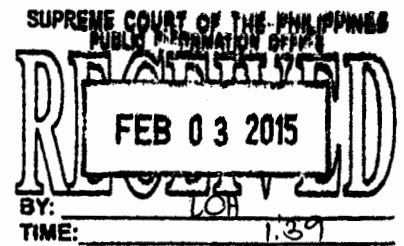




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 26, 2014 which reads as follows:

“G.R. No. 198052 (People of the Philippines, *plaintiff-appellee*, v. Oliver Siang y Uy, *accused-appellant*).

For resolution of the Court is the appeal filed by Oliver Siang (appellant) from the Decision¹ of the Court of Appeals (CA) dated 29 April 2011 in CA-G.R. CR-HC No. 00642-MIN. The CA affirmed the decision of the Regional Trial Court (RTC), Branch 9 of Davao City finding appellant guilty beyond reasonable doubt of violating Section 5, Paragraph 1 of Article II of Republic Act (R.A.) No. 9165 and sentencing him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00.

The Antecedents

As found by the CA, the facts of the case are as follows:

On 12 November 2003, at around 3:30 in the afternoon, the Philippine Drug Enforcement Agency (PDEA) Region XI, Davao City, conducted a buy-bust operation x x x, based on the information given by its informant that a certain Alfonso Siang was peddling shabu in the area.

PO1 Jesicar L. Maglacion acted as poseur-buyer. Together with the PDEA’s confidential informant, they approached Alfonso Siang, who was standing in the waiting shed. The informant then told Alfonso that PO1 Maglacion wants to buy ₱5,000 worth of shabu. Alfonso took out

- over – eight (8) pages

¹ Rollo, pp. 3-12; Penned by Associate Justice Edgardo T. Lloren with Associate Justices Romulo V. Borja and Rodrigo F. Lim, Jr. concurring.

two (2) sachets of shabu from his pocket but PO1 Maglacion complained that it was not enough for the ₱5,000.00 Alfonso then advised them to accompany him to his house to get the other sachets of shabu in the possession of his nephew, accused-appellant Oliver Siang.

PO1 Maglacion and his team proceeded to Alfonso's house. After the introductions were done, Alfonso directed Oliver to give PO1 Maglacion 2 sachets of shabu. Instantly, PO1 Maglacion and his team arrested Alfonso and Oliver.

The following day, PO1 Maglacion prepared an inventory of the drugs seized from Alfonso and Oliver Siang in the presence of the media, Ayar Porza, from DXRA, the representative of the Department of Justice, Emmanuel Mimaniquit, Jr. and elected officials Arturo Contreras Jr. and Jose C. Bacus. Photos of the items seized were also taken. PO1 Maglacion then submitted the 4 sachets of shabu to the PNP Crime Laboratory for examination which were found positive of Methamphetamine Hydrochloride, while Alfonso and Oliver were subjected to a urine test and likewise found positive of Methamphetamine Hydrochloride.

Consequently, Oliver was charged with violation of Section 5, Paragraph 1, Article II of Republic Act No. 9165. The information reads:

That on or about the 12th day of November 2003, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the said accused, without being authorized by law, willfully, unlawfully and consciously delivered two (2) sachets of Methamphetamine Hydrochloride or "shabu", weighing a total of 0.3052 of a gram, which is a dangerous drug.

CONTRARY TO LAW.

When arraigned, Oliver pleaded not guilty to the offense.

Trial ensued.

In his defense, Oliver provided a different version of the incident. He was drinking soda in front of his uncle's house when the PDEA agents arrived on board a Toyota Revo vehicle. They approached him and asked about the whereabouts of his father who was a wanted man. The PDEA team then escorted his uncle Alfonso "Jun" out of the Revo vehicle and removed his blindfold. His uncle pointed to him as the son of Emil Siang. At that instant, the PDEA team frisked and arrested him; and took his money. He was then forced to ride the Revo vehicle. The PDEA team kept on asking him to surrender his father, but he did not know the

- over -

9

whereabouts of his father. He was then subjected to police brutality. After that, one of the agents took out under the mat an object which appeared to be a tissue paper and gave it to PO1 Maglacion. When they arrived at the PDEA office, the agent handed him a cellular phone and told him to call his father, but he refused. The agents then opened the white tissue paper which contained shabu. It was then that they placed him inside a jail cell.²

The Ruling of the RTC

The trial court found that the prosecution was able to prove the guilt of herein appellant beyond reasonable doubt. The pertinent portions of the decision states:

The core of the Defense is one of DENIAL, and in effect states that the shabu taken from him was planted by the police.

A litany of jurisprudence shows that in the entire legal arsenal [sic] of defenses, ALIBI & DENIAL are the weakest defenses because of the facility that it can be easily concocted x x x.

