ *Rollo*, pp. 2-20; penned by Associate Justice Ramon R. Garcia, with the concurrence of Associate Justice Leoncia R. Dimagiba and Associate Justice Marie Christine Azcarraga-Jacob.

11, 2015 in Criminal Case No. 15491, Criminal Case No. 15492, and Criminal Case No. 15493.²

Antecedents

The informations charged the accused-appellant thusly:

Criminal Case No. 15491

That on or about the 18th day of April 2013, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously had in his possession, custody and control, THREE (3) heat sealed transparent plastic sachets containing Methamphetamine Hydrochloride locally known as “Shabu” with an aggregate weight of 0.2143 gram[s], FOUR (4) open transparent plastic sachets containing white residues, beli[e]ve[d] to be Methamphetamine Hydrochloride, without any license or authority, in violation of the aforesaid law.

CONTRARY TO LAW.³

Criminal Case No. 15492

That on or about the 18th day of April 2013, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur buyer One (1) piece plastic sachet containing Methamphetamine Hydrochloride locally known as “Shabu” with an aggregate weight of 0.1780 gram, a dangerous drug, without any license or authority, in violation of the aforesaid law.

CONTRARY TO LAW.⁴

Criminal Case No. 15493

That on or about the 18th day of April 2013, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously had in his possession, custody and control, TWO (2) folded aluminum foils, a drug paraphernalia, without any license or authority, in violation of the aforesaid law.

CONTRARY TO LAW.⁵

² CA *rollo*, pp. 40-54; penned by Presiding Judge Philip G. Salvador.

³ Records, p. 1.

⁴ *Id.*

⁵ *Id.*

Accused-appellant pleaded not guilty to the offenses charged. Trial on the merits then ensued.

The factual and procedural antecedents was rendered by the CA in its assailed decision as follows:

On April 18, 2013, a confidential informant went to the Provincial Anti-Illegal Drugs Special Operations Task Group (PAIDSOTG) office and gave a tip regarding the illegal drug activities of appellant. At around 9:30 a.m. of the same day, Action Officer Police Inspector Jeffrey Taccad summoned PO3 Dalere and PO2 Agtang, PO3 John Dacauang, PO1 Salacup, and PO1 Sarandi for a briefing on the conduct of a buy-bust operation against appellant. During the briefing, the confidential informant made arrangement with appellant for the sale of shabu worth ₱1,000. Appellant agreed and told the confidential informant to meet at Brgy. Buyon, Bacarra, Ilocos Norte. PO3 Dalere was designated as a poseur-buyer upon which he was given a ₱1,000 bill with the initials "JMBD" to be used as the buy-bust money. A pre-operation Police Blotter was entered by PO3 Dalere.

The team proceeded to Brgy. Buyon, Bacarra, Ilocos Norte. Upon arrival thereat, appellant called the confidential informant's cellphone instructing the latter to proceed to Room 11 of Farmside Hotel located at 49-B, Raraburan, Laoag City. Unknown to appellant, the call was received by PO3 Dalere who then informed Action Officer Taccad about the change of venue.

Upon arrival at the Farmside Hotel, PO3 Dalere and the confidential informant went to Room 11. Appellant was already standing in front of the room. The confidential informant introduced PO3 Dalere as a friend who was going to buy shabu. Appellant asked PO3 Dalere how much he was going to buy. PO3 Dalere replied "*₱1,000.00 only, pare*". Appellant invited them to enter the room. PO3 Dalere gave to appellant the ₱1000 bill which the latter put in his right pocket. Appellant then picked one (1) plastic sachet containing white crystalline substance on top of the bed and handed it to PO3 Dalere. PO3 Dalere made a missed call to PO2 Salacup, which was the pre-arranged signal to the buy-bust team that the sale had already been consummated. The team entered the room. PO2 Salacup then arrested and conducted a body search on appellant. The ₱1000 buy-bust money was recovered from appellant's right pocket. All the other pieces of evidence found on top of the bed were gathered. When the barangay officials arrived, PO3 Dalere placed his initials "JMBD" on the plastic sachet of shabu bought from appellant including the other plastic sachets of shabu, aluminum foil and a lighter found on top of the bed. In the presence of the barangay officials, the police officers also took photographs and made a Certificate of Inventory of the seized items.

