

## SECOND DIVISION

[ G.R. No. 191753, September 17, 2012 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RONALD DE JESUS  
Y APACIBLE AND AMELITO DELA CRUZY PUA, APPELLANTS.**

### D E C I S I O N

**BRION, J.:**

This is an appeal<sup>[1]</sup> of the decision<sup>[2]</sup> dated August 12, 2009 and the resolution<sup>[3]</sup> dated January 25, 2010 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03185. The appealed decision affirmed the joint decision<sup>4</sup> dated February 1, 2008 of the Regional Trial Court (RTC)<sup>[5]</sup> (Branch 103, Quezon City) that convicted appellants Ronald de Jesus y Apacible and Amelito dela Cruz y Pua of the charges of violating Section 5, Article II of Republic Act (RA) No. 9165 (against appellants De Jesus and Dela Cruz)<sup>[6]</sup> and Section 11, Article II of the same law (against appellant Dela Cruz).

#### The Facts

The records show that the District Anti-Illegal Drugs Special Task Force (DAID, stationed at Camp Karingal) received a tip from its asset about the illegal drug activities of a certain Amel on Cartier St., Villa Carina Subdivision, Barangay Pasong Tamo, Quezon City. Acting on the tip, the DAID chief formed a team to conduct a buy-bust operation, and designated Police Officer 1 (PO) Abdulrahman Hamdani to act as *poseur*-buyer. PO Hamdani was given a P1,000.00 bill to be used in the operation, which bill he marked with his initials "AH." After coordinating with the Philippine Drug Enforcement Agency (PDEA), the buy-bust team and the asset proceeded to Cartier St. where they saw the appellants.

The asset introduced the appellants to PO Hamdani who expressed his intention to buy *shabu*, but no sale took place as the appellants had no stock of *shabu* at that time. At the instructions of De Jesus, the asset and PO Hamdani (together with the other members of the buy-bust team) returned the next day.

On their return, the asset and PO Hamdani again approached the appellants. De Jesus told them that he already had the "stuff." PO Hamdani handed the marked money to De Jesus, and Dela Cruz handed the *shabu* to PO Hamdani. After the exchange, PO Hamdani made the pre-arranged signal; the buy-bust team then immediately converged for the operation. PO Hamdani arrested De Jesus while PO2 Edmond Paculdar arrested Dela Cruz who was found in possession of two plastic sachets of suspected *shabu* and of the marked money. PO Hamdani and PO Paculdar placed their initials "AH," "EP" and "EP-1" on the plastic sachets of suspected *shabu* they seized.

The appellants and the items were brought to the DAID's office at Camp Karingal for booking and investigation. The confiscated materials were inventoried and photographed, and thereafter taken to the Philippine National Police (*PNP*) Crime Laboratory for chemical examination. Chemistry Report No. D-662-2005, dated August 14, 2005, showed that all the three specimens, weighing 0.31 grams (for buy-bust sale) and 0.06 grams and 0.11 grams (for possession) all tested positive for *shabu*.

The appellants denied the charges and, in their defense, claimed that no buy-bust operation ever took place.

De Jesus asserted that he was on his way home after playing a basketball game when he was accosted and handcuffed by four (4) armed men in civilian attire. De Jesus claimed that the men forced him to board a Toyota Revo. The vehicle later stopped in front of the house of his *kumpare*, Dela Cruz, who was also accosted, handcuffed and forced to board the Toyota Revo. Inside the vehicle, the men introduced themselves as police officers and took them to the office of the DAID at Camp Karingal. The police informed him (De Jesus) and Dela Cruz that they were under arrest for selling drugs. The police did not inform them of their rights to remain silent and to counsel, nor were they allowed to make any phone call. De Jesus claimed that he and Dela Cruz only saw the *shabu* when it was photographed and underwent physical inventory. De Jesus also claimed that they signed the inventory receipt because of the physical threat the police made against them.

To corroborate his testimony, De Jesus presented John Michael Perez who confirmed that he and De Jesus played basketball prior to the incident. May Tagle, a *kagawad* from De Jesus' *barangay*, took the stand and presented a Certification issued by the *barangay* captain attesting to the good moral character of De Jesus.

Dela Cruz denied the charge of selling drugs. He claimed that he was then inside his house waiting for his family. When he opened the gate for his wife and kids, armed men suddenly grabbed him and forced him to board a Toyota Revo. He saw De Jesus already on-board the vehicle.

To corroborate his story, Dela Cruz presented Claire dela Cruz (his wife), Dr. Evelyn Braganza (a neighbor), and Julius Valdez (a tricycle driver). The three (3) testified that armed men (who turned out to be policemen) accosted Dela Cruz and forced him into a Toyota van. Claire further narrated that PO Hamdani informed her at the police station that her husband had been involved in drugs. She was told to produce P200,000.00 to settle the case. Claire informed PO Hamdani that she only had P5,000.00 which she gave to him. Claire denied her husband's involvement in drug activities.

In its decision, the RTC convicted both appellants of violating Section 5, Article II of RA No. 9165 for selling *shabu*, and Dela Cruz of violating Section 11, Article II of RA No. 9165 for possessing *shabu*. The decretal portion of the RTC's joint decision reads:

ACCORDINGLY, judgment is rendered as follows:

1. In Q-136278 both accused Ronald de Jesus y Apacible and Amelito dela Cruz y Pua are found GUILTY beyond reasonable doubt of the crime of violation of Sec. 5 of R.A. 9165 as charged and they are both hereby sentenced to a jail term of LIFE IMPRISONMENT and ordered to pay a fine of P500,000.00 each;
2. In Q-136279 accused Amelito dela Cruz y Pua is hereby sentenced to a jail term of twelve (12) years and one (1) day, as minimum to thirteen (13) years as maximum and ordered to pay a fine of P300,000.00.<sup>[7]</sup>

The RTC found the prosecution's evidence more credible than those of the defense; the court disbelieved the defense's inconsistent testimonial evidence and story of abduction at a residential subdivision in broad daylight and in the presence of witnesses. The RTC held that the close relationship of Claire and Dr. Braganza with Dela Cruz puts their credibility into question.

The RTC also rejected the allegation of police extortion for being contrary to human experience; police officers would not commit the serious crimes of abduction and extortion knowing that they would risk their liberty and employment to arrest the ablest appellants. The RTC also noted that the alleged extortion came only after the case had already been submitted by the police officers for proper disposition.

The appellants filed separate appeals to the CA, both claiming reversible errors in the RTC's appreciation of the evidence.

### **The CA's Ruling**

In the presently assailed decision, the CA sustained the appellants' convictions and ruled that the prosecution's evidence duly established the crimes of sale and possession of *shabu*. Contrary to the appellants' assertions, the CA found that the identity and integrity of the *corpus delicti* had been duly preserved in light of evidence duly recording the movements of the seized drugs and the identities of the custodians of these drugs, from the time of their seizure until their presentation in court.

Likewise, the CA found no reason to disturb the RTC's evaluation of the testimonies of the prosecution witnesses – PO Hamdani and PO Paculdar – whose testimonies were strengthened by the documentary evidence showing the details of the buy-bust operation and the physical evidence of the confiscated *shabu*. The CA also observed that the appellants failed to adduce evidence proving police extortion or any ill-motive against them by the police. In the present appeal, the appellants question their conviction based on the same arguments they raised before the CA.

### **The Issues**

The appellants ultimately question the sufficiency of the prosecution's evidence. The appellants argue that the CA erred in its conclusions when it failed to consider the following matters: (1) the inconsistencies in the testimonies of the prosecution witnesses relating to the sale of *shabu*; (2) the proper worth of Dela Cruz' testimony which was corroborated by other testimonial evidence; and (3) the absence of the

*corpus delicti* for both the sale and possession of *shabu* as these were not proven with reasonable certainty.

The appellants subsequently submitted a Supplemental Brief, maintaining their innocence of the crimes charged. The appellants contend that the identities of the prohibited drugs were not proven, given the lapses in the safekeeping of the confiscated *shabu*, which lapses the CA simply brushed aside. The appellants also contend that the integrity and evidentiary value of the confiscated *shabu* were not preserved for lack of compliance with the requirements of Section 21, paragraph 1, Article II of RA No. 9165 and the chain of custody rule.

### **The Court's Ruling**

#### **We dismiss the appeal for lack of merit.**

The settled rule is that factual findings of the trial court and its evaluation of the credibility of witnesses and their testimonies are entitled to great respect and will not be disturbed on appeal, unless the trial court is shown to have overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance.<sup>[8]</sup> A careful study of the records in this regard shows no compelling reason to overturn the lower courts' factual findings and their evaluation of the presented evidence.

**First,** the matter of assigning values to the testimonies of witnesses is best and most competently performed by the trial judge who, unlike the appellate courts, has the direct opportunity to observe and assess the conduct and demeanor of witnesses.<sup>[9]</sup> Under the circumstances, we find that the RTC judge committed no reversible error when he accorded greater evidentiary weight to the prosecution's version of the events. Buy-bust operations are recognized methods of trapping and capturing lawbreakers in drug-related crimes. These are the time-tested operations that have yielded positive results for the police. On the part of the defense, the theories raised are not also unusual. Upon proof and establishment of a *prima facie* case based on the buy-bust evidence, the burden of evidence shifts to the defense to support its denial or to show that irregularities attended the buy-bust story that the prosecution presented. The parties' positions both ran along these lines, with the defense relying mainly on denial.

Upon due consideration of these drug cases realities, we find that the testimonies of PO Hamdani and PO Paculdar on the buy-bust operation were clear, positive and unequivocal. PO Hamdani testified that he bought *shabu* from the appellants, while PO Paculdar testified that he found *shabu* in Dela Cruz's possession when he was frisked. The testimonies of PO Hamdani and PO Paculdar were corroborated by both the documentary evidence and the physical evidence which outlined the detailed steps in the pre-operation, on- operation and post-operation activities of the police operations.

The records show the preparation by the police of a Pre-Operation Report/Coordination Sheet (dated August 13, 2005) which was sent to the PDEA before the buy-bust operation. The police also prepared a P1,000.00 bill (whose photocopy was submitted as evidence) that was used in the operation as buy-bust money, marked by PO Hamdani with his initials "AH." The records further show the Arrest and Booking Sheet of the appellants who were caught red-handed in selling