



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. 233544

Present:

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

- versus -

Promulgated:

ALBERTO GONZALES y VITAL,
 Accused-Appellant.

MAR 25 2019

X-----

DECISION

CARANDANG, J.:

This is an appeal¹ from the February 28, 2017 Decision² of the Court of Appeals (CA) finding accused-appellant Alberto Gonzales y Vital (Alberto) guilty beyond reasonable doubt of violating Sections 5 and 11 of Article II of R.A. No. 9165 (Dangerous Drugs Act of 2002), the dispositive portion of which reads:

WHEREFORE, the appeal is **DENIED**. The assailed Decision dated 4 August 2015 of the Regional Trial Court of Angeles City, Branch 57, in Criminal Case Nos. DC-08-1292 & 1293, is hereby **AFFIRMED**.

* On official business.

¹ Rollo, pp. 11-13, Notice of Appeal.

² Penned by Associate Justice Romeo F. Barza (now Presiding Justice of the Court of Appeals) with Presiding Justice Andres B. Reyes, Jr. (now Member of the Court) and Associate Justice Renato C. Francisco, concurring; id. at 2-9.

SO ORDERED.³

The Antecedents

Alberto was charged with violation of Sections 5 and 11, Article II of R.A. 9165, in two (2) separate Informations⁴ which respectively read as follows:

CRIMINAL CASE NO. DC 08-1292

That on or about the 19th day of June 2008, in the municipality of Mabalacat, province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not having been lawfully authorized, for and in consideration of the amount of Php200.00, did then and there willfully, unlawfully and feloniously sell and deliver to a poseur buyer one (1) small size transparent plastic pack containing methylamphetamine hydrochloride weighing **EIGHT HUNDRED NINETY-SIX TEN THOUSANDTHS OF A GRAM** (0.0896 g), more or less, a dangerous drug.

Contrary to law.⁵

CRIMINAL CASE No. DC 08-1293

That on or about the 19th day of June, 2008, in the Municipality of Mabalacat, Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without having been lawfully authorized, did then and there willfully, unlawfully, and feloniously have in his possession custody and control one (1) pc. heat-sealed transparent plastic sachet containing Methylamphetamine Hydrochloride with marking "DSD-2" with a weight of **ONE THOUSAND ONE HUNDRED TEN TEN THOUSANDTHS** (0.1110g) of a **GRAM**, a dangerous drug.

Contrary to law.⁶

According to the prosecution witnesses, on June 19, 2008, at around 8:00 p.m., a civilian informant went to the Mabalacat Police Station and reported to PO3 Dindo Dizon (PO3 Dizon) that a certain "Beto," who was later on identified as Alberto, is engaged in illegal drug trade in Barangay Camachiles, Mabalacat, Pampanga.⁷ PO3 Dizon went to the house of Alberto with a confidential asset and found him standing in front of his house. They approached him and told him that they are going to buy ₱200.00 worth of *shabu*. Alberto then asked the confidential asset to whom he will give the *shabu* since PO3 Dizon was more or less three (3) meters away. Alberto then gave the *shabu* (0.0896 grams) (first sachet) to PO3

³ Id. at 9.

⁴ RTC records, pp. 1-3, Information.

⁵ Id. at 1.

⁶ Id. at 3.

⁷ CA rollo, pp. 27-28.

Dizon and, in exchange, the latter gave two (2) pieces of ₱100.00 bills. PO3 Dizon then introduced himself as a police officer. Alberto ran towards his house but PO2 Romeo Yambao (PO2 Yambao), a back-up member of the operation allegedly apprehended him and confiscated from him the ₱200.00 marked money from his pocket and another plastic sachet containing suspected *shabu* (0.1110 grams) (second sachet).⁸ While conducting a search within the vicinity of Alberto's house, PO2 Yambao saw two (2) male individuals, later on identified as Rogelio Quiambao y Ramos (Rogelio) and Ernesto Rosales y Alejaga (Ernesto), hiding behind a door. When requested to go out, PO2 Yambao found two (2) pieces of small plastic sachet containing suspected *shabu* on the floor⁹ but the charges against Rogelio and Ernesto before the prosecutor's office were allegedly dismissed.¹⁰

The police called the barangay captain in the area to witness the inventory and prepared the confiscation receipt¹¹ for the confiscated items. Alberto was then brought to the police station where PO3 Dizon marked the first sachet as "DSD-1" and the second sachet as "DSD-2." They prepared a Joint Affidavit of Arrest,¹² Confiscation Receipt,¹³ request for laboratory examination,¹⁴ and Barangay Certification¹⁵ in the presence of Sonny Galisonda, a representative from the media who participated in the operation. Chemistry Report No. D-213-2008 confirmed that the contents of the plastic sachets confiscated from Alberto are Methamphetamine Hydrochloride or *shabu*.¹⁶