Appellant was then brought to PAIDSOTG office. A letter-request for laboratory examination addressed to the Ilocos Norte Police Provincial Crime Laboratory was prepared to determine the presence of any form of dangerous drugs in the items seized from appellant. PO3 Dalere personally delivered the letter-request and the seized items to the PNP Crime Laboratory which was received by PO3 Padayao. The specimens were then handed to Forensic Chemist Amiely Ann Navarro.

In Chemistry Report No. D-031-2013-IN dated April 18, 2013, Forensic Chemist Navarro found that that plastic sachet appellant sold to PO3 Dalere Hacutina, with the markings "JMBD-1" weighing 0.0876 gram, as well as the three (3) plastic sachets recovered from appellant which were marked as "JMBD-2 to JMBD-4", were likewise positive for Methamphetamine Hydrochloride or shabu. Two (2) opened transparent plastic sachets containing white residue marked as "JMBD-5" and "JMBD-7" were also found positive for shabu.

For the defense, appellant was presented as the lone witness.

Appellant testified that at around 9:00 a.m. on April 18, 2013, he and a female acquaintance were at Room 11 of the Farmside Hotel located at Brgy. Raraburan, Laoag City. When they were about to check out at 12:00 noon, someone knocked at the room. He peeped and saw a man at the door. He asked the man "*Why boss?*" but there was no answer. The man tried to forcibly enter the room but he could not do so because there was a door stopper. The man's companion pointed a gun at him saying "*Buksan mo, putang ina mo*". Another man entered through the window and unlocked the door. When the men were inside the room, they immediately grabbed him. He asked them "*Why boss, why bossing?*" but there was no answer. They handcuffed him and searched his pocket from which they were able to get his cellphone and money. They pulled him outside and they kept hitting his stomach telling him to bring it out. They brought him back inside the room and was told "*These are the things that we have taken from you, it's plenty*". He answered "*Ana nga ibagbagam a naala yo kanyak?*" (*What are you saying that you got some things from me?*). When the barangay officials arrived, he begged for their help but to no avail. He was then brought to the PAIDSOTG office. While in detention, he asked P/Insp. Taccad the reason for his arrest and detention but there was no response. When he kept crying and pleading, P/Insp. Taccad told him "*Pasensya kan, biktima ka lang.*" On cross-examination, he was asked whether he has filed any criminal nor administrative complaint against the police officers, he answered in the negative.⁶

On September 11, 2015, the RTC rendered judgment finding the accused-appellant guilty as charged, disposing:

WHEREFORE, judgment is hereby rendered finding accused Michael Ryan Arellano y Navarro GUILTY beyond reasonable doubt on all the charges and is therefore sentenced as follows:

1. for illegal possession of shabu with an aggregate weight of 0.2143 gram as charged in Criminal Case No 15491, to suffer the indeterminate penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY to FOURTEEN (14) YEARS and to pay a fine of Php300,000.00;
2. for illegal sale of shabu as charged in Criminal Case No. 15492, to suffer the penalty of LIFE IMPRISONMENT and to pay a fine of Php500,000.00.

⁶ Rollo, pp. 7-8.

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3. for illegal possession of drug paraphernalia as charged in Criminal Case No. 15493, to suffer the indeterminate penalty of imprisonment of SIX (6) MONTHS and ONE (1) DAY as minimum to TWO (2) YEARS FOUR (4) MONTHS and ONE (1) DAY as minimum and to pay a fine of Php10,000.00.

x x x x

SO ORDERED.⁷

The accused-appellant challenged the finding of guilty by the RTC, insisting that the apprehending officers had committed irregularities in the performance of their duties; and that the State had not established the identity and integrity of the seized items.

As mentioned, the CA affirmed the convictions, decreeing:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The Decision dated September 11, 2015 of the Regional Trial Court, Branch 13, Laoag City, Ilocos Norte is **AFFIRMED**.

SO ORDERED.⁸

The CA observed that the Prosecution had sufficiently proved beyond reasonable doubt the accused-appellant's guilt for the illegal sale and the illegal possession of illegal drugs as well as the illegal possession of drug paraphernalia by showing through its documentary and testimonial evidence all the elements of the crimes charged; that the testimonies of poseur-buyer PO3 Dalere and his back-up officer PO2 Salacup were entitled to full credence considering that the physical evidence on record supported the same; that there had been no break in the chain of custody of the confiscated drugs and paraphernalia; that the integrity and evidentiary value of the *corpus delicti* had been duly preserved; and that the accused-appellant's defenses of denial and frame-up did not prevail because there was no evidence to substantiate them.

Hence, this appeal.

Accused-appellant filed a notice of appeal dated November 25, 2016 with the Court of Appeals. The Office of the Solicitor General (OSG), representing the People of the Philippines, filed a manifestation and motion⁹ dated October 26, 2017 that the appellee's brief would be adopted as its supplemental brief in the case. Meanwhile, accused-appellant, represented

⁷ CA rollo, pp. 53-54.

⁸ Rollo, p. 19.

⁹ Id. at 33.

by the Public Attorney's Office (PAO), filed his supplemental brief¹⁰ dated December 27, 2017.

In his supplemental brief, accused-appellant called out the material inconsistencies in the testimonies of the police operatives, which lends credibility to his defense of denial and frame-up. He asserted that there were significant discrepancies in the testimonies of PO3 Dalere and the other police operatives regarding the presence of a girl in the hotel room where he was allegedly apprehended. Moreover, accused-appellant held that the so-called confiscated drug paraphernalia tested negative for dangerous drugs, which only proved that such were not intended for smoking or consuming any illegal drugs.

Ruling of the Court

The appeal is meritorious.

At the outset, the Court reiterates the settled rule that the factual findings of the trial court, its calibration of the testimonies of the witnesses, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded respect, if not conclusive effect. This is truer if such findings were affirmed by the appellate court. When the trial court's findings have been affirmed by the appellate court, said findings are generally binding upon the Court¹¹ save in settled exceptions such as: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the findings are grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the CA is based on misapprehension of facts; (5) when the CA, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (6) when the findings of fact are conclusions without citation of specific evidence on which they are based; (7) when the CA manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (8) when the findings of fact of the CA are premised on the absence of evidence and are contradicted by the evidence on record.¹²

Upon review, the Court has determined that the present case squarely falls under some of these exceptions.

The idea behind according greater weight to the credibility of the police officers in most drugs cases rests not only upon the entrapping

¹⁰ Id. at 43-57.

¹¹ *People v. Prajes*, G.R. No. 206770, April 02, 2014, 720 SCRA 594, 601, citing *People v. Vitero*, G.R. No. 175327, April 3, 2013, 695 SCRA 54, 64-65.

¹² Id., citing *People v. Omictin*, G.R. No. 188130, July 26, 2010, 625 SCRA 611, 619.

officers' positive and straightforward testimonies but more so on the presumption of regularity in the performance of their duties. Nevertheless, the presumption can be rebutted by contrary evidence. And when the presumption is discarded and weighed against the requirement of the law for convicting an accused based no less than on proof beyond reasonable doubt, the balance should tilt in favor of the accused. The primacy of the constitutional presumption of innocence must also be upheld over the presumption of regularity in the performance of public functions, particularly when irregularities visibly attended the case at hand.

A common precept that we often downplay is the defense of frame up. This defense is viewed with disfavor because it has become a common excuse of an accused that can easily be fabricated and is a regular ploy in prosecutions for the illegal sale and possession of dangerous drugs. While we are aware that in some cases, law enforcers resort to the practice of planting evidence in order to, *inter alia*, harass, nevertheless the defense of frame-up in drug cases requires strong and convincing evidence because of the presumption that the police officers had performed their duties regularly and that they acted within the bounds of their authority.¹³

The Joint Affidavit¹⁴ of the police officers who took part in the buy-bust operation and apprehension of accused-appellant, as well as their testimonies during the trial were found after trial and appellate review as the true story. On these bases, both court convicted accused-appellant of the crimes charged. There was little, if at all, significant discussion devoted on accused-appellant's claim that he was at the Farmside hotel with a female companion on that fateful day. In the police officers' joint affidavit as well as during their direct examinations, there was no mention at all of such female companion. The only instance when such fact came to be acknowledged by the Prosecution was during the course of the cross examination of PO3 Dalere, the poseur-buyer, as follows:

X X X X

Q: It is not also true Mr. Witness that upon entering Room 11 there was female person named Jan Ballesteros who was with the accused?

