

SECOND DIVISION

[G.R. No. 188103, March 07, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JEROME PALER, ACCUSED-APPELLANT.**

D E C I S I O N

PEREZ, J.:

The prosecution charged Jerome Paler (appellant Paler) before the Regional Trial Court (RTC), 10th Judicial Region, Branch 12, Oroquieta City, with violation of Section 5, Article II of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 under the Information which states:

That on or about the 22nd day of June 2004, at 6:00 o'clock in the afternoon, in Barrientos Street, Barangay Layawan, Oroquieta City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, without being authorized by law, did then and there wilfully, unlawfully and feloniously **sell, deliver and give away to a poseur-buyer one (1) sachet of shabu** in consideration of a marked 100-peso bill with serial number HW 257588 which was actually handed to and received by the said accused, and on the occasion of such buy-bust operation confiscated further from the possession of the accused another three (3) sachets of shabu placed in an empty pack of Winston cigarette which buy-bust operation resulted to the confiscation of a total of four (4) sachets of *shabu* all weighing 0.0565 gram.^[1] (Emphasis supplied)

The Facts

It was 22 June 2004, around 6:00 o'clock in the evening. Appellant Paler was standing and conversing with a man in front of Golden Heart *Videoke* Bar in Layawan, Oroquieta City. Inside a car, parked about 12 meters away, seven (7) policemen in civilian clothes from the Provincial Anti-Crime Team (PACT), Misamis Occidental, were intently observing the movements of their informant who was the one conversing with the appellant.^[2]

Minutes passed. The police informant brought out a P100.00 bill from his left pocket and handed it to the appellant who took a sachet of white substance from a cigarette pack in exchange for the money.^[3] Then, the police asset ceremoniously scratched his head,^[4] long enough for the policemen to notice it. In seconds, the police emerged from the car, raced to the appellant and surrounded him. It was a buy-bust operation.

Commotion followed. PO3 Rico Balbutin (PO3 Balbutin) met the police informant who acted as *poseur*-buyer – retrieving the sachet of white crystalline substance;

PO3 Balbultin then ran to the appellant to bodily search him. He recovered the marked P100.00 bill tacked in the appellant's pocket and three (3) other sachets of suspected *shabu* hidden in the empty pack of Winston cigarettes.^[5] Meanwhile, a certain PO2 Ramirez handcuffed the appellant, explained why he was being arrested and informed him of his constitutional rights.

PO3 Balbutin handed the confiscated items to PO1 Clint Jill Gula (PO1 Gula), the PACT's evidence custodian, who brought them along with the appellant to the PACT's headquarters in Lower Lamak, Oroquieta City.^[6] There, PO1 Gula marked the confiscated items with "BB1" to signify the sachet sold to the *poseur*-buyer; "JP2," "JP3," and "JP4," to signify the three sachets hidden in the empty pack of Winston cigarette. The team also entered the incident in the PACT's log book.^[7]

At around 8:45 o'clock in the evening, after PO1 Gula prepared the request for the appellant's urine test, the team proceeded to the provincial crime laboratory to subject the appellant to drug testing. Thereafter, the appellant was turned over to the Oroquieta City Police where he spent his first night in jail.

On 23 June 2004, at around 8:30 o'clock in the morning, in the presence of the representatives from the Department of Justice, media, and a public official,^[8] PO1 Gula, retrieved the confiscated items already marked the previous night and made the inventory; a photographer also took pictures of them. The inventory report stated:

Pursuant to Section 21 of RA 9165, **a physical [inventory] and photographing of the items** described below that were confiscated from the possession and control of one Jerome Paler y Lanit, 34 years old, married and resident of Barrientos Street, Barangay layawan, Oroquieta City during the buy bust operation conducted on or about 221800H June 2004 at the aforementioned place by elements of this office, to wit:

- 1.) **One (1) deck of shabu with marking "BB1" which was bought during the buy bust operation.**
- 2.) Three (3) decks of suspected shabu with markings "JP2 to JP4" placed in an empty pack of Winston cigarette which were confiscated from his possession and control of said suspect.
- 3.) One (1) piece of one hundred peso bill with serial number HW257588 as marked money which was confiscated from his (Jerome) possession and control.

The said physical inventory and photographing were conducted at this office on or about 220830H June 2004 **in the presence of the suspect/offender, from the media, from the Department of Justice and elected Public Official of said place.**^[9] (Emphasis supplied)

All of the witnesses signed the inventory report which was done in the presence of the appellant who was furnished with a copy thereof.

The appellant pleaded not guilty when arraigned. This is his version:

The appellant's Golden Heart *Videoke* Bar was to re-open on 22 June 2004. At around 6:00 o'clock in the evening, while he and his live-in partner, Debbie Amil, were standing in front of the bar, waiting for customers to arrive, police officers PO3 Balbutin, Julito Candawan, Eilrred Ramirez and Allan Alvarico (Alvarico) alighted from a *Tamaraw FX* which was parked in front of the bar thirty minutes earlier.^[10] The policemen approached and invited him and Debbie Amil to the PACT's headquarters to verify the report that Debbi Amil has a pending warrant of arrest. He heeded the invitation, trusting the police officers whom he personally knew and even considered as his friends. At the headquarters, however, PO3 Balbutin searched the appellant and even undressed him, finding in his possession his cashless wallet and an empty pack of Winston cigarettes. The police took his wallet,^[11] while he kept holding the empty pack of cigarettes.

The appellant and PO3 Balbutin proceeded to the latter's office, also at the headquarters, while Alvarico tailed them. The appellant sat in front of PO3 Balbutin's table, who put the pack of Winston cigarette on the table (now with three sticks of cigarette) while Alvarico stood beside him. The two police officers asked him about Debbie Amil's warrant of arrest and informed him that he was to undergo drug testing. At that time, he claimed to have already stopped using drugs after completing in the previous year his rehabilitation from drug use.

Before proceeding to the crime laboratory, PO3 Balbutin asked for the pack of Winston which the appellant was carrying; PO3 Balbutin pulled out from the pack of Winston three (3) sachets of shabu to the surprise of the appellant. He denied any knowledge about the *shabu* and claimed the sachets were planted.

The appellant's urine sample tested positive for drug use, and the chemistry report revealed that all the sachets of white crystalline substance confiscated from the appellant were *Methamphetamine Hydrochloride* or *shabu*.

The RTC found the appellant guilty of violation of Section 5 of Republic Act No. 9165, a decision which the Court of Appeals affirmed *in toto*. Thus:

WHEREFORE, premises considered, the appealed June 7, 2006 Decision of the Regional Trial Court (RTC), 10th Judicial Region, Branch 12, Oroquieta City, in Criminal Case No. 1672, entitled "*People of the Philippines v. Jerome L. Paler of Barrientos St., Layawan, Oroquieta City*," is hereby AFFIRMED *in toto*.^[12]

Hence, this appeal on the following grounds:

- a. In giving full weight and credence to the unbelievable testimonies of the prosecution witnesses; and
- b. In convicting the appellant of the crime charged despite failure of the prosecution to prove his guilt beyond reasonable doubt.^[13]

The appellant contends that the prosecution's case against the accused-appellant is weak because the evidence does not measure up to the required quantum of proof to convict in criminal cases.^[14]

The Court's Ruling

We affirm the Decision of the Court of Appeals.

The appellant was convicted for violation of Section 5 of Republic Act No. 9165, which reads:

Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any such transaction.

The elements necessary for the prosecution of illegal sale of drugs are (1) the identities of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.^[15] 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. The testimonial and the documentary pieces of evidence adduced by the prosecution in support of its case against the appellant establish the presence of these elements.

First, the identity of the seller was duly established. The police officers, PO3 Balbutin and PO1 Gula, positively identified appellant Paler as the same person from whom their asset purchased the sachet of *shabu*. PO3 Balbutin and PO1 Gula were both present at the entrapment and they witnessed the transaction between the *poseur*-buyer and the appellant.

Second, the police officers saw the appellant handing the sachet to the *poseur*-buyer in exchange of the P100.00 peso bill that the appellant earlier received from the poseur-buyer. Not only did the police retrieve the *shabu* which was the object of the illegal sale, they also recovered three more sachets of *shabu* from the same empty pack of Winston cigarette, a fact which bolsters the prosecution's claim that the appellant indeed sold *shabu* to the *poseur*-buyer.

To cast doubt as to the identity and integrity of the *shabu*, the appellant claims that the police officers failed to account for the chain of custody of the seized item alleged to be *shabu*.