In his defense, Alberto claimed that at the time of the incident, he was sleeping with his second wife Janette Catacutan in their house when four (4) individuals went inside and took him out of the house while they searched his belongings. No barangay officials assisted the search of his house. After 20 minutes of searching, he was handcuffed and brought to the police station where he saw two (2) plastic sachets and two (2) pieces of ₱100.00 bill placed on a table that were later used as evidence against him.¹⁷

Ruling of the RTC

After trial, the RTC of Angeles City, Branch 57 rendered its Decision¹⁸ dated August 4, 2015, the dispositive portion of which reads:

⁸ Id. at 28.

⁹ RTC records, p. 6; TSN dated June 19, 2012, p. 9.

¹⁰ TSN dated February 12, 2013, pp. 6-7.

¹¹ RTC records, p. 7.

¹² Id. at 6.

¹³ Id. at 7.

¹⁴ Id. at 10.

¹⁵ Id. at 8.

¹⁶ Id. at 11.

¹⁷ CA *rollo*, p. 49.

¹⁸ Penned by Judge Omar T. Viola; id. at 45-52.



WHEREFORE, the prosecution having established its case against the accused and having proven the guilt of the accused beyond reasonable doubt, the Court hereby finds **ALBERTO GONZALES Y VITAL GUILTY** beyond reasonable doubt of the crimes as alleged in the two Informations and hereby sentences him to suffer the penalty of **LIFE IMPRISONMENT** in **Criminal case no. DC 08-1292 for Violation of Section 5, R.A. 9165 and a fine of Php 500,000.00.**

Accused **ALBERTO GONZALES Y VITAL** is also sentenced to suffer the penalty of imprisonment of **TWELVE YEARS and ONE DAY as minimum to FOURTEEN YEARS as maximum and a fine of Php 300,000.00 for Violation of Section 11, R.A. 9165 in criminal case no. DC 08-1293.**

SO ORDERED.¹⁹

In convicting Ramon, the RTC gave credence to the testimonies of poseur buyer, PO3 Dizon, and his back-up, PO2 Yambao. The sale of the *shabu* and the marked money proved the transaction. The RTC found that Alberto made a general denial that he never committed the crime but failed to give any plausible reason why the police would plant evidence against him.²⁰

On appeal,²¹ Alberto impugned the findings of the RTC and raised the following errors:

I

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE [ACCUSED]-APPELLANT OF THE CRIMES CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH EVERY LINK IN THE CHAIN OF CUSTODY.

II

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE [ACCUSED]-APPELLANT OF THE CRIMES CHARGED DESPITE THE INCREDIBLE AND INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES.

III

THE COURT A QUO GRAVELY ERED (sic) IN DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE OF DENIAL.²²

¹⁹ CA *rollo*, p. 52.

²⁰ *Id.*

²¹ *Id.* at 23-43.

²² *Id.* at 25.



Alberto argued that the *corpus delicti* was not proven given the inconsistent testimonies of the prosecution witnesses and their failure to establish the continuous and unbroken chain of custody of evidence in compliance with the requisites of Section 21, R.A. No. 9165. He asserted that the integrity of the seized items was compromised because the apprehending officers did not immediately conduct marking and inventory-taking. The seized items were transported to Mabalacat Police Station despite the absence of commotion. Thus, the possibility of switching or planting of evidence is not remote.²³ He averred that the barangay coordination letter was prepared by the arresting officers and made only after the arrest just to make it appear that there was an initial coordination when in fact there was none.²⁴ Likewise, there was no representative from the Department of Justice (DOJ) during the inventory and no photos were taken after the arrest or, at the least, during the marking and inventory.²⁵

Ruling of the CA

In a Decision²⁶ dated February 28, 2017, the CA denied Alberto's appeal and affirmed his conviction. In affirming Alberto's conviction, the CA held that PO3 Dizon and PO2 Yambao's positive identification of Alberto must prevail over the latter's uncorroborated and weak defense of denial. The CA found that the unbroken chain of custody of the sachets of *shabu* seized from Alberto was established by the prosecution through the testimonies of PO3 Dizon and PO2 Yambao from the time of their confiscation and delivery to the crime laboratory for examination until their presentation in court.²⁷ Hence, this appeal.

Alberto filed a Notice of Appeal²⁸ on March 17, 2017. The Court notified the parties to file their supplemental briefs. However, appellant opted not to file a supplemental brief since he believes that he had squarely and sufficiently refuted all the arguments of the OSG in his appellant's brief.²⁹ For its part, the OSG manifested that it will not file a supplemental brief since its appellee's brief filed in the CA had already exhaustively discussed its arguments.³⁰

Issue

The issue to be resolved in this case is whether the evidence of the prosecution was sufficient to convict Alberto of the alleged sale and

²³ Id. at 32.

