

FIRST DIVISION

[G.R. No. 180514, April 17, 2013]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANTE L. DUMALAG, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

For review is the Decision^[1] dated July 3, 2007 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01847, which affirmed the Decision^[2] dated November 16, 2005 of the Regional Trial Court (RTC), Branch 19, of Laoag City in Criminal Case Nos. 1683-19 and 1684-19, finding accused-appellant Dante L. Dumalag guilty beyond reasonable doubt of violating Article II, Sections 5 and 11 of Republic Act No. 9165, otherwise known as the Dangerous Drugs Act of 2002.

The Informations against accused-appellant read:

Criminal Case No. 1683-19, for violation of Rep. Act No. 9165 (Possession).

That on or about 3:30 o'clock in the afternoon of January 5, 2005 at the Sexy Beach Resort located at Brgy. Estancia, Pasuquin, Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his possession, control and custody three (3) heat sealed plastic sachets weighing 0.01 grams, 0.015 grams, and 0.04 grams respectively (sic) for Methamphetamine Hydrochloride otherwise known as "shabu", without having the authority, license or prescription to do so.^[3]

Criminal Case No. 1684-19, for violation of Rep. Act No. 9165 (Sale).

That on or about 3:30 o'clock in the afternoon of January 5, 2005 at the Sexy Beach Resort located at Brgy. Estancia, Pasuquin, Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell one (1) small heat sealed plastic sachet containing Methamphetamine Hydrochloride otherwise known as shabu, a regulated drug, weighing 0.023 grams to a police poseur buyer in a buy bust operation without the necessary license or authority to do so.^[4]

Accused-appellant pleaded not guilty to both charges when he was arraigned on June 14, 2005.^[5]

During the preliminary conference on June 27, 2005, the parties made the following admissions:

The defense admitted the following proposals of the prosecution:

1. The identity of the accused as the same Dante Dumalag also known as Dato Dumalag who was arraigned in these cases.
2. That the accused is a resident of Brgy. 2, Pasuquin, Ilocos Norte on [or] before January 5, 2005.
3. That the accused was at the Sexy Beach [Resort] at Brgy. Estancia, Pasuquin, Ilocos Norte in the afternoon of January 5, 2005.
4. That the prosecution witnesses namely: PO3 Rousel Albano, PO2 Danny Valdez, SPO4 Angel Salvatierra and PO2 Harold Nicolas are members of the Special Operations Group (SOG) on or before January 5, 2005.
5. That the accused is not authorized to sell neither to possess prohibited drugs known as shabu.

For its part, the prosecution only admitted the proposal of the defense that the accused and PO2 Danny Valdez are town mates.^[6]

The defense made additional admissions during pre-trial on June 28, 2005, which the RTC stated in its Order^[7] of even date:

Upon proposal of the Court, the defense admitted the existence of the initial laboratory report, the confirmatory report and the result of the urine test issued by Police Senior Inspector [PSI] Mary Ann Cayabyab [Cayabyab] which were marked as Exhibits "I", "J" and "K", respectively.

The prosecution and the defense also agreed that before 2:00 o'clock in the afternoon of the date of the incident, the accused had rented and was occupying room number 3 of the Resort Hotel and Restaurant located at Sexy Beach, Pasuquin, Ilocos Norte.

Thereafter, the prosecution and defense considered the pre-trial closed and terminated.

Thereafter, trial ensued.

The prosecution called Police Officer (PO) 3 Rousel Al Albano^[8] (Albano) and PO2 Danny U. Valdez^[9] (Valdez) to the witness stand, while dispensing with the testimony of Police Senior Inspector (PSI) Mary Ann Cayabyab (Cayabyab) in view of the stipulation of the parties as to the substance of her testimony.^[10] The prosecution likewise submitted the following object and documentary evidence: (a) the Joint Affidavit^[11] dated January 6, 2005 executed by the Special Operations

Group (SOG) members who conducted the buy-bust operation on January 5, 2005, including PO3 Albano and PO2 Valdez; (b) the Extracted Police Blotters^[12] dated January 6, 2005 which recorded the events prior to and after the buy-bust operation; (c) two pieces of P100.00 marked bills used in the buy-bust operation; ^[13] (d) the Request for Laboratory Examination^[14] dated January 5, 2005 of one heat- sealed sachet marked "RA" and three heat-sealed sachets marked "R" of suspected *shabu* confiscated from accused-appellant; (e) Request for Drug Test Examination^[15] dated January 5, 2005 of accused-appellant's person; (f) one heat-sealed sachet of suspected *shabu* marked "RA";^[16] (g) three heat-sealed sachets of suspected *shabu* marked "R";^[17] (h) PSI Cayabyab's Chemistry Report No. D-003-2005^[18] dated January 5 and 6, 2005 stating that the sachets submitted for examination tested positive for methamphetamine hydrochloride; (i) PSI Cayabyab's Chemistry Report No. CDT-002-2005^[19] dated January 6, 2005 stating that accused-appellant's urine sample tested positive for methamphetamine hydrochloride; (j) the Certification of Seized Items^[20] dated January 5, 2005 prepared by PO3 Albano and PO2 Valdez enumerating the items seized from accused-appellant's possession when arrested; (k) several pieces of crumpled aluminum foils;^[21] (l) a purple disposable lighter;^[22] and (m) an empty Winston cigarette pack.^[23]

The prosecution's version of events was presented by the RTC as follows:

At around 2:00 o'clock in the afternoon of January 5, 2005, a female police informant from Pasuquin, Ilocos Norte went to the office of the Special Operations Group (now Provincial Anti-Illegal Drugs Special Operations Team or PAID-SOT) located at Camp Juan, Laoag City and reported that a certain Dato Dumalag, a known drug personality of Brgy. 2, Pasuquin, Ilocos Norte was at Sexy Beach Resort owned by Bebot Ferrer selling *shabu* to customers. Acting upon the report, PO3 Rousel Albano and PO2 Danny Valdez relayed the information to their team leader, Police Inspector Rolando Battulayan, who then organized a team composed of PO3 Albano, PO2 Valdez, SPO4 Salvatierra and PO2 Harold Nicolas to conduct a buy bust operation against the suspect. PO3 Albano was assigned to act as poseur buyer while the rest of the team will act as perimeter back up. PO3 Albano was also tasked to mark the two pieces of P100 bills provided by Inspector Battulayan to be used as buy bust money and placed the letter "R" between the letters G and P of Republika Ng Pilipinas on the face of the bills. The pre-operation activity was also recorded in the police blotter. Afterwards, the team proceeded to the target place located in Brgy. Estancia, Pasuquin at around 2:30 o'clock that same afternoon.

Upon reaching the place at around 3:00 o'clock, the police asked the caretaker of the beach resort if a person is occupying Room 03 as reported by the asset. The caretaker who was with another caretaker and both of whom were female gave them the information that indeed a male person was occupying the said room. After they prepared for the plan and have surveyed the area for five to seven minutes, they proceeded with the drug bust. The members of the back up security positioned

themselves on the southern part of the alley about 15 meters away from Room 3 while PO3 Albano and the police asset went to the said room of the suspect which was located at northernmost part [of] the main building of the resort. When they were already at the door, the asset called out the name of the suspect Dato and PO3 Albano knocked at the door. After the asset also knocked at the door, a male person peeped through and upon recognizing the police asset, Dato Dumalag told her, "*Mano Alaenyo, sumrek kay pay lang ngarud*" (How much will you get, come in then). As they were already inside the room, PO3 Albano told the suspect, "*Balor dos ti alaenmi*" (We will get worth two). The suspect then went to the dresser located on the southern part of the room and west of the door and took one small plastic sachet and handed the same to PO3 Albano who immediately handed the two marked P100 bills. After the suspect had pocketed the money on his right front pocket, he told them, "*Rumaman kay pay ngarud tig-P50.00* (Taste first, P50 worth for each of you). At that instance, PO3 Albano gave the pre-arranged signal to the members of the back up security that the sale was already consummated by pressing the button of his cellphone to retrieve and call the last dialed number which was the cell number of PO2 Valdez. After making the signal, PO3 Albano grabbed the right hand of the suspect and informed him of his authority. The suspect scuffled with the police officer who was however able to subdue him.

