

## SECOND DIVISION

[ G.R. No. 176350, August 10, 2011 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JHON-JHON  
ALEJANDRO Y DELA CRUZ @ "NOGNOG," APPELLANT.**

### DECISION

**BRION, J.:**

We resolve in this appeal the challenge to the May 31, 2006 decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01251. The CA affirmed the May 14, 2004 decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 231, Pasay City, finding appellant Jhon-Jhon Alejandro y dela Cruz (*appellant*) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (R.A.) No. 9165 (the Comprehensive Dangerous Drugs Act of 2002) and imposing on him the penalty of life imprisonment.

### BACKGROUND FACTS

The prosecution charged the appellant with violation of Section 5, Article II of R.A. No. 9165 before the RTC, under an Information that states:

That on or about the 1<sup>st</sup> day of September 2002, in Pasay City, Metro Manila, 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 0.06 gram of Methylamphetamine Hydrochloride (shabu), **a dangerous drug**.<sup>[3]</sup> (emphases in the original)

The appellant pleaded not guilty to the charge.<sup>[4]</sup> During the pre-trial, the prosecution and the defense stipulated on the following:

### PRE-TRIAL ORDER

X X X X

III. Evidence of the Prosecution:

A. Testimonial (witnesses) -

X X X X

B. Documentary

Exhibit "A" - Affidavit of Arrest  
Exhibit "B" - Buy-bust Money  
Exhibit "C" - Booking and Information Sheet  
Exhibit "D" - Request for Laboratory Examination  
Exhibit "E" - Physical Science Report  
No. D-1331-02

C. Real Evidence x x x

Exhibit "F" - subject specimen

x x x x

VI. Stipulation of Facts (Including those admitted or undisputed): The accused with counsel and the Trial Prosecutor have agreed on the following:

**Exhibits C, D, & E** - admitted their **existence only but not as to the source**

x x x x

This pre-trial order **shall control the course of the trial in this case**, unless modified by the Court to prevent manifest injustice. The trial prosecutor as well as the accused and counsel have signed this pre-trial order to attest to the correctness thereof and their conformity thereto which may accordingly be used in evidence in this case.<sup>[5]</sup> [emphases ours]

Thus, the defense admitted the **existence** of Exhibits "C" (Booking and Information Sheet), "D" (Request for Laboratory Examination) and "E" (Physical Science Report No. D-1331-02). The parties also agreed, during the pre-trial, to dispense with the testimony of the forensic chemist, Police Inspector (*P/Insp.*) Lourdeliza M. Gural.

The prosecution presented, as its witnesses, Senior Police Officer 1 (*SPO1*) Jesus Tan and Police Officer 1 (*PO1*) Timothy Mengote. The appellant and Reggie Morilla took the witness stand for the defense.

The evidence for the prosecution established that in the afternoon of September 1, 2002, *SPO1* Tan was in the office of the District Drug Enforcement Group, Southern Police District, Taguig, Metro Manila, when a confidential informant called and told him about the illegal drug activities of the appellant, alias "Nog-nog." Police Superintendent (*P/Supt.*) Mariano Fegarido conducted a briefing, and then dispatched Senior Police Officer 2 (*SPO2*) Nilo Banzuela, Senior Police Officer 1 (*SPO1*) Alberto Sangalang, Police Officer 3 (*PO3*) Carlos Cachapero, *SPO1* Tan, and *PO1* Mengote, to meet with the informant.<sup>[6]</sup>

At around 5:00 p.m., the police met with the informant at the Pio Del Pilar Elementary School. Thereafter, *SPO1* Tan, *PO1* Mengote and the informant went to

M. Dela Cruz Street in Pasay City to conduct a surveillance.<sup>[7]</sup> There, the informant pointed to a person standing at the corner of Mary Luz Street and M. Dela Cruz Street, and identified him as the appellant.<sup>[8]</sup> They observed the appellant for about half an hour, and saw that there were people approaching him. They also observed that there was an "exchange of goods" between the appellant and the people who approached him.<sup>[9]</sup> The police thereafter returned to the station where they underwent another briefing and planned an entrapment operation. Under the plan, PO1 Mengote was designated as the poseur-buyer.<sup>[10]</sup>

SPO2 Banzuela, SPO1 Tan, SPO1 Sangalang, PO1 Mengote, PO3 Cachapero and the informant returned to M. Dela Cruz Street to conduct the buy-bust operation. When they arrived at the place at around 6:00 p.m., they saw the appellant sitting in front of a *sari-sari* store. The informant introduced PO1 Mengote to the appellant as a buyer (*i.e.*, a "*shabu* scorer"). The appellant asked, "*Magkano ba?*" PO1 Mengote answered, "*Halagang piso.*" PO1 Mengote then gave the one hundred peso marked money to the appellant. The appellant, in turn, pulled out a plastic sachet from his right pocket and handed it to PO1 Mengote. Upon receiving the plastic sachet, PO1 Mengote made the pre-arranged signal (*i.e.*, wiped his face with a towel) to his companions. Immediately, the other members of the buy-bust team approached the appellant. They introduced themselves as police officers, recovered the buy-bust money from the appellant, and arrested him. They then brought him and the confiscated items to the police station.<sup>[11]</sup> At the police station, they forwarded the seized items to the Philippine National Police (PNP) Crime Laboratory where they were examined by P/Insp. Gural.<sup>[12]</sup>

The laboratory examination, conducted by P/Insp. Gural on the confiscated specimen, yielded the following result:

## **PHYSICAL SCIENCE REPORT NO. D-1331-02**

X X X X

### **SPECIMEN SUBMITTED:**

A - One (1) small brown staple wire-sealed evidence envelope with signature markings containing one (1) small heat sealed transparent plastic sachet with markings "TM-1-010902" containing 0.06 gram of white crystalline substance and marked as A-1.

