

## SECOND DIVISION

[ G.R. No. 249412, March 15, 2021 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
GREGORIO VILLALON, JR. Y PABUAYA ALIAS "JUN-JUN,"  
ACCUSED-APPELLANT.**

### DECISION

**PERLAS-BERNABE, J.:**

Assailed in this ordinary appeal<sup>[1]</sup> is the Decision<sup>[2]</sup> dated June 26, 2019 rendered by the Court of Appeals (CA) in CA-G.R. CEB CR. HC. No. 02664, which affirmed the Joint Decision<sup>[3]</sup> dated August 22, 2017 of the Regional Trial Court of San Carlos City, Negros Occidental, Branch 59 (RTC) in Criminal Case Nos. RTC-5681, RTC-5682, and RTC-5683 finding accused-appellant Gregorio Villalon, Jr. y Pabuaya alias "Jun-Jun" (accused-appellant) guilty beyond reasonable doubt of *Illegal Sale and Possession of Dangerous Drugs and Illegal Possession of Drug Paraphernalia*, as respectively defined and penalized under Sections 5,<sup>[4]</sup> 11,<sup>[5]</sup> and 12,<sup>[6]</sup> Article II of Republic Act No. (RA) 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

#### The Facts

This case stemmed from three (3) separate Informations<sup>[7]</sup> filed before the RTC charging accused-appellant with the crimes of Illegal Sale and Possession of Dangerous Drugs, as well as Illegal Possession of Drug Paraphernalia under Sections 5, 11, and 12, Article II of RA 9165, respectively, the accusatory portions of which read:

Criminal Case No. RTC-5681<sup>[8]</sup>

That on September 6, 2015 at Purok Nabantuan, Barangay Balintawak, Escalante City, Occidental Negros, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority by law, did then and there, unlawfully sell and handed (sic) over to the police poseur-buyer one (1) heat-sealed plastic sachet containing methamphetamine hydrochloride, locally known as "*shabu*" and classified as a dangerous drug, with a total combined weight of 0.336 gram and marked as AM-BB, in exchange for one thousand five hundred pesos (PhP1500.00) in the following denomination: one (1) one thousand peso bill with serial number TB317872, one (1) two hundred peso bill with serial number QV410083, and three ([3]) pieces one hundred pesos bill with serial numbers ZS683053, XJ845484, and QR652664.

ACT CONTRARY TO LAW.

Criminal Case No. RTC-5682<sup>[9]</sup>

That on September 6, 2015, at Purok Nabantuan, Barangay Balintawak, Escalante City, Occidental Negros, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority by law, did then and there, unlawfully have in his possession and control two (2) small transparent plastic sachets marked as AM-1 and AM-2 and one (1) big sachet marked as AM-3 containing methamphetamine hydrochloride locally known as "*shabu*", classified as a dangerous drug and having a total weight of 5.298 grams, without authority by law and in violation of the aforesaid law.

ACT CONTRARY TO LAW.

Criminal Case No. RTC-5683<sup>[10]</sup>

That on September 6, 2015, at Purok Nabantuan, Barangay Balintawak, Escalante City, Occidental Negros, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority by law, did then and there, unlawfully have in his possession the following equipments, instruments and paraphernalia intended for use of dangerous drugs:

- (1) two (2) pieces lighter, and
- (2) one (1) piece improvised tube tooter.

Without authority by law to the damage and prejudice of the State.

ACT CONTRARY TO LAW.

The prosecution alleged that at 5:20 in the afternoon of September 6, 2015, acting on confidential information regarding the alleged illegal drug-peddling activities of accused-appellant in a rented room of a house owned by a certain Mrs. Cabus in Sitio Nabantuan, Barangay Balintawak, Escalante City, Negros Occidental; the City Anti-Illegal Drugs Special Operation Task Group conducted a buy-bust operation thereat with Police Officer 2 (PO2) Alex J. Mahinay (PO2 Mahinay) as the designated poseur-buyer. Disguised as a tricycle driver, PO2 Mahinay, accompanied by the confidential informant, offered to buy *shabu* worth P1,500.00 from accused-appellant, who then handed a plastic sachet containing 0.336 gram of white crystalline substance to him (PO2 Mahinay). When accused-appellant was searched after his arrest, PO2 Mahinay recovered from him the marked money, three (3) other plastic sachets containing a total of 5.298 grams of white crystalline substance, two (2) pieces of lighter, and one (1) improvised tube tooter.

Immediately thereafter, accused-appellant and the seized items, which were in the custody of PO2 Mahinay, were brought to the Escalante City Police Station Where the items were marked, inventoried,<sup>[11]</sup> and photographed<sup>[12]</sup> in the presence of accused-appellant, Marlyn D. Salili (elected official), Renante R. Malaay (media representative), Dennis P. Opina (Department of Justice [DOJ] representative), and PO1 Marvin A. Belleza, Jr. (photographer). Subsequently, PO2 Mahinay himself brought the seized items together with the Request for Laboratory Examination<sup>[13]</sup> to the PNP Crime Laboratory, which were duly received by PO3 Ariel Magbanua (PO3 Magbanua), the Evidence Custodian per Chain of Custody Form.<sup>[14]</sup> The confiscated items were turned over to P/SInsp. Alvin Raymundo Pascual (P/SInsp. Pascual), the Forensic Chemist who conducted a qualitative examination on the specimens, which

tested positive<sup>[15]</sup> for methamphetamine hydrochloride or *shabu*, a dangerous drug. Thereafter, PO3 Magbanua took custody of the seized items for safekeeping.

For his part, accused-appellant denied the charges against him and instead, claimed that during that time, he was waiting for his turn to buy softdrinks from a store when two (2) unknown people approached him and asked him if he was Jun-Jun Villalon, which he confirmed. They then held him and instructed him to bring them to his boarding house. Upon arrival they made him sit and then asked him where his money was, which he answered by pointing at the top of the table. Thereafter, they asked him the whereabouts of a gun and *shabu*, to which he replied that they will never find any even if they turn the house upside down. One of them then showed him a small wallet with *shabu* inside that was allegedly his, which he vehemently denied. Subsequently, they brought him to the police station and detained him. Accused-appellant's testimony was corroborated by one Loreto Lopez who testified that he saw two (2) men drag accused-appellant from the store to his boarding house.

### **The RTC Ruling**

In a Joint Decision<sup>[16]</sup> dated August 22, 2017, the RTC found accused-appellant guilty beyond reasonable doubt of the crimes charged, and accordingly, sentenced him to suffer the following penalties: (a) for *Illegal Sale of Dangerous Drugs*, the penalty of life imprisonment and to pay a fine in the amount of P500,000.00; (b) for *Illegal Possession of Dangerous Drugs*, the penalty of imprisonment for an indeterminate period of twenty (20) years and one (1) day, as minimum, to life imprisonment, as maximum, and to pay a fine in the amount of P400,000.00; and (c) for *Illegal Possession of Drug Paraphernalia*, the penalty of imprisonment for an indeterminate period of six (6) months and one (1) day, as minimum, to two (2) years, as maximum, and to pay a fine of P20,000.00. The RTC ruled that the evidence presented by the prosecution sufficiently established the crimes charged and that accused appellant is guilty thereof. Conversely, it rejected accused-appellant's self-serving allegations, which cannot prevail or overturn the presumption of regularity in the performance of official duties in favor of the police officers.<sup>[17]</sup>

Dissatisfied, accused-appellant appealed to the CA.

### **The CA Ruling**

In a Decision<sup>[18]</sup> dated June 26, 2019, the CA affirmed *in toto* the RTC ruling, finding that all the elements of the crimes charged had been successfully established. It ruled that lack of prior surveillance was not fatal, if not inconsequential, to accused-appellant's conviction since the police operatives were accompanied by their informant during the entrapment. Anent accused-appellant's contention that the prosecution failed to prove the element of consideration, it ruled that the crime had been consummated the moment the poseur-buyer handed the marked money to accused-appellant during the buy-bust operation; besides, the defense proffered no objection when a copy of the marked money was formally offered as a documentary exhibit. More importantly, the absence of marked money does not create a hiatus in the evidence of the prosecution as long as the sale of the dangerous drug was adequately proven and the drug subject of the transaction is presented before the court,<sup>[19]</sup> as in this case.