

## SECOND DIVISION

[ G.R. No. 182059, July 04, 2012 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
CAMILO D. NICART AND MANUEL T. CAPANPAN, ACCUSED-  
APPELLANTS.**

### D E C I S I O N

**PEREZ, J.:**

Before us for final review is the Decision<sup>[1]</sup> dated 25 October 2007 of the Court of Appeals in CA-G.R. CR-H.C. No. 01901, which affirmed the Joint Decision<sup>[2]</sup> dated 11 May 2005 of the Regional Trial Court, Branch 164, Pasig City in Criminal Case Nos. 12625-D and 12626-D. The trial court found accused-appellant Camilo Nicart (Nicart) guilty beyond reasonable doubt of illegal sale of *shabu* in violation of Section 5, Article II of Republic Act 9165 (RA 9165) and accused-appellant Manuel Capanpan (Capanpan) guilty beyond reasonable doubt of illegal sale and illegal possession of *shabu* in violation of Sections 5 and 11, Article II of the same Act.<sup>[3]</sup>

#### ***The Facts***

On 4 July 2003, an Information<sup>[4]</sup> charging Nicart and Capanpan with violation of Section 5, Article II of RA 9165 was filed before the Regional Trial Court, Branch 164, Pasig City. A separate Information<sup>[5]</sup> against Capanpan was also filed on even date for violation of Section 11, Article II of the same Act.

Nicart and Capanpan were arraigned on 31 July 2003. In Criminal Case No. 12625-D, both pleaded not guilty.<sup>[6]</sup> Capanpan likewise entered a plea of not guilty in Criminal Case No. 12626-D.<sup>[7]</sup>

On trial, the prosecution presented witnesses PO1 Joy Decena (PO1 Decena) and SPO3 Leneal T. Matias (SPO3 Matias), both of the Station Drug Enforcement Unit of the Pasig City Police Station. The testimony of P/Sr. Insp. Annalee R. Forro, a Forensic Chemical Officer of the Eastern Police District Crime Laboratory Office in Mandaluyong City, on the other hand, was dispensed with after the public prosecutor and the defense counsel stipulated on the integrity of the seized items, that is, "that Exhibits 'E-1' and 'E-2' (the two heat-sealed transparent plastic sachets both containing 0.03 gram of white crystalline substance [which were recovered from the appellants]) were the same specimens mentioned in Exhibit 'B-1' (the request for laboratory examination dated 3 July 2003) and Exhibit 'C-1' (Chemistry Report No. D-1271-03E issued by P/Sr. Insp. Annalee R. Forro), and that the same were regularly examined by the said chemical officer."<sup>[8]</sup>

The trial court's summary of the testimonies of the prosecution witnesses adopted

by the Court of Appeals<sup>[9]</sup> is hereto reproduced, to wit:

On July 2, 2003, at around 10:30 in the evening, a concerned citizen reported to the office of the Station Drug Enforcement Unit of the Pasig City Police Station that a certain Milo was engaged in drug pushing at Baltazar Street, Bolante, Brgy. Pinagbuhatan, Pasig City. The police officers who were then present immediately relayed the information to their Chief, P/Sr. Insp. Jojie A. Tabios, who decided to conduct a buy-bust operation to entrap and apprehend the suspect. He formed a team composed of witness PO1 Joy Decena who was designated as the poseur-buyer and PO1 Allan Mapula, witness SPO3 Leneal Matias and PO1 Clarence Nipales as the back-up team. As poseur-buyer, PO1 Joy Decena was supplied with a 100 peso bill. He promptly marked the 100-peso bill with his initials "JD." The concerned citizen joined the group and offered to accompany and introduce poseur-buyer PO1 Decena to Milo who was later on identified as accused Camilo D. Nicart.

At around 11:00 o'clock that evening, the team proceeded to Bolante to conduct the buy-bust operation. Arriving at the place after 10-15 minutes, PO1 Decena and the informant alighted from the police mobile car and walked towards a sari-sari store. The informant saw a man sitting in front of the sari-sari store whom he identified as Milo, the subject of the operation. The informant and Camilo greeted each other and then the informant introduced PO1 Decena as someone who wanted to buy some items (shabu) from him for the sum of "piso" (100 pesos). Decena handed the marked 100-peso bill to Camilo. The latter then walked to the other side of the street where he talked to a male person. Camilo handed the money to the person who was identified later as accused Manuel T. Capanpan. The latter, in turn, gave Camilo a plastic sachet containing white crystalline substance. Upon receiving the plastic sachet containing the suspected *shabu* from Camilo, PO1 Decena immediately grabbed the former by the hand and introduced himself as a police officer and that he was arresting him for violation of the dangerous drugs law. He handcuffed Camilo and frisked him. Decena, however, did not recover anything illegal from Camilo except the plastic sachet containing white crystalline substance that he bought from him.