Like alibi, the defense of frame up is viewed with disfavor as it can easily be manufactured or concocted and is commonly used as a defense in most prosecutions arising from violation of the Dangerous Drugs Act x x x.

If there really was a frame-up, the accused thus aggrieved and seeking true justice, should have filed a case against the police officers responsible for any alleged frame-up, and ask the help of the "Witness Protection Program", and seek other legal remedies to ferret out the truth.³

Based on the testimony of appellant, the trial court concluded that he was well aware that his act of giving the two sachets of shabu to PO1 Jesicar L. Maglacion (PO1 Maglacion) was a sale.⁴ He was thus convicted of violating RA No. 9165.

The Ruling of the Court of Appeals


- over -

224

² Id. at 4-6.

³ CA *rollo*, pp. 7-8.

⁴ Id. at 11.



On appeal, the CA affirmed the decision of the RTC, upon a finding that all of the elements of the crime have been sufficiently established by the prosecution.⁵ The CA further held that appellant failed to substantiate his defense of denial and frame-up as he did not present any evidence showing that the prosecution's witness had any ill motive to testify against him, nor was he able to show that the police officers who apprehended him failed to perform their duties regularly.⁶

Our Ruling

We deny the appeal.

Appellant was charged under Section 5, Paragraph 1 of Article II of RA No. 9165, which provides:

Section 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 (₱500,000.00) to Ten million pesos (₱10,000,000.00) 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.

In a successful prosecution for offenses involving the illegal sale of dangerous drugs under Section 5, Article II of RA No. 9165, the following elements must concur: (1) the identities of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment for it. What is material is proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of the *corpus delicti*.⁷

As found by the trial court, which findings were affirmed by the CA on appeal, all the elements of the crime had been sufficiently established by the prosecution. The following portion of the testimony of PO1 Maglacion is determinative:

- over -

224

⁵ *Rollo*, p. 10.

⁶ *Id.* at 11.

⁷ *People v. Gaspar*, G.R. No. 192816, 6 July 2011, 653 SCRA 673, 686 citing *People v. Politico*, G.R. No. 191394, 18 October 2010, 633 SCRA 404 further citing *People v. Alberto*, G.R. No. 179717, 5 February 2010, 611 SCRA 706.

Q: Since you said that a buy-bust operation was supposed to be directed against a certain Alfonso Siang, how did it happen that you met also the person of this Oliver Siang?

A: Because when I bought from Alfonso Siang worth Five Thousand (P5,000.00) Pesos of shabu, the item was lacking, not worth P5,000.00, so I told him that the stuff is not proportion (sic) to my money so that is why, he said to me that he will accompany me to his nephew because there are some stocks of shabu under the custody of his nephew, Maam (sic).

Q: This nephew he was referring to, whom he said has stock in his custody, were you able to meet this nephew?

A: Yes, Maam (sic).

Q: Who was that nephew he was referring to?

A: Oliver Siang, Maam (sic).

Q: Since you said that the item he gave you was not proportionate to the money worth P5,000.00 and you said also that the accused Alfonso Siang suggested that he will accompany you to his nephew, what happened when he said that, that he will accompany you to his nephew?

A: When we reached the house of Alfonso Siang, where his nephew was, he introduced me to his nephew and then he instructed his nephew to give two (2) sachets additional for the amount of P5,000.00, Maam (sic).

Q: When Alfonso Siang gave this instruction to his nephew to give you additional two (2) sachets of shabu, what did his nephew do, if any?

A: His nephew got two (2) sachets of shabu from the pocket of his shirt, Maam (sic).

Q: And when he got these two (2) sachets from the pocket of his shirt, what did he do with it?

A: I received the additional two (2) sachets and at this juncture, I executed our signal so that my back up will know that the transaction was made.⁸

Based on the foregoing, the prosecution was able to prove that the buy-bust operation indeed took place.

PO1 Maglacion was likewise able to positively identify appellant as one of the two persons who sold to him the shabu. Thus:

- over -

⁸ TSN, 14 October 2004, pp. 16-18.

Q: Officer Maglacion, you are being called to testify today against a certain Oliver Siang y Uy. This person I mentioned, if he is in Court, please point to him.

A: Yes, Maam. The one wearing gray t-shirt with marking RL, color red.

INTERPRETER:

Witness pointed to a person wearing gray t-shirt who stood up and gave his name OLIVER SIANG, the accused in this case.

COURT:

Witness duly identified the accused.⁹

Also, the *shabu* subject of the sale was brought to and duly identified in court and was marked as Exhibit "A2" for the prosecution.

