

SECOND DIVISION

[G.R. No. 192816, July 06, 2011]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOEL GASPAR Y WILSON, APPELLANT.

DECISION

CARPIO, J.:

The Case

Before the Court is an appeal assailing the Decision^[1] dated 16 March 2010 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02117. The CA affirmed with modification the Decision^[2] dated 3 February 2006 of the Regional Trial Court (RTC) of Pasig, Branch 70, in Criminal Case Nos. 12840-D, 12841-D, 12842-D, convicting appellant Joel Gaspar y Wilson of violation of (1) Section 5, paragraph 1, Article II (Illegal Sale of Shabu);^[3] (2) Section 11, 2nd paragraph, No. 3, Article II (Illegal Possession of Shabu);^[4] and (3) Section 12, Article II (Possession of Paraphernalia for Dangerous Drugs),^[5] all of Republic Act No. 9165^[6] (RA 9165) or the Comprehensive Dangerous Drugs Act of 2002.

The Facts

On 25 August 2003, four separate Informations^[7] for different violations of RA 9165 were filed with the RTC of Pasig, Branch 70. Three informations were against Joel Gaspar y Wilson (Gaspar), docketed as Criminal Case Nos. 12840-D, 12841-D and 12842-D. The fourth information was against Leomar San Antonio (San Antonio), docketed as Criminal Case No. 12843-D. The informations state:

Criminal Case No. 12840-D

That, on or about the 22nd day of August, 2003 in the Municipality of San Juan, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to sell any dangerous drug, did then and there willfully, unlawfully, and knowingly sell, deliver and give away to another, 0.04 gram of white crystalline substance contained in one (1) heat-sealed transparent plastic sachet, which was found positive to the test for Methylamphetamine Hydrochloride known as "shabu", a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.^[8]

Criminal Case No. 12841-D

That, on or about the 22nd day of August, 2003 in the Municipality of San Juan, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully, and knowingly, possess and have in his custody and control 0.08 gram of white crystalline substance contained in two (2) heat-sealed transparent plastic sachets, with 0.04 gram each, which was found positive to the test for Methylamphetamine Hydrochloride, also known as shabu, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.^[9]

Criminal Case No. 12842-D

That, on or about the 22nd day of August, 2003 in the Municipality of San Juan, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully, and knowingly, possess and have under his custody and control ten (10) transparent plastic sachets, one (1) improvised water pipe, one (1) plastic container, two (2) disposable lighter, one (1) pair of scissors and one (1) wooden stick, which are all instrument, equipment, apparatuses, or paraphernalia fit or intended for smoking, sniffing, consuming and ingesting "shabu", a dangerous drug, into the body, in violation of the above-cited law.

CONTRARY TO LAW.^[10]

Criminal Case No. 12843-D

That, on or about the 22nd day of August, 2003 in the Municipality of San Juan, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully, and knowingly, possess and have in his custody and control 0.04 gram of white crystalline substance contained in one (1) heat-sealed transparent plastic sachet, which was found positive to the test for Methylamphetamine Hydrochloride, also known as shabu, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.^[11]

At the arraignment on 6 October 2003, both accused pleaded not guilty.

On 17 November 2003, at the pre-trial conference, the prosecution and defense entered into stipulations of facts regarding the due execution and genuineness of the recovered items marked in evidence, which dispensed with the presentation of the prosecution's witness, Forensic Chemist Isidro Cariño. The stipulations of facts provide:

1. The due execution and genuineness of the Request for Laboratory Examination dated 22 August 2003 which was marked in evidence as Exhibit "A", the Specimens Submitted to be marked as Exhibit "A-1" and the stamp showing receipt thereof by the PNP Crime Laboratory as Exhibit "A-2";
2. The due execution and genuineness, as well as the truth of the contents, of Chemistry Report No. D-1618-03e dated August 22, 2003 issued by Forensic Chemist P/Insp. Isidro Cariño of the Crime Laboratory, Eastern Police District Crime Laboratory Office, Mandaluyong City, which was marked in evidence as Exhibit "B", the findings as appearing on the report as Exhibit "B-1" and the signature of the forensic chemist over his typewritten name likewise as appearing on the report as Exhibit "B-2";
3. The existence of the plastic sachets, but not their source or origin, the contents of which was the subject of the Request for Laboratory Examination, which were marked in evidence as follows: as Exhibit "C" (the transparent plastic bag), as Exhibit "C-1" (the 1st plastic sachet marked JWG buy-bust), as Exhibit "C-2" (the 2nd plastic sachet marked JWG1), as Exhibit "C-3" (the 3rd plastic sachet marked JWG2), as Exhibit "C-4" (the 4th plastic sachet marked LASA), as Exhibit "C-5" (the 5th plastic sachet marked JWG9), as Exhibit "C-6" (the improvised water pipe marked JWG4), as Exhibit "C-7" (the plastic contained marked JWG3), as Exhibit "C-8" (the yellow disposable lighter marked JWG5), as Exhibit "C-9" (the scissors), as Exhibit "C-10" (the pink disposable lighter marked JWG7), as Exhibit "C-11" (the wooden stick marked JWG8) and as Exhibit "C-12" (the nine unused plastic sachets marked JWG10).^[12]

Shortly after the pre-trial conference, San Antonio jumped bail and did not appear before the RTC during the trial. Thus, San Antonio was deemed to have waived the presentation of his evidence and the case was submitted for decision without any evidence on his part.

The prosecution presented the only witness: Police Officer 1 German Soreta (PO1 Soreta), the poseur-buyer in the buy-bust operation. The other prosecution witness, PO1 Armalito Magumcia (PO1 Magumcia), failed to appear in court despite subpoenas sent to him; thus, his testimony was considered waived in an Order dated 26 April 2005.

The prosecution summed up its version of the facts: On 22 August 2003, at around 11:30 in the morning, the San Juan Police Station Drug Enforcement Unit (DEU) through PO1 Soreta received an information via text message that sale of shabu was in progress at the house of a person named Joel Gaspar, appellant in this case, located at No. 26-A Third Street Barangay West Crame, San Juan.

PO1 Soreta immediately informed the head of the DEU, Police Inspector Ricardo Marso (Inspector Marso), regarding the message received. Inspector Marso then directed PO1 Soreta, PO1 Magumcia, PO1 Jeffrey Timado, and PO1 Dave Loterte to verify the report and, if necessary, to conduct a buy-bust operation. Inspector Marso gave PO1 Soreta, as poseur-buyer, two one-hundred peso bills to be used as buy-

bust money. After coordinating with the Philippine Drug Enforcement Agency on the planned buy-bust operation, the police officers proceeded to the target area.

Upon reaching the house of Gaspar, the police officers saw two persons just outside the door. One was later identified as Gaspar, who handed something to the other, later identified as San Antonio. After San Antonio left Gaspar's house, the police officers stopped San Antonio and asked him, "*Anong inabot sa iyo?*" San Antonio replied, "*Bakit?*" The police officers said, "*Pulis kami.*" San Antonio opened his hand and there was a sachet of shabu. The police officers immediately arrested San Antonio. PO1 Soreta and PO1 Magumcia informed San Antonio of his constitutional rights and turned him over to PO1 Timario.

PO1 Soreta then approached Gaspar, who was already about to enter the house, and told him "*Joel pa-iskor naman ng dalawang piso.*" Gaspar went out and asked for payment. After receiving the amount of P200.00, Gaspar took out from his right pocket a small transparent plastic sachet and handed it to PO1 Soreta. PO1 Soreta introduced himself as a police officer and arrested and handcuffed Gaspar. The other police officers then rushed to the scene and assisted PO1 Soreta.

The police officers recovered from Gaspar's possession two other small transparent plastic sachets, as well as drug paraphernalia inside the house, which were in plain view from the widely open door. Gaspar and San Antonio were brought to the San Juan Police Station for investigation and filing of charges. The plastic sachets and drug paraphernalia recovered were appropriately marked and brought by PO1 Antazo to the Philippine National Police (PNP) Crime Laboratory for examination. PO1 Soreta also executed an Affidavit of Arrest narrating the circumstances which led to Gaspar's apprehension.

Based on Chemistry Report No. D-1618-03-E dated 22 August 2003,^[13] Forensic Chemist Isidro Cariño found the recovered sachets positive for methylamphetamine hydrochloride, a dangerous drug.