X X X X

A: I saw a female inside the room, ma'am.

Q: This female person you do not know the name?

A: Yes ma'am.¹⁵

X X X X

¹³ See *People v. Mamaril*, G.R. No. 171980, October 6, 2010, 632 SCRA 369, 377.

¹⁴ Records, pp. 3-5.

¹⁵ TSN, May 27, 2014, p. 94.

Q: Did you ask her name?
 A: No, your Honor.
 Q: At the INPPO Mr. Witness, do you confirm that you brought this female who was inside the room of the accused after the arrest of the accused?
 A: I cannot recall, ma'am.
 Q: What you only recall was that only the accused was the one whom you brought to the INPPO after his arrest?
 A: Yes, ma'am.¹⁶

x x x x

Q: And present inside the room were yourself, the confidential informant, one (1) female and the accused, do you confirm that?
 A: Yes, ma'am.
 Q: Did you notice where exactly the room was the female staying?

x x x x

A: I cannot recall, ma'am.¹⁷

x x x x

Q: On top Mr. Witness, you were to stand inside the room for at least one hour?
 A: Yes, ma'am¹⁸

x x x x

During PO3 Dalere's re-direct examination, he was asked what happened to accused-appellant's female companion. He merely answered that the female companion remained in the room even after the barangay officials arrived in the room. He added no other details because he was supposedly preparing the inventory. On re-cross examination, the following were established:

Q: You do not recall exactly if that woman whose name you do not recall was seated in the bed wherein you stated there were items on the bed?
 A: No, ma'am.
 Q: What do you mean by "no" you do not recall if she was seated on the bed?
 A: Yes, your Honor.
 Q: However, you confirmed Mr. Witness that when the alleged accused handed you a plastic sachet which you said allegedly contained shabu, this woman was present and she witnessed the handing of the shabu to you?¹⁹

¹⁶ Id. at 95.
¹⁷ Id. at 97.
¹⁸ Id. at 99.
¹⁹ Id. at 104-105.

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x x x x

- Q: Nevertheless, Mr. Witness, this female person, no question was asked of what was she doing inside the room?
- A: None, ma'am.
- Q: And no case was filed to this companion of the accused inside the room, this woman?
- A: None, ma'am.²⁰

During his direct examination, PO2 Salacup entirely ignored the presence of the woman companion of accused-appellant during the buy-bust operation:

- Q: Aside from you, Officer Dalere, Officer Sarandi, who else entered the room?
- A: Inspector Taccad, Inspector David, sir.²¹

x x x x

- Q: How about the informant, when you were handcuffing the accused?
- COURT: Already answered.
- A: He was inside aside from the informant, sir.
- Q: What was he doing at that time?
- A: I cannot recall, your Honor.
- Q: Aside from the informant, Michael Arellano, you and Dalere, when you were handcuffing, were there other person[s] inside?
- A: None, sir.²²

Clearly, the police officers were inconsistent in their testimonies. The presence of the accused-appellant's female companion inside a small room was a detail that could simply be overlooked or ignored. Moreover, the female companion was never bodily searched, or questioned, or invited to the police station for investigation. The police officers simply dismissed her presence as inconsequential to the case at hand. They did not offer any explanation as regards the grave omission and even attempted to conceal such fact by hiding behind the presumption or regularity. While we submit that petitioner's allegation of frame-up is evidentiary in nature and are matters for his defense, which must be presented and heard during the trial, we cannot simply turn a blind eye to the incongruous testimonies of the police officers and affirm the findings of the courts below.

While it is true that the accused-appellant could have secured the affidavit of his female companion to bolster his claim of having been framed-up, the same explanation can be ascribed as to why accused-appellant opted not to file any cases against the police officers who participated in the so-called buy-bust operation: fear of reprisal. And as the

²⁰ Id. at 106.

²¹ Id. at 127.

²² Id. at 128.

courts find fault that such inaction from accused-appellant was contrary to human experience, the very same human experience would prompt us to believe that accused-appellant was impelled by his trepidation considering that he was under police custody since his arrest. We cannot afford to be so naïve as to afford the police officers all the benefits of our doubt and condemn an accused whose security is at the mercy of the very same police officers.

It was not very prudent of the police officers to just release accused-appellant's female companion without first ascertaining what her involvement in the whole transaction or trade was. Such inaction by the police officers was inherently wrong in so many levels. Their indifference to the presence of the lady was suspicious and their failure to even routinely ask for the name and personal details of the said female companion was highly curious.

Accused-appellant's defense of frame up consequently stands on firmer ground than the inconsistent statements and irregular acts of the police officers. This Court will not skirt the issue of the police officers' highly suspicious and ominous demeanor by relying on the presumption of regularity. This presumption, it must be stressed, is not conclusive. Any taint of irregularity affects the whole performance and should make the presumption unavailable. The presumption, in other words, obtains only when nothing in the records suggest that the law enforcers involved deviated from the standard conduct of official duty as provided for in the law. But where the official act in question is irregular on its face, as in this case, an adverse presumption arises as a matter of course.²³ The presumption of regularity in the performance of official duty cannot by itself overcome the presumption of innocence nor constitute proof beyond reasonable doubt.²⁴

Granting for the sake of argument that the chain of custody of the illegal drugs was substantially complied with by the police officers, this does not excuse the leniency of the lower courts in determining the veracity of accused-appellant's defense. This irregularity committed by the police officers militates against the prosecution's case because it not only puts in question the validity of the buy-bust operation by the very officers who are supposedly adept both in the requirements of the law and the proper execution of their operations, but also discredit the identity of the *corpus delicti*.

Lastly, it is hornbook doctrine that if the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with

²³ *People v. Abetong*, G.R. No. 209785, June 4, 2014, 725 SCRA 304, 317-318, citing *People v. Capuno*, G.R. No. 185715, January 19, 2011, 640 SCRA 233, 251.

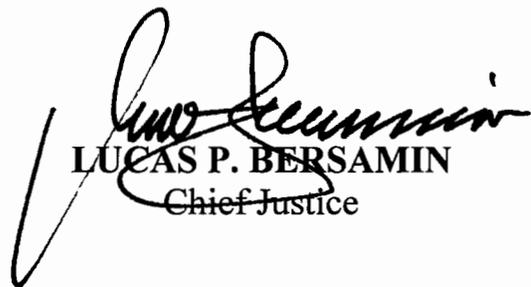
²⁴ *People v. Tan*, G.R. No. 133001, December 14, 2000, 348 SCRA 116, 126.

his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction.²⁵ Based on our review and consideration of the facts and the records of this case, we are unconvinced as to the culpability of accused-appellant for the crimes charged. As such, we are constrained to acquit herein accused-appellant.

WHEREFORE, the appeal is **GRANTED**. The Decision of the Court of Appeals promulgated on November 9, 2016 is **REVERSED** and **SET ASIDE**. Accused-appellant Michael Ryan Arellano y Navarro is hereby **ACQUITTED** based on reasonable doubt.

The Director of the Bureau of Prisons is ordered to immediately **RELEASE** accused-appellant from custody, unless he is being held for some other lawful cause, and to **INFORM** this Court, within five (5) days from receipt of this Decision, of the date accused-appellant was actually released from confinement.

SO ORDERED.



LUCAS P. BERSAMIN
Chief Justice

WE CONCUR:



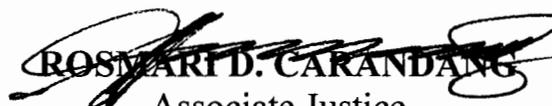
MARIANO C. DEL CASTILLO
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice



ROSMARI D. CARANDANG
Associate Justice

²⁵ Id., at 127.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice