

# FIRST DIVISION

[ G.R. No. 226143, November 21, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
FERNANDO BALLE Y FOJAS, EMMA SULIT Y LACSAMANA, AND  
CARMELITA LIBAO Y REYES, ACCUSED-APPELLANTS.**

## DECISION

**DEL CASTILLO, J.:**

Assailed in this appeal is the August 27, 2015 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 06567 which affirmed the July 16, 2012 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 53, Manila, finding appellants Fernando Balles y Fojas (Fernando), Emma Sulit y Lacsamana (Emma) and Carmelita Libao y Reyes (Carmelita) guilty beyond reasonable doubt of violation of Republic Act (RA) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

### ***Antecedent Facts***

Appellants were charged with the illegal sale of dangerous drugs under Section 5, Article II of RA 9165 in an Information which read:

#### *Criminal Case No. 03-217231*

That on or about August 1, 2003, in the City of Manila, Philippine[s], the said accused, conspiring and confederating together and helping one another, not having been authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did then and there willfully, unlawfully and knowingly sell or offer for sale, or attempt to sell three (3) heat-sealed[,] transparent plastic sachets each containing white crystalline substance with the following weights, to wit: ZERO POINT ZERO FIVE ZERO (0.050) gram; ZERO POINT ZERO FOUR [SIX] (0.046) [gram;] AND ZERO POINT ZERO FOUR THREE (0.043) gram containing methylamphetamine hydrochloride, which is a dangerous drug.<sup>[3]</sup>

Appellant Fernando was also charged with the illegal possession of dangerous drugs under Section 11, Article II of RA 9165 in an Information which reads:

#### *Criminal Case No. 03-217232*

That on or about August 1, 2003, in the City of Manila, Philippines, the said accused, without being authorized by law to possess dangerous

drug[s], did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control three (3) heat-sealed[,] transparent plastic sachets with [the] following weights, to wit: ZERO POINT ZERO FOUR FOUR (0.044) [gram], ZERO POINT ZERO FOUR THREE (0.043) gram; and ZERO POINT ZERO FOUR NINE (0.049) gram containing Methylamphetamine Hydrochloride[,] [also] known as SHABU, a dangerous drug.<sup>[4]</sup>

During their arraignment on July 4, 2005, appellants entered a plea of not guilty.<sup>[5]</sup> Trial thereafter ensued.

### **Version of the Prosecution**

The prosecution's version of the incident is, as follows:

On August 1, 2003, P/Insp. Arnulfo Ibañez (P/Insp. Ibañez) of the Western Police District (WPD) District Anti-Illegal Drugs (DAID) received information from a confidential informant (CI) that two individuals with the aliases "Mang Fernan" and "Aling Ester" were selling illegal drugs along Almario Street, Tondo, Manila. On the basis of said information, P/Insp. Ibañez formed a buy-bust team with PO2 Roman Jimenez (PO2 Jimenez) as the designated poseur-buyer and PO2 Chito De Guzman, PO2 Bert Francisco (PO2 Francisco), PO2 Marcial Agustin<sup>[6]</sup> and PO2 Wilfredo Millare as perimeter security.<sup>[7]</sup>

At the target area, two women approached PO2 Jimenez and the CI while they were walking along the street. The CI whispered to PO2 Jimenez that the two women were working with Mang Fernan and Aling Ester. The CI thereafter introduced PO2 Jimenez to the two women, herein appellants Emma and Carmelita, as the buyer of *shabu*. The women asked PO2 Jimenez, "*Magkano ang bibilhin mo?*" to which the latter replied that he wanted to buy P300.00-worth of *shabu*. Emma and Carmelita each handed PO2 Jimenez a plastic sachet from their respective pockets and in return, he gave each of them a P100.00-bill.<sup>[8]</sup>

Emma, however, told PO2 Jimenez and the CI that she will accompany them to Mang Fernan because they only had two plastic sachets in their possession. Upon reaching Mang Fernan's house, Emma introduced PO2 Jimenez to appellant Fernando and his wife, Aling Ester. Emma told Fernando that PO2 Jimenez was supposed to buy P300.00-worth of *shabu* but she and Carmelita only had two plastic sachets.<sup>[9]</sup>

Aling Ester then handed Fernando a small camera film container where the latter took a plastic sachet of suspected *shabu* and gave it to PO2 Jimenez. In return, PO2 Jimenez handed Fernando a P100.00-bill. Once the exchange was completed, PO2 Jimenez combed his hair which served as the pre-arranged signal that the transaction had already been consummated.<sup>[10]</sup>

The other members of the buy-bust team immediately rushed to the scene. PO2 Francisco arrested Emma and Carmelita and recovered two (2) P100.00-marked

bills.<sup>[11]</sup> Similarly, PO2 Jimenez took custody of Fernando and retrieved the small camera film container, three plastic sachets of suspected *shabu* and one P100.00-marked bill. Aling Ester, however, eluded arrest by escaping through the backdoor of the house.<sup>[12]</sup>

From Almario Street, appellants were brought to the hospital for a physical examination. Afterwards, the buy-bust team took them to the office of the WPD-DAID where they turned over to PO1 Federico Casupli (PO1 Casupli) for investigation.<sup>[13]</sup>

PO2 Jimenez turned over the seized plastic sachets to PO1 Casupli who marked the same as follows: "FFB-1" for the plastic sachet purchased from Fernando; "FFB-2, FFB-3 and FFB-4" for the three plastic sachets recovered from the small camera film container; "ELS" for the plastic sachet purchased from Emma; and "CRL" for the plastic sachet purchased from Carmelita.<sup>[14]</sup>

In the course of the investigation, PO1 Casupli prepared the Joint Affidavit of Apprehension, the Booking Sheet and Arrest Report, and the Request for Laboratory Examination. The seized items, together with the Request for Laboratory Examination, were thereafter forwarded to the Crime Laboratory.<sup>[15]</sup>

On August 2, 2003, P/Insp. Maritess F. Mariano (P/Insp. Mariano), the forensic chemical officer of the WPD Crime Laboratory, conducted a qualitative examination of the subject specimens to determine the presence of dangerous drugs. Based on Chemistry Report No. D-1827-03,<sup>[16]</sup> the seized items tested positive for the presence of methylamphetamine hydrochloride, a dangerous drug.

### ***Version of the Defense***

For his part, Fernando testified that:

x x x On 1 August 2003, between 10:00 o'clock to 10:30 o'clock in the evening, he opened the big gate of the garage to let a truck come in. When he opened the smaller gate, he saw a vehicle parked outside the garage then three (3) men, who turned out to be police officers in civilian clothing, alighted. These men suddenly grabbed him and boarded him inside the vehicle. x x x He was left inside the vehicle and when the policemen returned, they had with them Emma Sulit and Carmelita Libao. The three (3) of them were brought to the Ospital ng Maynila and thereafter brought to the headquarters. At the headquarters, Fernando learned from the investigator that he was apprehended because of selling illegal drugs. Since they could not find his wife, he was the one arrested instead.<sup>[17]</sup>

As for Emma, she testified that:

[She] was at home with Michaela Rose Peralta when three (3) men suddenly entered their house. These men told them to be quiet [when she asked them] who they were. They started searching and ransacking the house without showing any search warrant. They even took Emma's two (2) mobile phones and money worth Eight Hundred Pesos (P800.00). Thereafter, together with Carmelita and Michaela Rose, she was brought downstairs and was boarded in a sidecar. After passing three (3) blocks, they were boarded in a vehicle together with Fernando Balles, Emma's brother-in-law. Thereafter, they were all brought to the Ospital ng Maynila then to Precinct 5 Headquarters in UN Avenue. The police captain told Emma that they will not charge her with a non-bailable crime as long as she gives them money. She was forced to mortgage her house in the amount of Seventy Thousand Pesos (P70,000.00). When she gave the money, the police captain and police officers Chito de Guzman and Roman Jimenez divided it equally among them. They told Emma to wait because they would have a meeting at the other building but they did not return.<sup>[18]</sup>

Carmelita corroborated Emma's testimony. She further testified that:

x x x while the police officers were searching their house, they took their money worth Twelve Thousand Pesos (P12,000.00) which should have been used as capital for their bag business. When they arrived at the police station, the police officers were looking for Ester Balles, the wife of Fernando Balles. Carmelita and Emma, however, did not know where Ester was. It was only during the inquest when they learned that they were being accused of selling illegal drugs. x x x<sup>[19]</sup>

### ***Ruling of the Regional Trial Court***

In its Decision dated July 16, 2012, the RTC found appellants guilty beyond reasonable doubt of the crimes charged against them. It found the prosecution's version of the incident credible and worthy of belief as the same was sufficiently supported by the evidence on record.<sup>[20]</sup>

The RTC further held that the prosecution was able to establish that the identity of the *corpus delicti* had been properly preserved, *viz.*:

x x x The prosecution established the continuous whereabouts of the plastic sachets of shabu from the time these were seized from the accused until these were tested in the laboratory to determine the composition of the contents of the plastic sachets up to the time these were offered in evidence. Thus, it is evident that the identity of the *corpus delicti* has been properly preserved and established by the prosecution. What is of vital importance is the preservation of the integrity and evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.<sup>[21]</sup>

Accordingly, the RTC rendered judgment as follows:

1. In CRIM. CASE NO. 03-217231, finding accused FERNANDO BALLE y FOJAS, EMMA SULIT y LACSAMANA and CARMELITA LIBAO y REYES **GUILTY** beyond reasonable doubt of the crime of [v]iolation of Sec. 5, Article II [of] Republic Act [No.] 9165, and are hereby sentenced to suffer [the penalty of] [l]ife [i]mprisonment and each to pay [a] fine in the amount of P500,000.00.
2. In CRIM. CASE NO. 03-217232, finding accused FERNANDO BALLE y FOJAS **GUILTY** beyond reasonable doubt of the crime of [v]iolation of Sec. 11(3), Article II [of] Republic Act [No.] 9165, and is hereby sentenced to suffer [the penalty of] imprisonment of [t]welve (12) years and one (1) day, as minimum, to [f]ifteen (15) years, as maximum, and to pay fine in the amount of P300,000.00.  
[22]

Appellants thereafter appealed the RTC Decision before the CA.

### ***Ruling of the Court of Appeals***

In its Decision dated August 27, 2015, the CA affirmed the assailed RTC Decision *in toto*. It upheld the RTC's findings that the prosecution was able to prove all the elements of the crimes charged. [23]

The CA noted, too, that the chain of custody over the seized *shabu* was sufficiently established by the prosecution, *viz.*:

PO2 Jimenez testified that the plastic sachet given to him by Emma Sulit was marked "ELS" while the plastic sachet given to him by Carmelita Libao was marked "CRL". The said markings were placed by their investigator PO1 Federico Capili [sic] at the police station in his presence. The one piece of plastic sachet given to PO2 Jimenez by Ferdinand Balles was marked "FFB-1" while the three (3) plastic sachets inside the camera film container recovered from Ferdinand Balles were marked with "FFB-2, FFB-3 and FFB-4". The said markings were also made by their investigator PO1 Federico Casupli in his presence.

Marking of the seized *shabu* is the initial stage in the chain of custody in buy-bust operations. As requisites, the marking must be made in the presence of the apprehended offender and upon immediate confiscation, and this contemplate even marking at the nearest police station or office of the apprehending team. [24]