

THIRD DIVISION

[G.R. No. 220758, June 07, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
STEPHAN CABILES Y SUAREZ A.K.A. "KANO", ACCUSED-
APPELLANT.**

DECISION

TIJAM, J.:

Accused-appellant Stephan Cabiles y Suarez appeals the Decision^[1] dated March 26, 2015 of the Court of Appeals (CA), finding him guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. (R.A.) 9165, and sentencing him to suffer the penalty of life imprisonment, and to pay a fine of PhP 500,000.

The facts are as follows:

On November 3, 2005, an Information^[2] for violation of Sec. 5, Art. II of R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, was filed against accused-appellant for the illegal sale of methamphetamine hydrochloride commonly known as shabu, the accusatory portion of which reads as follows:

That on or about the 31st day of October 2005, in the City of Bacolod, Philippines and within the jurisdiction of this Honorable Court, the herein accused, not being authorized by law to sell, trade, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, did, then and there willfully, unlawfully and feloniously sell, deliver, give away to police poseur-buyer, PO1 Ian Piano, in a buy-bust operation, one (1) small heat-sealed transparent plastic packet containing methamphetamine hydrochloride or shabu, a dangerous drug, weighing 0.04 gram, in exchange for two (2) P100.00 bills in marked money, with Serial Nos. X681273 and JN653558, in violation of the aforementioned law.

When arraigned, accused-appellant pleaded not guilty to the crime charged. Trial ensued.

Evidence of the Prosecution

On October 20, 2005, SPO4 Ernesto Gonzales (SPO4 Gonzales) of the Office of Chief of Bacolod City Anti-Illegal Drugs-Special Operations Task Force (CAIDSOTG) received an information that a certain "*kano*", herein accused-appellant, of Purok

Narra Baybay, Barangay 8, Bacolod City, was engaged in the illegal sale of dangerous drugs.

On October 31, 2005, SPO4 Gonzales formed a team and conducted a briefing for a buy-bust operation against accused-appellant. PO1 Ian S. Piano (PO1 Piano), the designated poseur-buyer, was given two pieces of Php100 bills as buy-bust money.

At around four o'clock in the afternoon, SPO4 Gonzales instructed the confidential informant to meet them at the lagoon of the Provincial Capitol Building on Lacson Street in Bacolod City. SPO4 Gonzales instructed the confidential informant to send a text message to the accused-appellant regarding the place where the sale of illicit drugs would take place. Thereafter, PO1 Piano, together with the confidential informant, proceeded to the agreed place at Purok Narra Baybay, Barangay 8, Bacolod City. Upon seeing the accused-appellant, the confidential informant approached him and asked if he had the shabu, to which the accused-appellant positively confirmed. PO1 Piano handed the buy-bust money to the accused-appellant, which he placed in his pocket. Accused-appellant in turn handed to PO1 Piano a plastic sachet. Immediately after the exchange, PO1 Piano called SPO4 Gonzales, as the pre-arranged signal that the sale was consummated. Thereafter, PO1 Piano placed the accused-appellant under arrest. While being frisked, police officers recovered the buy-bust money from his pocket.

Evidence for the Defense

Accused-appellant denied the charges against him. He alleged that at the time of the incident, he was at a "*sari-sari*" store buying rice and sardines, when suddenly three men were looking for a certain Pablo Bautista. Accused-appellant told the three men the location of the house of Pablo Bautista, but they frisked accused-appellant and placed him in handcuffs. Thereafter, accused-appellant was brought to police headquarters at Barangay Taculing, Bacolod City, and was subjected to a body search. But when nothing was recovered from him, suddenly a policeman got an empty plastic sachet from his drawer, and a certain Police Officer Grijaldo took out from his pocket a Php 200.00 bill, which was used as evidence in this case.

On May 2, 2013, the Regional Trial Court (RTC) rendered a Decision^[3], finding accused-appellant guilty beyond reasonable doubt of illegal sale of shabu, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

(a) Finding Accused-Defendant **STEPHAN CABILES Y SUAREZ** alias "Kano" **GUILTY**, beyond moral certainty, of Section 5, Article II, Comprehensive Dangerous Drug Act of 2002. He is hereby sentenced to suffer the penalty of life imprisonment and ordered to pay a fine of Five Hundred Thousand Pesos (P500,000.00);

(b) The dangerous drug subject matter of this case (Exhibit 'H') is hereby confiscated in favor of the government pursuant to Section 20, R.A. No. 9165 and ordered to be turned-over to the Philippine Drug Enforcement

Agency (PDEA), Regional Office Six (6) for destruction and,

(c) No pronouncement as to cost.

SO ORDERED.^[4]

The CA upheld the conviction of accused-appellant in a Decision dated March 26, 2015. The *fallo* thereof provides:

WHEREFORE, the Decision dated May 2, 2013 rendered by the Regional Trial Court, Branch 47, Bacolod City in Criminal Case No. 05-28532 convicting accused-appellant Stephan Cabiles y Suarez a.k.a. "Kano" of Violation of Section 5, Article II or R.A. 165 or the Comprehensive Dangerous Drugs Act is **AFFIRMED**.

With costs against the accused-appellant.

SO ORDERED.

Hence, this appeal.

The appeal is unmeritorious.

In a prosecution for the illegal sale of dangerous drugs, such as shabu, the following elements must be duly established: (1) the identity of the buyer and seller, the object and the consideration; and, (2) the delivery of the thing sold and the payment therefor. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.^[5]

Here, the prosecution submitted evidence that duly established the elements of illegal sale of shabu. It was positively identified that the accused-appellant was the seller of the seized illegal substance which turned out to be positive for methamphetamine hydrochloride, a dangerous drug. Accused-appellant sold and delivered the drug for PhP 200.00 to PO1 Piano. The act of accused-appellant of handing over the shabu after receiving the PhP 200.00 buy-bust money handed by PO1 Piano, is sufficient to consummate the sale of illegal drugs. Verily, all the elements of the sale of illegal drugs were established to warrant accused-appellant's conviction.

We cannot give credence to accused-appellant's argument that the failure of PO1 Piano to actually hear the conversation between the confidential informant and the accused-appellant casts doubt on the existence of a legitimate buy-bust operation. What is controlling is that the offense is consummated after accused-appellant handed the shabu to PO1 Piano in exchange for the PhP 200.00 buy-bust money.

We also find no merit in the accused-appellant's contention that there were