The requirements for a valid arrest and prosecution for the sale of dangerous drugs under Section 21, Paragraph 1, Article II of RA No. 9165¹⁰ have likewise been substantially complied with. As found by the CA:

x x x. The records show that PO1 Maglacion prepared an inventory of the 4 sachets of shabu from Alfonso and Oliver Siang in the presence of the media, Ayar Porza, from DXRA, the representative of the Department of Justice, Emmanuel Mimaniquit, Jr. and elected officials Arturo Contreras Jr. and Jose C. Bacus. They also took photos of the items seized. PO1 Maglacion then submitted the 4 sachets of shabu to the PNP Crime Laboratory for examination which were found positive of Methamphetamine Hydrochloride, x x x. Also, it bears stressing that PO1 Maglacion marked the 4 sachets of shabu right after confiscation, viz.:

Q. What happened to these two (2) sachets which you said you received from his nephew of the accused Alfonso Siang?

A. After the arrest, Ma'am, the two (2) sachets were in my custody, Ma'am, and then we proceeded to our office of booking and documentation.

- over -

224

⁹ Id. at 14-15.

¹⁰ (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;

Q. Since you earlier said that there were also two (2) sachets given to you by Alfonso Siang. Where were these two (2) sachets also?

A. It was also in my custody, Ma'am.

Q. How did you make sure that those sachets you have taken from Alfonso Siang would not be interchanged with those you have taken from the said accused Oliver Siang?

A. Because I put them separately in cellophanes with markings, Ma'am.¹¹

In addition to the foregoing, after the arrest, the entrapment team immediately proceeded to their office for booking and documentation.¹² Further, the poseur-buyer himself, PO1 Maglacion, brought the confiscated substances to the crime laboratory for examination.¹³

It is worth noting that pursuant to Section 21 (a), Article II of the Implementing Rules and Regulations of R.A. No. 9165, failure to comply with the procedure prescribed under Section 21, Paragraph 1, Article II of R.A. No. 9165 does not necessarily render void and invalid the seizure and custody of the items, provided that the integrity and evidentiary value of the seized items are properly preserved. As discussed above, this has been sufficiently demonstrated in this case, notwithstanding the fact that the required inventory of the seized items was conducted the morning after the arrest of appellant.

Finally, both the trial court and the CA rejected appellant's defense of denial and frame-up for failure to substantiate the same.

Indeed, the defenses of denial and frame-up have been invariably viewed by this Court with disfavor for it can easily be concocted and is a common and standard defense ploy in prosecutions for violation of Dangerous Drugs Act. In order to prosper, the defenses of denial and frame-up must be proved with strong and convincing evidence. In the case before us, appellant failed to present sufficient evidence in support of his


- over -

224

¹¹ *Rollo*, pp. 8-9.

¹² TSN, 14 October 2004, pp. 20-23; Records, p. 3, No. 6 of the Joint Affidavit of PO1 Bernardo C. Soterno and PO1 Maglacion dated 13 November 2003.

¹³ *Id.* at 23; *Id.* at 7.

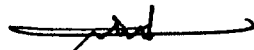


claims. Aside from his self-serving assertions, no plausible proof was presented to bolster his allegations.¹⁴ Consequently, in the absence of clear and convincing evidence that the police officers were inspired by any improper motive, this Court will not appreciate the defense of denial or frame-up and instead apply the presumption of regularity in the performance of official duty by law enforcement agents.¹⁵

WHEREFORE, the Decision of the Court of Appeals dated 29 April 2011 in CA-G.R. CR-HC No. 00642-MIN is **AFFIRMED**.

SO ORDERED.” **PERLAS-BERNABE, J.**, on leave;
VILLARAMA, JR., J., acting member per S.O. No. 1885 dated
November 24, 2014..

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
118 224

The Solicitor General (x)
Makati City

Court of Appeals
9000 Cagayan de Oro City
(CA-G.R. CR H.C. No. 00642-MIN)

The Superintendent
Davao Prison and Penal Farm
Dujali, Davao del Norte

The Hon. Presiding Judge
Regional Trial Court, Br. 9
8000 Davao City
(Crim. Case No. 53,382-2003)

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PUBLIC ATTORNEY'S OFFICE
Counsel for Accused-Appellant
Special and Appealed Cases Division
Hall of Justice, Hayes St.
9000 Cagayan de Oro City

Judgment Division (x)
Supreme Court

Mr. Oliver U. Siang
Accused-Appellant
c/o The Superintendent
Davao Prison and Penal Farm
Dujali, Davao del Norte

SR

¹⁴ *People v. Amansec*, G.R. No. 186131, 14 December 2011, 662 SCRA 574, 596 citing *People v. Lazaro, Jr.*, G.R. No. 186418, 16 October 2009, 604 SCRA 250, 269.

¹⁵ *People v. Pagkalinawan*, G.R. No. 184805, 3 March 2010, 614 SCRA 202, 219.