X X X X

### **FINDINGS:**

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the tests for the presence of Methylamphetamine hydrochloride, a dangerous drug.

### **CONCLUSION:**

Specimen A-1 contains Methylamphetamine hydrochloride, a dangerous drug.<sup>[13]</sup>

In his defense, the appellant submitted a different version of events. He testified that at around 6:00 p.m. of September 1, 2002, he was in front of his grandmother's store on Mary Luz Street, Pasay City, when eight (8) policemen arrived. PO1 Mengote and SPO1 Tan approached and asked him about the whereabouts of a certain "Terio." When he replied that he did not know where Terio was, the police brought him to the Pio Del Pilar Elementary School in Makati City<sup>[14]</sup> from where the police apparently received a text message informing them that Terio was in Pasay City. The police and the appellant returned to Mary Luz Street, and entered a house owned by Terio. Inside, they saw its occupant, Enrico Yatco. The police searched the house for about half an hour. Afterwards, they brought the appellant and Enrico to the Southern Police District.<sup>[15]</sup> At the police station, PO1 Mengote and SPO1 Tan showed six (6) pieces of plastic sachets to the appellant and forced him to admit ownership.<sup>[16]</sup>

Reggie's testimony was summarized by the RTC as follows:

REGGIE MORILLA, the caretaker of the store owned by the accused's grandmother, testified that he has been living with the family of the accused for three (3) years already. The family of the accused is located at 51 Mary Luz St., M. dela Cruz, Pasay City. On September 1, 2002, he was inside the store while the accused was standing outside when suddenly he heard a commotion. So he peeped through a hole in the store and saw two policemen in civilian attire handcuffing the accused. He asked assistance from his neighbors. Then he saw the accused being taken out of Mary Luz St. Later, they returned the accused and they led the accused inside a house and then after thirty minutes, he was brought out and was boarded inside an owner type jeep.<sup>[17]</sup>

The RTC, in its decision of May 14, 2004, found the appellant guilty beyond reasonable doubt of the crime charged, and sentenced him to suffer the penalty of life imprisonment. The RTC also ordered the appellant to pay a P500,000.00 fine.<sup>[18]</sup>

The records of this case were originally transmitted to this Court on appeal. Pursuant to our ruling in *People v. Efren Mateo y Garcia*,<sup>[19]</sup> we endorsed the case and its records to the CA for appropriate action and disposition.

The CA affirmed the RTC decision.<sup>[20]</sup> The CA held that the appellant and his counsel entered into a stipulation of facts whereby they agreed on the admissibility of the request for laboratory examination of the submitted specimen and on the findings of P/Insp. Gural. Hence, they cannot be allowed to question, on appeal, the identity and integrity of the plastic sachet of *shabu* seized from the appellant by members of the entrapment team. The CA added that the prosecution witnesses positively identified the appellant as the person who handed the plastic sachet of *shabu* to the poseur-buyer.<sup>[21]</sup>

The CA further held that the police officers are presumed to have performed their duties in a regular manner, in the absence of any evidence of improper motive on their part. It, likewise, disregarded the appellant's defense of denial, as it was "unsupported by reliable corroborative evidence."<sup>[22]</sup>

In his brief, the appellant claims that the trial court erred in convicting him of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt. He claims that the integrity of the seized item had been compromised due to the failure of the apprehending police to mark it.<sup>[23]</sup>

The Office of the Solicitor General counters with the argument that the appellant cannot now question the identity and integrity of the specimen confiscated from him as he already entered into a stipulation regarding the admissibility of the request for laboratory examination and on the result of this examination. In addition, the appellant failed to impute any ill motive on the part of the police officers to falsely testify against him.<sup>[24]</sup>

### **THE COURT'S RULING**

We resolve to **ACQUIT** the appellant, for the prosecution's failure to prove his guilt beyond reasonable doubt.

The Constitution mandates that an accused shall be presumed innocent until the contrary is proven beyond reasonable doubt. The burden lies on the prosecution to overcome such presumption of innocence by presenting the quantum of evidence required. In doing so, the prosecution must rest its case on its own merits and cannot merely rely on the weakness of the defense. If the prosecution fails to meet the required quantum of evidence, the defense does not even need to present any evidence in its behalf; the presumption of innocence prevails and the accused should be acquitted.<sup>[25]</sup>

#### **Reasonable Doubt on the *Corpus Delicti***

The elements necessary for the prosecution of illegal sale of drugs under Section 5 of R.A. No. 9165 are: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor. What is material in the prosecution for illegal sale of dangerous drugs is proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of the *corpus delicti*, i.e., the body or substance of the crime that establishes that a crime has actually been committed, as shown by presenting the object of the illegal transaction.<sup>[26]</sup> In prosecutions involving narcotics, the narcotic substance itself constitutes the *corpus delicti* of the offense and proof of its existence is vital to sustain a judgment of conviction beyond reasonable doubt.<sup>[27]</sup> To remove any doubt or uncertainty on the identity and integrity of the seized drug, the evidence must definitely show that the illegal drug presented in court is the **very same** illicit drug actually recovered from the appellant; otherwise, the prosecution for drug pushing under R.A. No. 9165 fails.<sup>[28]</sup>

#### **a. The Chain of Custody Rule and the "Marking" Requirement**