²⁴ Id. at 35.

²⁵ Id. at 36.

²⁶ *Rollo*, pp. 2-9.

²⁷ Id.

²⁸ Id. at 11.

²⁹ *CA rollo*, p. 28.

³⁰ Id. at 33.



possession of methamphetamine hydrochloride or *shabu*, in violation of Sections 5 and 11, respectively, of R.A. No. 9165.

Ruling of the Court

The appeal is meritorious.

As a rule, the trial court's findings of fact are entitled to great weight and will not be disturbed on appeal. However, this rule does not apply where facts of weight and substance have been overlooked, misapprehended or misapplied in a case under appeal.³¹ After a judicious examination of the records, this Court found material facts and circumstances that the lower courts had overlooked or misappreciated which, if properly considered, would justify a conclusion different from that arrived by the lower courts.

We recognize that buy bust operations are susceptible to abuse. The Court has acknowledged that “*in some instances[,] law enforcers resort to the practice of planting evidence to extract information or even to harass civilians.*”³² Thus, the Court must be extra vigilant in trying drugs cases. The presumption that the regular duty was performed by the arresting officer cannot prevail over the constitutional presumption of innocence of the accused.³³

In this case, the Court is convinced that no buy bust operation occurred. The collective testimonies of the prosecution witnesses, PO3 Dizon and PO2 Yambao, failed to present a coherent narration of how the supposed buy bust operation was conducted. This Court notes the inconsistencies in the testimonies of the prosecution witnesses, as pointed out by Alberto, which cast serious doubt on the truthfulness of their allegations.

Contrary to the finding of the lower courts, PO2 Yambao's testimony failed to corroborate PO3 Dizon's testimony on material and substantial points. PO3 Dizon claims that PO2 Yambao acted as his back-up and was the officer who allegedly accosted Alberto and confiscated the second sachet of *shabu* and the marked money as can be seen in PO3 Dizon's direct examination quoted below:

Q **Who was able to catch him?**

A **The back up, Sir**

Q And, who is this back up

A **PO1 Romeo Yambao, Sir.**



³¹ *People v. Robles*, G.R. No. 177220, April 24, 2009, 586 SCRA 647, 654.

³² *People v. Bintaib*, G.R. No. 217805, April 2, 2018.

³³ *Id.*

Q How about you, Mr. Witness, when this certain "Beto" ran inside the garage of his house, what did you do?

A **I followed him to the direction where he ran but it was my companion who arrested him, Sir.**

Q How was [sic] this happened?

A **He was cornered by Officer Yambao and he was able to confiscate from him the P200.00 bills, Sir.**³⁴ (Emphasis supplied)

Noticeably, in PO3 Dizon's subsequent testimony almost a year after his initial direct examination, he retracted his earlier statement and claimed that it was him who apprehended Alberto without elaborating further:

Q In your direct testimony, who was able to apprehend the accused Alberto Gonzales?

A **Me, sir.**³⁵ [Emphasis supplied.]

For the Court, the sudden deviation of PO3 Dizon's account of the buy bust operation from the testimony he previously gave during his extensive direct examination, without offering any explanation, makes his statements doubtful.

PO2 Yambao's testimony is in complete contrast to PO3 Dizon's initial testimony. PO2 Yambao alleged that it was PO3 Dizon who arrested Alberto, ordered the latter to remove the contents of his pocket, and confiscated the marked money and the second sachet of *shabu* as reflected in the exchange quoted below:

Q How do you know that the transaction was consummated?

A I saw the hand gestures, sir.

Q What happened next?

A PO3 Dizon executed the pre-arranged signal, sir.

Q Upon seeing the pre-arranged signal, what happened next?

A I immediately went to the aid of PO3 Dizon to assist him for the arrest of the suspect, sir.

Q **Were you the one who personally arrested the suspect?**

A **No sir, it was PO3 Dizon.**

Q How far were you from PO3 Dizon when he arrested the suspect?

A I was just on his side, sir.

³⁴ TSN dated June 2, 2009, p. 5.

³⁵ TSN dated August 17, 2010, p. 12.

