

## SECOND DIVISION

[ G.R. No. 185721, September 28, 2011 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICKY UNISA Y ISLAN, ACCUSED-APPELLANT.**

### D E C I S I O N

**PEREZ, J.:**

On appeal is the Decision<sup>[1]</sup> dated 28 February 2008 of the Court of Appeals in CA-G.R. CR-H.C. No. 01559, affirming the Decision<sup>[2]</sup> dated 2 September 2005 of the Regional Trial Court (RTC) of Muntinlupa City, Branch 205, in Criminal Case Nos. 03-504 to 03-505, finding herein appellant Ricky Unisa y Islan guilty beyond reasonable doubt of the offenses of (1) illegal sale of 0.02 gram of *shabu*, a dangerous drug, in violation of Section 5,<sup>[3]</sup> Article II of Republic Act No. 9165,<sup>[4]</sup> for which he was sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00; and (2) illegal possession of 0.43 gram of *shabu*, a dangerous drug, in violation of Section 11,<sup>[5]</sup> Article II of Republic Act No. 9165, for which he was sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day to fifteen (15) years and to pay a fine of P300,000.00.

Appellant Ricky Unisa y Islan was charged in two separate Informations<sup>[6]</sup> both dated 26 June 2003 with violation of Sections 5 and 11, Article II of Republic Act No. 9165, which were respectively docketed as Criminal Case No. 03-504 and Criminal Case No. 03-505. The Informations state as follows:

#### **Criminal Case No. 03-504**

That on or about the 24<sup>th</sup> day of June 2003, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, [appellant], without authority of law, did then and there willfully and unlawfully **sell, deliver and give away to another Methylamphetamine Hydrochloride, a dangerous drug weighing 0.02 gram** contained in one (1) small heat-sealed transparent plastic sachet, in violation of the above-cited law.<sup>[7]</sup> [Emphasis supplied].

#### **Criminal Case No. 03-505**

That on or about the 24<sup>th</sup> day of June 2003, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, [appellant], not being authorized by law, did then and there willfully and unlawfully **have in his possession, custody and control Methylamphetamine Hydrochloride, a dangerous drug weighing 0.43 grams** (sic) contained in twenty (20) small heat-sealed transparent

plastics sachets, in violation of the above-cited law.<sup>[8]</sup> [Emphasis supplied].

When arraigned, appellant, assisted by counsel *de officio*, pleaded NOT GUILTY<sup>[9]</sup> to both charges.

At the Pre-Trial Conference, the parties agreed to dispense with the testimony of Police Inspector Hermosila Fermindoza (P/Insp. Fermindoza) after stipulating on her expertise as forensic chemist whose testimony would consist of proving receipt of the Request for Laboratory Examination<sup>[10]</sup> of the pieces of evidence seized from appellant, which pieces of evidence were placed inside a one-half brown mailing envelope and were appended thereto, to wit: (1) one small heat-sealed transparent plastic sachet containing white crystalline substance with markings "RU"; and (2) 20 more small heat-sealed transparent plastic sachets likewise containing white crystalline substance with markings "RU-1" to "RU-20," as well as a pair of folding scissors with markings "RU-22," which were inside a black coin purse with white stripes. Similarly stipulated was that P/Insp. Fermindoza has conducted a chemical analysis of the substance and the analysis was reduced into writing<sup>[11]</sup> as evidenced by a Physical Science Report No. D-743-03s.<sup>[12]</sup>

A joint trial on the merits ensued thereafter.

The prosecution presented the testimony of Police Officers 1 Mark Sherwin Forastero (PO1 Forastero) and Percival Medina (PO1 Medina), both of whom are police operatives of the Drug Abuse Prevention and Control Office-Drug Enforcement Unit (DAPCO-DEU), Muntinlupa City.<sup>[13]</sup> PO1 Forastero and PO1 Medina were the designated *poseur*-buyer and arresting officer, respectively, in the buy-bust operation against appellant.

The facts, as culled from the records, are as follows:

On the basis of a series of reports received by DAPCO-DEU, Muntinlupa City, coming from concerned citizens concerning the illegal drug trade of *alias* Ricky in Quezon Street, *Purok* 7, Poblacion, Muntinlupa City, the police operatives of the aforesaid office conducted a surveillance and monitoring operation on 23 June 2003. The surveillance and monitoring operation confirmed that *alias* Ricky was, indeed, engaged in the sale of illegal drugs which usually took place late at night until dawn.<sup>[14]</sup>

Corollary thereto, on 24 June 2003, at around 8:00 p.m., P/Insp. Arsenio Silungan (P/Insp. Silungan), Chief of DAPCO-DEU, Muntinlupa City, formed a buy-bust team to conduct a buy-bust operation against *alias* Ricky. The buy-bust team was composed of the following police operatives, namely: PO1 Forastero, who was designated as the *poseur*-buyer; PO1 Medina, who was tasked as the arresting officer; Senior Police Officer 1 Zosimo Goce (SPO1 Goce), who was appointed as the team leader; SPO1 Joel Vega (SPO1 Vega); Senior Police Officer 3 Hector Macalla (SPO3 Macalla); a certain SPO3 Madriaga; PO1 Ronald Natuel (PO1 Natuel); PO1 Reynold Aguirre (PO1 Aguirre); a certain PO1 Gunayon; a certain PO1 Respicio; a certain PO1 Tan; and PO1 Joseph Tedd Leonor (PO1 Leonor); and two civilian agents, namely: Dalton Ibañez (Ibañez) and Charlie Isla (Isla), all of whom were

assigned as perimeter back-up group.<sup>[15]</sup>

The buy-bust team, thereafter, prepared the buy-bust money consisting of two One Hundred Peso (P100.00) bills in the total amount of P200.00 bearing Serial Nos. JX 392195 and DY 711514, respectively. PO1 Aguirre signed the buy-bust money at the bottom thereof. They were also photocopied and recorded in the police blotter as Entry No. 03-180.<sup>[16]</sup> A Pre-Operation Report/Coordination Sheet was similarly prepared and transmitted to the Philippine Drug Enforcement Agency (PDEA) *via* facsimile.<sup>[17]</sup>

After all the necessary documentary requirements had been completed, the buy-bust team proceeded to the target area, *i.e.*, Quezon Street, *Purok 7*, Poblacion, Muntinlupa City, on board two vehicles, to wit: Toyota Revo and Anfra Van with Plate Nos. SGS 492 and SFG 484, respectively. PO1 Forastero, PO1 Medina, SPO1 Goce, SPO3 Macalla, SPO3 Madriaga and the two civilian agents boarded the Toyota Revo while the rest of the buy-bust team boarded the Anfra Van.<sup>[18]</sup>

Upon reaching the area of operation at around 9:30 p.m., more or less, the buy-bust team strategically parked the Toyota Revo and the Anfra Van at *Sitio* Tipaurel and Poblacion, 50 meters away from each other. While inside the Toyota Revo, PO1 Forastero and PO1 Medina already saw their confidential informant some 40 meters away waiting for them. PO1 Forastero and PO1 Medina, nevertheless, stayed inside the Toyota Revo as they were still waiting for a text message coming from another asset who would confirm *alias* Ricky's presence at the target area. After an hour, the aforesaid asset texted SPO3 Macalla to inform the buy-bust team that *alias* Ricky was already at the target area.<sup>[19]</sup>

Accordingly, PO1 Forastero and PO1 Medina alighted from the vehicle. Upon seeing them, the confidential informant promptly approached and accompanied them to *alias* Ricky's place. At this juncture, the other members of the buy-bust team also alighted from their vehicles and followed PO1 Forastero, PO1 Medina and the confidential informant at a distance to provide perimeter security.<sup>[20]</sup>

After a 15-minute walk traversing a place along the train railways, PO1 Forastero, PO1 Medina and the confidential informant reached the exact place of *alias* Ricky in Quezon Street, *Purok 7*, Poblacion, Muntinlupa City. The rest of the buy-bust team then acted as perimeter guards. At a distance of about seven meters, the confidential informant saw a person wearing a white *sando* and black pants sitting by a lighted house with an open door whom he recognized and identified as *alias* Ricky. The confidential informant then pinpointed *alias* Ricky to PO1 Forastero and PO1 Medina. Thereafter, the confidential informant immediately approached *alias* Ricky and introduced him to PO1 Forastero and PO1 Medina as his relatives. After gaining the trust and confidence of *alias* Ricky, PO1 Forastero told the former that he would like to "score" P200.00 worth of *shabu* and he simultaneously handed to him the two P100.00-peso bills marked money amounting to P200.00. *Alias* Ricky received the marked money and, in turn, got and opened a black coin purse with white stripes from his left hand and took out a small heat-sealed transparent plastic sachet containing the suspected *shabu* and handed it to PO1 Forastero, which the latter accepted.<sup>[21]</sup>

At once, PO1 Forastero held *alias* Ricky's right hand and introduced himself as police officer. PO1 Medina then assisted PO1 Forastero in arresting *alias* Ricky by holding the latter's left hand. The other members of the buy-bust team, who were just within the vicinity, arrived. PO1 Medina recovered from the left hand of *alias* Ricky a black coin purse with white stripes containing 20 more small heat-sealed transparent plastic sachets with white crystalline substance suspected to be *shabu* and a small pair of folding scissors. The two marked P100.00-peso bills with Serial Nos. JX 392195 and DY 711514, respectively, amounting to P200.00, however, were recovered from *alias* Ricky's pocket by PO1 Forastero. The latter compared the recovered marked money with the photocopies thereof, which he brought with him in the buy-bust operation, and they matched.<sup>[22]</sup>

Subsequently, *alias* Ricky was informed of his constitutional rights. He was, thereafter, brought by the buy-bust team to their office where they came to know his full name to be Ricky Unisa y Islan, the herein appellant. The items seized from the latter, which remained in the possession of PO1 Forastero and PO1 Medina on their way to their office, were immediately marked upon their arrival thereat. PO1 Forastero placed the markings "RU" representing appellant's initials on the subject of the sale, *i.e.*, one small heat-sealed transparent plastic sachet containing suspected *shabu*, while PO1 Medina marked with "RU-1" to "RU-20" (inclusive) the seized 20 more small heat-sealed transparent plastic sachets with white crystalline substance. The black coin purse with white stripes where the 20 more small heat-sealed transparent plastic sachets with white crystalline substance, together with a small pair of folding scissors, were found was likewise marked by PO1 Medina with "RU-21." The small pair of folding scissors was similarly marked by PO1 Medina with "RU-22." An inventory thereof was also made.<sup>[23]</sup>

Afterwards, a Request for Laboratory Examination<sup>[24]</sup> of the seized items and a Request for Drug Test<sup>[25]</sup> of appellant both dated 24 June 2003 were made. PO1 Forastero, PO1 Medina and PO1 Gunayon then forwarded the seized items to the Philippine National Police (PNP), Crime Laboratory, PNP Southern Police District, Fort Bonifacio, Taguig City, for laboratory examination.<sup>[26]</sup>

Appellant's drug test yielded positive result<sup>[27]</sup> as evidenced by Physical Science Report No. DT-889-03.<sup>[28]</sup> As regards the items seized from appellant, they were all found positive<sup>[29]</sup> for the presence of *methamphetamine hydrochloride* or *shabu*, a dangerous drug, as evidenced by Physical Science Report No. D-743-03s.<sup>[30]</sup>

The defense presented the testimony of appellant and his common-law wife, Janice Deles (Janice). As expected, appellant denied all the accusations against him and, instead, offered a different version of what transpired on the day of his arrest.<sup>[31]</sup>

Appellant, a tricycle driver, claimed that on 24 June 2003, at around 8:00 p.m., while he was inside their house at PNR Site, Purok 7, Poblacion, Muntinlupa City, fixing a broken flashlight, PO1 Forastero and PO1 Medina suddenly barged in and arrested him for the alleged illegal sale of *shabu*, a dangerous drug. Appellant denied the same but the police officers insisted that their office received several calls regarding his illegal drug activities. Appellant was then immediately handcuffed by Ibañez, one of the civilian agents of DAPCO-DEU, Muntinlupa City, and was brought out of his house where they met SPO3 Macalla to whom Ibañez

purportedly handed the P4,200.00, which the latter recovered from appellant while they were still inside the house. Appellant vehemently denied that such money was earned by him from selling *shabu*. Instead, he explained that the said money was a loan from a certain Corazon Arciaga to be used by his common-law wife as capital for selling fruits. Appellant was, thereafter, made to board the Toyota Revo and was brought to the office of DAPCO-DEU, Muntinlupa City, where his common-law wife followed him. There, appellant professed, SPO1 Vega forced him to acknowledge possession of the pieces of evidence allegedly retrieved from him. He refused to do so. He was, thereafter, put in jail.<sup>[32]</sup>

Appellant, nonetheless, admitted that it was only at the time of his arrest that he met the arresting police officers. He did not know them prior to his arrest. There was also no bad blood between him and the police. Also, despite appellant's allegation that Ibañez took his money and gave it to SPO3 Macalla, he did not file robbery charges against them.<sup>[33]</sup>

To bolster appellant's defense of denial, his common-law wife, Janice, corroborated his testimony.

Janice maintained that appellant was not in possession and was not engaged in the illegal sale of *shabu*. Janice declared that at the time and place in question, while she was dressing up their child after giving him medicine, Ibañez, together with PO1 Forastero and PO1 Medina, hastily barged into their house. Without any arrest warrant or search warrant, Ibañez instantly handcuffed and frisked appellant. Ibañez similarly took appellant's money, which the latter borrowed from a certain Corazon Arciaga, and handed it to SPO3 Macalla. At this juncture, Janice forcefully resisted appellant's arrest and likewise tried to retrieve the money but to no avail. The police officers successfully brought appellant out of their house and boarded him inside a vehicle. Janice continuously pleaded not to take appellant but her pleas remained unheeded. Janice then followed appellant up to the office of DAPCO-DEU, Muntinlupa City.<sup>[34]</sup>

The trial court found that all the elements of the offenses charged against appellant were satisfactorily proven by the prosecution. In its Decision dated 2 September 2005, the trial court held appellant guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. 9165. The trial court disposed of the case as follows:

WHEREFORE, premises considered, **[appellant] Ricky Unisa is hereby found guilty beyond reasonable doubt of the offenses of illegal sale of 0.02 gram of methylamphetamine hydrochloride and possession of 0.43 gram** thereof and sentences him as follows:

1. For Crim. Case No. 03-504 (Violation of Sec. 5, Republic Act [No.] 9165, sale of dangerous drugs) - life imprisonment and to pay a fine of PESOS: FIVE HUNDRED THOUSAND (P500,000.00);
2. For Crim. Case No. 03-505 (Violation of Sec. 11, Republic Act [No.] 9165, possession of 0.43 gram of methylamphetamine hydrochloride) - imprisonment ranging from twelve years and one