

## SECOND DIVISION

[ G.R. No. 183849, June 11, 2011 ]

**DOMINGO M. ULEP, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**ABAD, J.:**

This is about irreconcilable inconsistencies in the testimonies of the arresting officers in a drugs case and their failure to preserve the integrity of the seized articles.

#### **The Facts and the Case**

The Assistant Provincial Prosecutor of Ilocos Norte charged the accused Domingo Ulep with aggravated illegal possession of *shabu* before the Regional Trial Court (RTC) of Laoag City, Branch 13, in Criminal Case 11863-13.

As summarized by the RTC, PO2 Elizer Tuzon and SPO3 Rogelio Labutong testified that on the morning of May 8, 2005, acting on a report that Ulep bought *shabu* at a certain Maria Karen Cacayorin's house at Mckinley Street, *Barangay* 13, San Nicolas, Ilocos Norte, the Chief Police Inspector dispatched the two officers to the place. When they were about 30 meters from Cacayorin's house, the officers saw Ulep walking on the street with a plastic sachet in his hand.

The officers approached and seized from Ulep two plastic sachets of what appeared to be *shabu*. They arrested and brought him to the police station where they turned over the seized sachets to SPO2 Ramon Butay. In turn, the latter turned over the articles to the Ilocos Norte Provincial Crime Laboratory Office where a forensic chemical officer found them to contain *shabu*.<sup>[1]</sup>

Ulep did not deny that he was in *Barangay* 13 on the morning of May 8, 2005. He went there to claim a package that his mother sent from abroad through an aunt. But his aunt had gone to Manila without leaving the package. While Ulep was waiting on the road to get a ride home, officer Tuzon and a certain Monmel Corpuz approached him in their motorbikes and took him near the Mobile Video Center where Tuzon frisked him, saying that they suspected him of coming from Cacayorin's house. Ulep denied this.

When officer Tuzon failed to get anything from Ulep, he eventually let him go, telling him not to show his face ever in that place. As Ulep started to walk away, he heard Corpuz, who was then crossing Mckinley Street, shout at Tuzon to get his attention. Ulep saw Corpuz waving a plastic sachet in his right hand. After talking to Corpuz, Tuzon approached Ulep, saying that the thing they got belonged to him. Tuzon apprehended Ulep and brought him to the police station.

On July 14, 2006 the RTC rendered a decision in the case, finding Ulep guilty of the crime charged and sentencing him to imprisonment ranging from 12 years and 1 day as minimum to 15 years as maximum and to pay a fine of P300,000.00 with costs.

On appeal, the Court of Appeals (CA) rendered judgment<sup>[2]</sup> dated July 18, 2008 in CA-G.R. CR 30328, affirming the RTC's decision.

### **The Issues Presented**

The case presents the following issues:

1. Whether or not the CA erred in giving credence to the testimonies of the prosecution witnesses given certain inconsistencies in them;
2. Whether or not the CA erred in not excluding the evidence of the seized *shabu* on the ground of the prosecution's failure to prove the chain of custody over the same; and
3. Whether or not the CA erred in affirming the RTC's judgment of conviction.

### **The Rulings of the Court**

Appellant Ulep insists that the testimonies of the two arresting officers cannot be believed because they are inconsistent and contradictory. The trial court itself noted these flaws. It said:<sup>[3]</sup>

**The Court notes with concern these contradictions of P02 Tuzon and SPO3 Labutong. We see here two police officers seemingly destroying each other's credibility by testifying inconsistently on simple details. This surely does not speak well of them because, by their involvement in the same operation, it is the least expected of them. x x x**

Still, the RTC gave credence to the officers' testimonies, pointing out that the inconsistencies it noted were minor and in fact enhanced their truthfulness because they appeared to be unrehearsed. The Court disagrees. The disparity in the testimonies of those witnesses is too serious to be simply brushed aside.

Officer Tuzon testified<sup>[4]</sup> to receiving information directly from a police asset that someone was about to buy *shabu* from Cacayorin's house in *Barangay* 13. Their Chief then ordered Tuzon and officer Labutong to proceed to the place. They went in a tricycle driven by Tuzon. On reaching McKinley Street, the two officers saw a man in a white-and-blue stripes shirt. They were uncertain about where he came from but he held a plastic sachet containing white substance that he was hitting with his fingers.

The two officers stopped the man whom they later identified as Ulep. When officer Labutong searched Ulep, he found two plastic sachets on him. The officers brought Ulep to the police station where Labutong marked the confiscated sachets with the