In the meantime, after PO2 Valdez received the miss call of PO3 Albano, he and his companions rushed inside the room of the suspect. PO3 Albano had already handcuffed the suspect by then and was holding him at that time. While PO3 Albano frisked the accused where he confiscated a P50 bill in which three other sachets of suspected *shabu* were inserted, PO2 Valdez searched the room and confiscated some items which were on top of the dresser, such as five crumpled aluminum foil, stick of cigarette, cigarette foil, a lighter and a cellphone. Afterwards, they brought the suspect and the confiscated items to their headquarters in Laoag City where PO3 Albano marked the sachet of shabu bought from the suspect with his initials "RA". He also marked the other three sachets and the P50 bill in which he found the said sachets with the letter "R" on one side and the letters "DD" on the other side. He also prepared the confiscation receipt which the accused signed and the post operation report. On the other hand, PO2 Valdez marked the items that he confiscated with his initials "DUV". They then brought the confiscated items for laboratory examination together with a letter request.

Upon receipt of the specimens, the Forensic Chemical Officer of the Ilocos Norte Provincial Crime Laboratory Office in Camp Juan, Police Senior Inspector Mary Ann Cayabyab, examined the same. Particularly with respect to the four sachets, she found the contents thereof to be methamphetamine hydrochloride. This is shown in her Initial Laboratory Report as well as in her confirmatory report, Chemistry Report No. D-003-2005. The said Forensic Chemical Officer also found the urine sample of the accused positive for methamphetamine hydrochloride as shown in Chemistry Report No. CDT-002-005.

It must be noted that in the course of his testimony, PO3 Albano

identified their Joint Affidavit of arrest, the extract of the police blotter showing the pre-operation activity; the extract of the police blotter containing the post operations report, the two pieces of P100 bills buy bust money bearing Serial Nos. *3664717 and PG656160, the three plastic confiscated from the possession of the accused with the marking letter "R" and "DD", the P50 bill in which the three sachets were supposedly rolled, the plastic sachet containing crystalline substance that was sold by the suspect and the Certification of Seized Items. In the case of PO2 Valdez, he identified those that he confiscated: the five (5) pieces of crumpled aluminum foil, the Nokia 3210 cellphone, the Winston cigarette pack, a stick of Winston cigarette and a purple cigarette lighter. Both witnesses also identified the letter request for laboratory examination and the letter request for urine examination.^[24] (Citations omitted.)

Evidence for the defense were the testimonies of accused-appellant himself^[25] and Kaichel Bolosan^[26] (Bolosan), and their respective Sworn Statements dated February 18, 2005.^[27] The defense averred that the police officers framed accused-appellant after failing to extort money from him. The RTC summed up the defense's evidence, to wit:

That afternoon of January 5, 2005, Kaishel Bolosan was with his friends Nathaniel Bolosan, Mark Milan, Jay Adaon and Benjie Galiza singing at a videoke establishment located at the corner of the entrance of Sexy Beach. While the said group was there, Dante or Dato Dumalag whom Kaishel had known because he usually played billiards in his (accused's) house at Brgy. 2, Pasuquin but with whom he has not had any conversation before, passed by their place in a chop-chop motorcycle. Dante Dumalag was then with a female companion. As soon as Dante had parked his motorcycle, he and his female companion immediately went inside the hotel. This, Kaishel and his companions did not mind as they kept on singing. The caretaker and the cleaner of the hotel were there at that time when Dante Dumalag entered the hotel. Thirty (30) minutes after Dante and his female companion entered the hotel, six men arrived in a red pick up vehicle. Kaishel Bolosan knew them to be policemen because he recognized one of them to be Danny Valdez, a policeman who is a resident of Pasuquin and whom he usually saw in his uniform flagging down a ride in going to Laoag City, arrived in a red pick up vehicle. The police officers who were all male asked first the caretaker where the room of Dante Dumalag was and after looking for it for about five (5) minutes, Kaishel assumed that they entered the room of Dante because after they proceeded to the back, he did not see them anymore. Two of the police officers, however, remained at the side of the hotel, one of whom moved their pick up vehicle beside the hotel.

In the meantime, as Dante Dumalag and his companion Irish Sao were already in the hotel where they were supposed to rest, they rented a room, particularly Room No. 3. When they were already inside, Dante Dumalag went to the bathroom to take a bath while his lady companion [lay] on the bed. After taking a bath, Dante heard somebody knocked at