Meanwhile, the back-up team of Decena came forward and upon Decena's urging, arrested the man wearing a striped shirt (later identified as accused Manuel Capanpan) from whom Camilo got the plastic sachet containing suspected *shabu* that he sold to PO1 Decena. SPO3 Leneal Matias conducted a search on the body of Manuel and recovered another plastic sachet of white crystalline substance that appeared to be *shabu*. The pocket of Capanpan also yielded the 100-peso bill that poseur-buyer PO1 Decena paid to Camilo. Matias then placed the initials "MCT" on the plastic sachet he recovered from Capanpan. The one bought by Decena from accused Camilo was marked with the initials "CDN."

The two accused, Capanpan and Nicart boarded the police mobile car and were brought to the SDEU office where they were turned over to the police investigator on duty. The two (2) plastic sachets containing white

crystalline substance were then sent to the Eastern Police District Laboratory Office in Mandaluyong City x x x. The two (2) heat-sealed transparent plastic sachets, each containing 0.03 gram of white crystalline substance, were then examined by P/Sr. Insp. Annalee R. Forro, a forensic chemical officer of EPD Crime Laboratory Office, who later issued Chemistry Report No. D-1271-03E with a finding that both specimens contained methylamphetamine hydrochloride, a dangerous drug.

The defense, on the other hand, presented the following witnesses: (1) Nicart and Capanpan; (2) Maricel Capanpan, sister of Capanpan; and (3) Lorna Guiban, Vice-Chairman of the *Barangay* Security Force of *Barangay* Pinagbuhatan, Pasig City. Below is the summary of the version of the defense lifted from the decision of the Court of Appeals.<sup>[10]</sup>

Accused Camilo Nicart essentially testified that he was only buying milk at the sari-sari store along Baltazar Street, Pinagbuhatan, Pasig City, when the police officers arrived and arrested him. After frisking him, he was taken to the police station where he was detained. He averred that he was arrested at around 8:00 o'clock in the evening, and not 10:30 as claimed by the prosecution witnesses, and that there were children playing in front of the store at that time. He did not react when he was arrested and brought to the police station nor when he was put in jail because he did not commit any offense. He only got angry during the inquest proceeding when he asked the prosecutor why they were being charged when they did not commit any crime.

For his part, accused Manuel T. Capanpan testified that he was just sitting on a bench in front of his house across the sari-sari store when he saw Camilo Nicart being arrested and frisked by the police officers. The police officers then brought Camilo to their vehicle. Thereafter, the police officers went back and arrested him also. He and Camilo were then brought to the police station. He maintained that he and Camilo were arrested at around 8:00 in the evening. He claimed that he was with his neighbors when he was arrested and that there were also several people in the store where Camilo was arrested. He admitted, however, that these people only watched them when they were arrested. The witness also averred that he knew Camilo because the latter was a customer in his beauty parlor. Finally, he admitted that he did not know the police officers previous to his arrest, much less had a prior disagreement with them.

Maricel Capanpan testified that on July 2, 2003, at about 10:30 p.m., she was standing beside the door of her house when she saw accused Camilo Nicart buying "gatas", "asukal" at "tinapay" at the sari-sari store located across the street. She then saw four persons in civilian clothes approach and start frisking Camilo. The four persons then handcuffed Camilo and placed him inside a police mobile car. Thereafter, two of them approached her brother, accused Manuel T. Capanpan, and arrested him. They then brought his [sic] brother to the car and drove away.

Finally, Lorna Guiban testified that she was Vice-Chairman of the Barangay Security Force of Barangay Pinagbuhatan, Pasig City. On July 2, 2003, at around 10:30 p.m., she was buying cigarettes from a sari-sari store at Baltazar Street in Pinagbuhatan while waiting for the person who would give her the key to the barangay outpost she was supposed to open. Accused Camilo Nicart then arrived and bought Nestogen and sugar. Thereafter, two (2) motorcycles arrived and the riders alighted and suddenly frisked Nicart, took his wallet and handcuffed him. She averred that she was a meter away from them when Camilo was arrested. The arresting officers then proceeded to the house across the street and arrested accused Manuel Capanpan, who was sitting in front of his house. The arresting officers then brought Camilo and Manuel to a car and drove away. She admitted that she did not intervene because the two accused did not ask for help. She also admitted that she did not put the incident in the blotter at their outpost.

On 11 May 2005, the trial court convicted both Nicart and Capanpan.<sup>[11]</sup> The dispositive portion of the Joint Decision reads:

WHEREFORE:

1. In Criminal Case No. 12625-D, the court finds accused Camilo Nicart y Dilmonte, and accused Manuel Capanpan y Tismo, both GUILTY beyond reasonable doubt of selling 0.03 gram of methamphetamine hydrochloride in violation of Sec. 5, Article II of R.A. 9165, and hereby imposes upon them the penalty of life imprisonment and fine of Five Hundred Thousand Pesos with the accessory penalties under Sec. 35 of said R.A. 9165.
2. In Criminal Case No. 12626-D, the court finds accused Manuel T. Capanpan GUILTY beyond reasonable doubt of illegal possession of 0.03 gram of methamphetamine hydrochloride in violation of Sec. 11, Art. II of R.A. 9165 and hereby imposes upon him an indeterminate penalty of imprisonment of Twelve (12) years and One (1) day, as minimum, to Sixteen years, as maximum, and fine of Three Hundred Thousand (P300,000.00) pesos with the accessory penalties under Sec. 35 of R.A. 9165.<sup>[12]</sup>

On appeal, the Court of Appeals AFFIRMED *in toto*<sup>[13]</sup> the trial court's Joint Decision of 11 May 2005. Hence, the instant appeal.

We also affirm the appellants' conviction.

***Presence of the elements of illegal sale  
and illegal possession of a dangerous drug***

PO1 Decena attested that Nicart took his marked money, walked over to Capanpan and exchanged it with a sachet of *shabu*. Afterwards, Nicart walked back to PO1

Decena and gave the item to him. SPO3 Matias, on the other hand, testified as to the circumstances of the arrest of Capanpan, the recovery of the marked money, and the confiscation of another sachet of shabu in his possession. The seized items, the Chemistry Report issued by P/Sr. Insp. Annalee R. Forro stating that the contents of the sachets tested for *shabu*, and the marked money were all presented in court. These were coupled with the stipulation between the prosecution and the defense that the substances earlier forwarded to the laboratory for examination and those presented in court were the same specimens examined and tested positive for *shabu*.

Thus, present in the instant case are the following requisites for illegal sale of *shabu*: "(a) the identities of the buyer and the seller, the object of the sale, and the consideration; xxx (b) the delivery of the thing sold and the payment for the thing[; and (c)] the presentation in court of the *corpus delicti* as evidence."<sup>[14]</sup> Likewise present are the essential elements of illegal possession of a dangerous drug, to wit: "(a) [that] the accused is in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) [that] such possession is not authorized by law; and (c) [that] the accused freely and consciously possessed the drug."<sup>[15]</sup>

### ***Credibility of the witnesses and their testimonies***

Time and again, we hold that the "findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings."<sup>[16]</sup> Likewise basic is the rule that "the determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, is accorded full weight and credit as well as great respect, if not conclusive effect."<sup>[17]</sup>

Further, after a close examination of the records, we are strongly convinced that the trial court and the Court of Appeals validly gave credence to the testimonies of PO1 Decena and SPO3 Matias.

Pertinent portions of the testimony of PO1 Decena (the poseur-buyer)<sup>[18]</sup> read:

Q: So, while you were along Baltazar Street and Bolante, you reached a certain store there and what happened, Mr. [W]itness?

A: A man was sitting there.

Q: How many individuals did you see in that store, Mr. [W]itness, in that night?

A: In front of the store only one (1) person.

x x x

Q: So, what happened after that, Mr. [W]itness, because you were walking with your informant?

A: Sir, our informant binati iyong tao.

Q: Iyong nakaupo?

A: Yes, sir.

Q: What is the statement made by the informant?

A: Pare kamusta.