

FIRST DIVISION

[G.R. No. 198051, December 10, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILLIAM DUMAPLIN Y CAHOY, ACCUSED-APPELLANT.**

D E C I S I O N

VILLARAMA, JR., J.:

On appeal is the February 25, 2011 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 00777-MIN, which affirmed the Decision^[2] of the Regional Trial Court (RTC) of Butuan City, Branch 4, in Criminal Case No. 9690, finding appellant guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

In an Information dated November 27, 2002, appellant William Dumaplin y Cahoy was charged as follows:

That on or about 10:00 o'clock in the morning of November 12, 2002 at Brgy. 17, Fort Poyohon, Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously, sell, and deliver two (2) sachets of methamphetamine hydrochloride, otherwise known as shabu, weighing zero point four six zero two (0.4602) grams, which is a dangerous drug.

CONTRARY TO LAW: (Violation of Sec. 5, Art. II of R.A. No. 9165)^[3]

When arraigned, appellant pleaded not guilty to the charge.^[4] Trial on the merits ensued thereafter.

The prosecution tried to establish that Judge Augustus L. Calo of the RTC of Butuan City issued a search warrant on November 4, 2002 to search the residence of appellant and his brother, Ruel Dumaplin, at Purok 7, Fort Poyohan, New Asia, Butuan City.^[5] On November 12, 2002, the members of the Task Force-Regional Anti-Crime Emergency Response (RACER) decided to conduct a buy-bust operation against appellant before implementing the warrant after receiving information that he was not at home. A buy-bust team was formed composed of SPO4 Delin, PO1 Renante Tolo and PO3 Advincula. PO1 Tolo gave two confidential assets, who were designated as poseur-buyers, six pieces of P100 bills to be used as marked money.^[6]

The buy-bust team proceeded to the target area and hid in a house about five

meters away from appellant, who was spotted standing near an artesian well. The confidential assets approached appellant and after a brief conversation, handed him the marked money. Appellant produced a big plastic sachet containing suspected *shabu*, divided its contents into two sachets, and gave one each to the assets. PO1 Tolo rushed to the scene and arrested appellant. When Barangay Captain Rogelio P. Dublois and Purok Chairman Alberto Bulabog arrived, the police officers searched appellant and recovered the marked money, P663 in cash, a disposable lighter, a small envelope with a small sachet of suspected *shabu*, and a rectangular sachet of suspected *shabu*. PO1 Tolo prepared a confiscation receipt, which was signed by appellant and the barangay officials.^[7] Then, they proceeded to Ruel's house to implement the search warrant.^[8]

Later, PO1 Tolo turned the seized items over to Police Inspector Ferdinand Dacillo. It was PO2 Randy Pajo who marked the specimens as "A-1" for the big sachet and "A-2" for the small sachet.^[9] The confiscated items were submitted to the PNP Crime Laboratory Office-13, Camp Rodriguez, Libertad, Butuan City for laboratory examination. Forensic chemist, P/Insp. Cramwell T. Banogon, prepared Chemistry Report No. D-159-2002, indicating therein that specimens A-1 and A-2 contain methamphetamine hydrochloride or *shabu*.^[10]

After the prosecution witnesses testified, appellant filed a Motion for Leave of Court to Amend Information and to Admit the Amended Information with Manifestation.^[11] The RTC granted appellant's motion. The Amended Information reads:

That on or about 10:00 o'clock in the morning of November 12, 2002 at Brgy. 17, Fort Poyohon, Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously, sell, and deliver one (1) sachet of methamphetamine hydrochloride, otherwise known as *shabu*, weighing zero point zero five seven four (0.0574) gram, to a poseur-buyer for a consideration of six hundred pesos (P600.00) mark monies.

CONTRARY TO LAW: (Violation of Section 5, Article II of R.A. No. 9165)
^[12]

Appellant was re-arraigned and pleaded not guilty to the charge.^[13] After PO1 Tolo was recalled to the witness stand, appellant filed another Motion for Leave of Court to Amend the Amended Information Dated September 7, 2007 and to Admit the Second Amended Information.^[14] The RTC granted the motion and a Second Amended Information was filed. It reads:

That on or about 10:00 o'clock in the morning of November 12, 2002 at Brgy. 17, Fort Poyohon, Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously, sell and deliver one (1) sachet of methamphetamine hydrochloride, otherwise known as *shabu*, weighing zero point zero one six four

(0.0164) grams, to a poseur-buyer for a consideration of six hundred pesos (P600.00) mark monies.

CONTRARY TO LAW: (Violation of Section 5, Article II of R.A. No. 9165)
[15]

Upon re-arraignment, appellant pleaded not guilty to the crime as charged in the Second Amended Information. [16]

In his defense, appellant vehemently denied the charges against him. He testified that on November 12, 2002 at around 10:00 in the morning, while he was lining up to draw water from an artesian well at Purok 7, New Asia, Barangay 17, Butuan City, SPO4 Delin and PO1 Tolo arrived. The police officers held him by the hair, dragged him and pointed a gun at him. They checked his pockets and PO1 Tolo got P663 in cash. He was handcuffed and was ordered to sit. When Barangay Captain Dublois arrived, SPO4 Delin started to frisk him. SPO4 Delin made it appear that he found two sachets of *shabu* in his pocket, and cash totaling P1,200. Appellant told Barangay Captain Dublois that the *shabu* was not his, and only the P663 belonged to him, but they did not heed him. After the search, they brought him to Ruel's house. [17]

After trial on the merits, the RTC rendered an Omnibus Decision, the dispositive portion of which states:

WHEREFORE, premises considered, the Court:

In Criminal Case No.9690, accused WILLIAM DUMAPLIN y CAHOY is found guilty beyond reasonable doubt for violation of Section 5, Article II of Republic Act 9165 and is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00) without subsidiary imprisonment in case of insolvency.

The sachet of shabu (Exh. "M") is hereby declared forfeited in favor of the government to be dealt with in accordance with law.

Accused shall serve his sentence at the Davao Prison and Penal Farm at Braulio E. Dujali, Davao del Norte and shall be credited in the service thereof with his preventive imprisonment in accordance with Art. 29 of the Revised Penal Code, as amended.

x x x x

SO ORDERED. [18]

Appellant appealed the RTC decision to the CA interposing the following arguments:

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE HEREIN ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION'S WITNESS TO ESTABLISH THE CHAIN OF CUSTODY OVER THE SEIZED SACHET OF SHABU THEY BEING THE FRUIT OF POISONOUS TREE.

II

THE FINDINGS OF THE COURT A QUO ARE CONTRARY TO EXISTING JURISPRUDENCE.

III

WITH DUE RESPECT, THE COURT A QUO GRAVELY ERRED IN CONVICTING THE HEREIN APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[19]

The CA, as aforesaid, promulgated a decision affirming the RTC decision and disposing as follows:

WHEREFORE, the appeal is **DISMISSED**. The assailed Decision is **AFFIRMED IN TOTO**.

SO ORDERED.

Thus, appellant filed the instant appeal.

In his supplemental brief,^[20] appellant contends that the arresting officers did not comply with the requirements of the law for the handling of seized dangerous drugs as provided for under Section 21, Article II of R.A. No. 9165 because the marking of the confiscated drugs was not made in his presence or his representative. He also insists that the arresting officer and the laboratory technician failed to mark and properly seal the confiscated drugs. Hence, appellant argues that the integrity and evidentiary value of the seized items had not been preserved.

We agree with appellant and acquit him on the ground of reasonable doubt. The prosecution has not proved beyond reasonable doubt appellant's violation of Sec. 5, Art. II of R.A. No. 9165. Section 21, paragraph 1, Article II of R.A. No. 9165 provides:

Section 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.*— The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner: