

FIRST DIVISION

[G.R. No. 174774, August 31, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO S. DELOS REYES, ALIAS "BOTONG," AND RAYMUNDO
G. REYES, ALIAS "MAC-MAC," ACCUSED-APPELLANTS.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

On appeal is the Decision^[1] dated July 12, 2006 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01733, which affirmed with modification the Decision^[2] dated September 23, 2003 of Branch 214 of the Regional Trial Court (RTC) of Mandaluyong City in Criminal Case No. MC-00-2375-D. The Court of Appeals found accused-appellants Rolando S. delos Reyes and Raymundo G. Reyes (Reyes) guilty beyond reasonable doubt of violation of Section 21 of Article IV, in relation to Section 16 of Article III, of Republic Act No. 6425, otherwise known as the Dangerous Drugs Act of 1972, and imposing upon them the penalty of *reclusion perpetua*.

The following antecedent facts are culled from the records:

On February 17, 2000, accused-appellants Rolando S. delos Reyes and Raymundo G. Reyes, Emmanuel de Claro, and Mary Jane Lantion-Tom (Lantion-Tom) were all arrested for illegal possession, sale, delivery, distribution, and/or transportation of Methamphetamine Hydrochloride, a regulated drug commonly known as *shabu*. The Office of the City Prosecutor of Mandaluyong City, in its Resolution dated March 3, 2000, found probable cause to indict accused-appellants, together with Emmanuel de Claro, for violation of Republic Act No. 6425, and resolved to continue the preliminary investigation in so far as Lantion-Tom was concerned. The criminal information against accused-appellants and Emmanuel de Claro, filed with the RTC, reads:

The undersigned 2nd Asst. City Prosecutor accuses ROLANDO DELOS REYES y SANTOS @ BOTONG, RAYMUNDO REYES y GUINZON @ MAC-MAC and EMMANUEL DE CLARO y ENRIQUEZ @ COCOY of the crime of VIOLATION OF SEC. 21 ART. IV IN REL. TO SEC. 16 ART. III OF R.A. 6425 AS AMENDED, committed in the manner herein narrated as follows:

That on or about the 17th day of February, 2000, in the City of Mandaluyong, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess any regulated drug, conspiring and confederating together and mutually helping and aiding one another, commit to sell, deliver, distribute and/or

transport a carton of ten (10) heat-sealed transparent plastic bags containing white crystalline substance with the following grams, to wit: 99.2, 94.9, 99.6, 93.5, 98.3, 99.5, 99.6, 99.5, 98.4 and 98.4 grams or a total of 980.9 grams, which substance when submitted for drug examination, were found positive to the test for Methamphetamine Hydrochloride, commonly known as "shabu," a regulated drug, without the corresponding license and prescription.^[3]

On March 7, 2000, accused-appellant Rolando delos Reyes, Emmanuel de Claro, and Lantion-Tom, insisting on their innocence, moved for a reinvestigation of their case before the RTC, which said trial court granted in an Order^[4] dated March 15, 2000.

After the reinvestigation, the Office of the City Prosecutor issued a Resolution dated April 3, 2000, recommending that the RTC proceed with the indictment of accused-appellant Reyes and Emmanuel de Claro, and dismiss the charges against accused-appellant Rolando delos Reyes and Lantion-Tom. The Office of the City Prosecutor considered the different versions of events presented by the parties during the preliminary investigation and reinvestigation (except accused-appellant Reyes who did not participate in the proceedings), which it summarized as follows:

In their Joint Affidavit of Arrest, the arresting officers, members of the Intelligence and Investigation of the Regional Mobile Group (RMG) of the National Capital Region Police Office (NCRPO) claims that on 17 February 2000 a confidential informant called up relative to a narcotics drug deal to commence at the vicinity of the parking area of Shangrila Plaza Hotel, Mandaluyong City; that they were dispatched to verify the reports and conduct police operations; that about 2:00 p.m. after meeting with the confidential agent, they strategically positioned themselves at the vicinity parking area of said hotel; that about 10:00 p.m., accused/respondent Reyes a.k.a. Mac-Mac, on board a white Toyota Corolla, and accused/respondent [Rolando] delos Reyes, a.k.a. "Botong," on board a red Toyota Corolla, arrived with accused/respondent Reyes subsequently proceeding inside Whistletop Bar and Restaurant, and accused/respondent [Rolando] delos Reyes calling accused/respondent [Emmanuel] de Claro through his cellular phone; that accused/respondent [Rolando] delos Reyes and [Emmanuel] de Claro then proceeded to the latter's parked Mazda car where respondent Lantion-Tom was waiting; from the parked car, a box in transparent plastic bag was taken, which accused/respondent [Emmanuel] de Claro handed-over to accused/respondent [Rolando] delos Reyes; accused/respondent [Rolando] delos Reyes in turn handed the box in a plastic bag to accused/respondent Reyes; that the arresting officers accosted the accused/respondents who according to the arresting officers admitted having in their possession illegal drugs; that the recovered items containing ten (10) pcs. of heat sealed transparent plastic bags of white crystalline substance with a total weight of 980.9 grams turned positive to the test for methylamphetamine hydrochloride or shabu, a regulated drug.

In his "Sinumpaang Kontra-Salaysay," accused/respondent [Rolando] delos Reyes claims that on 17 February 2000, he went to Buenas Market, Manggahan, Pasig City, together with a neighbor, one Marlon David, to talk to Raymundo Reyes who was to pay his indebtedness; that while looking for a parking space, several men with firearms suddenly appeared, with one shouting, "buksan mo ang pintuan ng sasakyan at kung hindi babasagin ko ito"; that he and Marlon David were forced out of their vehicle with one of the armed men bringing out a plastic shopping bag of Shoe Mart, asking where the said bag allegedly containing "shabu" came from; that accused/respondent [Rolando] delos Reyes answered "hindi ko alam," that he and Marlon David were blindfolded when forcibly taken to the group's vehicle and continuously asked who the source of the shabu was, with respondent/accused [Rolando] delos Reyes replying, "hindi ko alam at wala akong kinalaman diyan;" that Marlon David was separated from accused/respondent [Rolando] delos Reyes and later released on 18 February 2000; that when accused/respondent [Rolando] delos Reyes' blindfold was removed, he found himself at Camp Bagong Diwa, Bicutan, Taguig, Metro Manila.

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To confirm respondent/accused [Rolando] delos Reyes' claim, that he was arrested in Brgy. Manggahan, Pasig City, and not in the vicinity of Whistletop Bar and Restaurant in Mandaluyong City, respondent/accused [Emmanuel] de Claro's spouse submitted a certified true xerox copy of barangay blotter of Barangay Manggahan, Pasig City, reflecting the entry on 19 February 2000 made by Mrs. Delos Reyes, on the incident reported to by Marlon David thus:

"BLOTTER"

"Dumulog po rito sa himpilan ng Punong Barangay si Gng. Virginia Delos Reyes, upang ipagbigay alam ang pagkawala ng kanyang asawa na si Mr. Rolando delos Reyes, nuong petsa 17 ng Pebrero taong dalawang libo (2000) na ayon sa batang pamangkin na si Marlon David, ay hinuli ng mga hindi kilalang lalaki sa Buenas Market, Manggahan, Pasig City nais niyang alamin kung ang nasabing insidente ay coordinated dito sa himpilan o tanggapan ng Barangay."

(Sgd) Virginia delos Reyes
Nagpapahayag"

The blotter was apparently made after Marlon David informed Mrs. [Virginia] Delos Reyes of the incident upon his release on 18 February 2000. Another witness, one Joel Navarro, claims having seen the actual incident confirming the events as narrated to by accused/respondent [Rolando] delos Reyes and Marlon David.

Accused/respondent [Emmanuel] de Claro and his common law wife,

respondent Lantion-Tom, submitted their separate Counter-Affidavits jointly denying the charges and claiming that they were at the Whistlestop Bar and Restaurant to talk to respondent Lantion-Tom's accountant Ms. Daisy Milan regarding the Mayor's Permit, Business Location Clearance issued by the Office of the Barangay Captain, insurance documents, BIR Certificate of Registration of her business; that they were with accused/respondent [Emmanuel] de Claro's brother, Roberto and a friend, James, with the two remaining outside the restaurant; that respondent Lantion-Tom went to accompany Ms. Milan, while accused/respondent [Emmanuel] de Claro was left inside; that after Ms. Milan left, respondent Lantion-Tom was suddenly surrounded by men who introduced themselves as police officers and were arresting them for being the source of "shabu" in a drug deal; that all of them, accused/respondent [Emmanuel] de Claro, Roberto and James were likewise arrested and continuously questioned on their complicity in the drug deal; that they were taken to Camp Bagong Diwa, Taguig, Metro Manila and subjected to further investigation; that Roberto and James were released the following day. Both respondents maintain that the allegations of the arresting officers as to the circumstances on the alleged "drug deal" leading to their arrest are unfounded and purely fabricated.

During the preliminary investigation proceedings on 21 March 2000, the arresting officers manifested that they are going to submit reply-affidavit on 29 March 2000. However, no such reply-affidavit was submitted.^[5]

The Office of the City Prosecutor pointed out that the arresting police officers failed to refute accused-appellant Rolando delos Reyes' counter-allegation that he was not arrested at Shangri-La Plaza in Mandaluyong City, but he was illegally arrested without warrant at Buenas Market in Cainta, Rizal, as corroborated by Marlon David and Joel Navarro (Navarro) in their respective sworn statements (*Sinumpaang Salaysay*) dated March 14, 2000. The Office of the City Prosecutor also observed that Lantion-Tom was "merely in the company of the other respondents without performing any overt act showing her to be part of the illicit transaction" and her drug test revealed negative results. On the other hand, it considered the conflicting claims of Emmanuel de Claro (*i.e.*, that he was illegally arrested and that the drug deal was a mere fabrication) and the arresting officers (*i.e.*, that Emmanuel de Claro was the seller/pusher in the drug deal and the *shabu* was seized from his vehicle) would be best ventilated during the trial on the merits.

In accordance with the foregoing resolution, the prosecution filed with the RTC a motion with leave of court to admit amended information.

In its Order^[6] dated April 4, 2000, the RTC denied the prosecution's motion. Contrary to the finding of the Office of the City Prosecutor, the RTC adjudged that probable cause exists not only against accused-appellant Reyes and Emmanuel de Claro, but accused-appellant Rolando delos Reyes as well.

Accused-appellants were arraigned on May 23, 2000,^[7] while Emmanuel de Claro was arraigned on July 12, 2000.^[8] All three pleaded not guilty. After the pre-trial

conference, trial ensued.

The prosecution presented in evidence the testimonies of **Police Officer (PO) 3 Virgilio Santiago**,^[9] **Senior Police Officer (SPO) 1 Eraldo Lectura**,^[10] **PO3 Angel Yumul**,^[11] and **SPO1 Benjamin David**,^[12] members of the Regional Mobile Group (RMG) of the Philippine National Police (PNP) National Capital Regional Police Office (NCRPO) who apprehended and/or investigated the case against accused-appellants, Emmanuel de Claro, and Lantion-Tom; and **P/Insp. Benjamin Cruto, Jr.**,^[13] (Cruto), the forensic chemist of the PNP Crime Laboratory.

PO3 Santiago was one of the police officers who arrested Emmanuel de Claro and Lantion-Tom on February 17, 2000. He testified that at around 10:30 a.m., their operation chief, Major Arnold Aguilar, received information from a confidential informant regarding an illegal drug deal that would take place between *Botong* and *Mac-Mac* at the parking lot of Shangri-La Plaza in Madaluyong City. *Botong* and *Mac-Mac* were identified during the investigation as accused-appellants Rolando delos Reyes and Reyes, respectively.

As narrated by PO3 Santiago, a team to bust the illegal drug deal was organized by Major Aguilar, composed of PO3 Santiago himself, SPO1 Lectura, and PO3 Yumul, along with PO3 Elmer Corbe, PO3 Marcelo Arcancia, Jr., PO3 Randy Fuentes, PO3 Dennis Padpad, and PO3 Edwin dela Cruz. At around 1:00 p.m. of the same day, the police team was dispatched, using four vehicles, to the location of the drug deal and upon arrival, they waited for the confidential informant to arrive. When the confidential informant arrived at around 3:30 p.m., he told the police team that the drug deal would possibly take place between 6:00 p.m. and 11:00 p.m., and that the suspects would utilize a red Toyota Corolla with plate number TRP-868 and a white Toyota Corolla with plate number ULF-706. The police team then positioned their cars strategically in such a way that they could see the vehicles coming from St. Francis Street and EDSA.

PO3 Santiago further recounted that at around 10:00 p.m., the suspected vehicles arrived, both stopping along the driveway of Shangri-La Plaza. The drivers of the vehicles alighted and talked to each other. The confidential informant recognized the driver of the white Toyota car as *Mac-Mac* and the driver of the red Toyota car as *Botong*. After a few minutes, *Botong* made a call on his cellular phone and then proceeded inside Whistle Stop Restaurant, leaving *Mac-Mac* behind. Inside the restaurant, *Botong* talked to another person, who was identified during the investigation as Emmanuel de Claro alias *Cocoy*. PO3 Santiago was about three to five meters away. Thereafter, *Botong* and *Cocoy* went out of the restaurant and approached a car parked right outside. The person at the back seat of the car, later on identified as Lantion-Tom, handed to *Cocoy* a white plastic bag containing a box. *Cocoy* gave the bag to *Botong*, who, in turn, handed the same bag to *Mac-Mac*. In the meantime, *Cocoy* went back inside the restaurant.

PO3 Santiago related that their team leader "sensed" that the drug deal had already been consummated, so the police team immediately effected the arrest of the suspected drug dealers. PO3 Santiago and PO3 Yumul arrested *Cocoy* and Lantion-Tom, while SPO1 Lectura and the remaining police team members arrested *Botong* and *Mac-Mac*. The plastic bag containing the box was seized from *Mac-Mac*. The arrested suspects were brought to the police office for investigation. The plastic