

# FIRST DIVISION

[ G.R. No. 233544, March 25, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ALBERTO GONZALES Y VITAL, ACCUSED-APPELLANT.**

## DECISION

**CARANDANG, J.:**

This is an appeal<sup>[1]</sup> from the February 28, 2017 Decision<sup>[2]</sup> 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**.

**SO ORDERED.**<sup>[3]</sup>

### The Antecedents

Alberto was charged with violation of Sections 5 and 11, Article II of R.A. 9165, in two (2) separate Informations<sup>[4]</sup> which respectively read as follows:

#### CRIMINAL CASE NO. DC 08-1292

That on or about the 19<sup>th</sup> 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.<sup>[5]</sup>

#### 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.<sup>[6]</sup>

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.<sup>[7]</sup> 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 P200.00 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 Dizon and, in exchange, the latter gave two (2) pieces of P100.00 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 P200.00 marked money from his pocket and another plastic sachet containing suspected *shabu* (0.1110 grams) (second sachet).<sup>[8]</sup> 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 floor<sup>[9]</sup> but the charges against Rogelio and Ernesto before the prosecutor's office were allegedly dismissed.<sup>[10]</sup>

The police called the barangay captain in the area to witness the inventory and prepared the confiscation receipt<sup>[11]</sup> 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,<sup>[12]</sup> Confiscation Receipt,<sup>[13]</sup> request for laboratory examination,<sup>[14]</sup> and Barangay Certification<sup>[15]</sup> 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*.<sup>[16]</sup>

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 P100.00 bill placed on a table that were later used as evidence against him.<sup>[17]</sup>

### **Ruling of the RTC**

After trial, the RTC of Angeles City, Branch 57 rendered its Decision<sup>[18]</sup> dated August 4, 2015, the dispositive portion of which reads:

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.<sup>[19]</sup>

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.<sup>[20]</sup>

On appeal,<sup>[21]</sup> 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 ERRED (sic) IN DISREGARDING THE ACCUSED-APPELLANT'S DEFENSE OF DENIAL.<sup>[22]</sup>

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.<sup>[23]</sup> 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 Decision[26] 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 Appeal[28] 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 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,