The defense, on the other hand, presented Gaspar and Gloria Santiago (Santiago) as witnesses.

Gaspar testified that on 22 August 2003 at about 8:00 in the morning, while he was sleeping with his wife at home, he was awakened by a loud noise and saw two men in civilian attire armed with guns who said, "*Mga pulis Crame kami.*" Gaspar asked the men what his offense was but they did not answer him and instead told him to stand up. Gaspar was then handcuffed by one while the other searched the house. The one who made the search, later identified as PO1 Soreta, who did not find anything illegal inside the house, told his companion, later identified as PO1 Magumcia, "*Pare, dalhin natin sa Crame yan. Doon natin imbestigahan.*" PO1 Magumcia then told Gaspar, "*Tara, sumama ka na.*"

At the San Juan Police Station, PO1 Soreta told Gaspar, "*Dito, kaya kitang ilubog dito. Kung magbibigay ka ng treinta, wala na tayong pag-uusapan pa, wala kang kaso.*" Gaspar, believing that he did not commit any offense, told them to proceed with the filing of the charge. On 25 August 2003, Gaspar was brought for inquest. Here, Gaspar disclosed that he only came to know his co-accused San Antonio inside the jail.

To corroborate Gaspar's testimony, the defense presented Santiago, a neighbor of Gaspar's who was washing clothes outside her house when the incident occurred. Santiago testified that on 22 August 2003 at around 9:00 in the morning, she saw three persons in civilian clothes kick open the door of Gaspar's house. Two of them entered the house. Filled with fear, Santiago went inside her house and observed the incident from the window. After some time, she saw Gaspar being pulled out of his house. After the group left with Gaspar, Gaspar's wife asked Santiago to accompany her to Camp Crame. Upon reaching Camp Crame, they were told that Gaspar was not brought there. Later, they found out that Gaspar was brought to the San Juan Police Station, which they visited the next day. On cross-examination, Santiago admitted that she did not know what actually transpired inside the house since she only peeped through the window when the incident occurred.

In its Decision dated 3 February 2006, the RTC found Gaspar and San Antonio guilty beyond reasonable doubt of violation of RA 9165. The RTC stated that given the presumption of regularity in the performance of the police officers' official duty and absent any clear showing of bias, malice or ill-motive on the part of the prosecution witness, PO1 Soreta, the court gives credence to his testimony. The RTC added that the testimony of a single witness suffices to support a conviction if it is trustworthy and reliable, such as in this case. The dispositive portion of the decision states:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

In Criminal Case No. 12840-D accused Joel Gaspar is hereby found GUILTY beyond reasonable doubt of the offense of Violation of Section 5, Article II, Republic Act 9165 (Illegal Sale of Shabu), and is hereby sentenced to LIFE IMPRISONMENT and to pay a FINE of Five Hundred Thousand Pesos (PHP 500,000.00).

In Criminal Case No. 12841-D accused Joel Gaspar is likewise found GUILTY beyond reasonable doubt of the offense of Violation of Section 11, Article II, Republic Act 9165 (Illegal Possession of Shabu), and is hereby sentenced to suffer imprisonment from Twelve (12) Years and One (1) Day to Twenty (20) Years and to pay a FINE of Three Hundred Thousand Pesos (PHP 300,000.00).

In Criminal Case No. 12842-D accused Joel Gaspar is also found GUILTY beyond reasonable doubt of the offense of Violation of Section 12, Article II, Republic Act 9165 (Possession of Paraphernalia for Dangerous Drugs), and is hereby sentenced to Six (6) Months and One (1) Day to Four (4) Years imprisonment and to pay a FINE of Ten Thousand Pesos (PHP 10,000.00).

In Criminal Case No. 12843-D accused Leomar San Antonio is hereby found GUILTY beyond reasonable doubt of the offense of Violation of Section 11, Article II, Republic Act 9165 (Illegal Possession of Shabu) and is hereby sentenced to suffer imprisonment from Twelve (12) Years and One (1) Day to Twenty (20) Years and to pay a FINE of Three Hundred Thousand Pesos (PHP 300,000.00).