- Q What was the result of the arrest?
A **PO3 Dizon ordered the shelling out of the contents of the pocket of the suspect and he saw the marked money, sir.**
- Q **Who took those marked money?**
A **PO3 Dizon, sir.**
- Q Aside from the marked money, what else was recovered from the possession of the accused?
A Plastic sachet of shabu, sir.
- Q **Who took the plastic sachet of shabu?**
A **PO3 Dizon, sir.**³⁶ (Emphasis supplied)

However, these statements of PO2 Yambao negate PO3 Dizon's initial claim that it was PO2 Yambao who recovered the second sachet of *shabu* and the marked money from Alberto. Thus, PO2 Yambao's testimony failed to corroborate PO3 Dizon's testimony in establishing the *corpus delicti*.

We also find the claim of PO3 Dizon that PO2 Yambao put an initial marking of "RY", the initial of his name, on the second sachet of *shabu* difficult to believe.³⁷ It is unusual to put a person's initial on items not confiscated by the same person. Here, PO3 Dizon's claim is belied by the confiscation receipt he prepared himself where it was stated that the second sachet of *shabu* had the initial marking "DSD-2", signifying that it was PO3 Dizon who confiscated it.³⁸

It was also noted that PO3 Dizon claimed that P/Insp. Efren David led the buy bust operation.³⁹ However, his statement on the matter in the Affidavit of Arrest⁴⁰ and his subsequent testimony⁴¹ revealed that P/Insp. David did not participate in the buy bust operation.⁴²

To Our mind, the people who are in the best position to know what transpired during the supposed buy bust operation are PO3 Dizon and PO2 Yambao. An inconsistency as glaring and as fundamental as the identity of the officer who caught Alberto and confiscated the second sachet of *shabu* and marked money casts serious doubt on the veracity of their testimonies. Consequently, where the testimonies of two key witnesses cannot stand together, the inevitable conclusion is that one or both must be telling a lie, and their story a mere concoction.⁴³ Thus, We cannot give credence to the

³⁶ TSN dated June 19, 2012, pp. 8-9.

³⁷ TSN dated June 2, 2009, p. 9.

³⁸ RTC records, p. 7.

³⁹ TSN dated August 17, 2010, p. 11.

⁴⁰ RTC records, p. 6.

⁴¹ TSN dated February 22, 2011, p. 4.

⁴² RTC records, p. 6.

⁴³ *People v. Lim*, G.R. No. 141699, August 7, 2002, 386 SCRA 581, 600.




testimonies of PO3 Dizon and PO2 Yambao to establish the buy bust operation and the chain of custody of the seized dangerous drugs.

We recognize that the evidence for the defense is not strong because Alberto merely claimed that the evidence against him was planted and denied that a buy bust operation took place. His testimony was uncorroborated by any other evidence. The defense of denial or frame-up, like alibi, has been viewed with disfavor for it can easily be concocted and is a common defense ploy in most prosecutions for violation of the Dangerous Drugs Act.⁴⁴ Nevertheless, the apparent weakness of Alberto's defense does not add any strength nor can it help the prosecution's cause. If the prosecution cannot establish, in the first place, the appellant's guilt beyond reasonable doubt, the need for the defense to adduce evidence in its behalf in fact never arises. However weak the defense evidence might be, the prosecution's whole case still falls. The evidence for the prosecution must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense.⁴⁵

In view of the foregoing, We no longer deem it necessary to discuss the other issues raised by Alberto.

WHEREFORE, the appeal is **GRANTED**. The Decision dated August 4, 2015 of the Regional Trial Court of Angeles City, Branch 57, in Criminal Case Nos. DC-08-1292 and DC-08-1293, as well as the Decision of the Court of Appeals in CA-G.R. CR-HC No. 07840 dated February 28, 2017 are hereby **REVERSED** and **SET ASIDE**. Accused-appellant Alberto Gonzales y Vital is **ACQUITTED** for failure to prove his guilt beyond reasonable doubt, and is ordered to be immediately released unless he is being held for some other valid or lawful cause. The Director of Prisons is **DIRECTED** to inform this Court of the action taken hereon within five (5) days from receipt hereof.

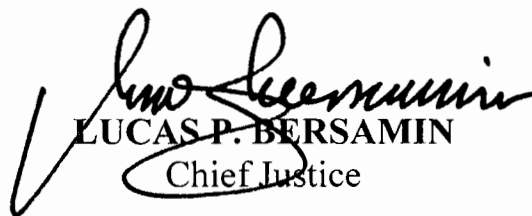
SO ORDERED.


ROSMARI D. CARANDANG
Associate Justice

⁴⁴ *People v. Salvador*, G.R. No. 190621, February 10, 2014, 715 SCRA 617, 632.

⁴⁵ *People of the Philippines v. Salvador Sanchez y Espiritu*, G.R. No. 175832, October 15, 2008, 569 SCRA 194, 222.

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice


MARIANO C. DEL CASTILLO
Associate Justice

(on official business)
FRANCIS H. JARDELEZA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

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