

## SECOND DIVISION

[ G.R. No. 188570, July 06, 2010 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CHRISTOPHER DE MESA AND EMMANUEL GONZALES, APPELLANTS.**

### DECISION

**NACHURA, J.:**

Before this Court is an appeal by Christopher de Mesa and Emmanuel Gonzales, accused in Criminal Case No. 04-0445, filed before the Regional Trial Court of Parañaque City. Appellants were charged with and convicted of Illegal Sale of Dangerous Drugs, punishable under Republic Act (R.A.) No. 9165.<sup>[1]</sup> Their conviction was affirmed by the Court of Appeals (CA) in a Decision dated February 27, 2009.<sup>[2]</sup>

The prosecution's evidence showed that, at around 10:00 a.m. of April 7, 2004, while Police Officer 2 (PO2) Peter Sistemio was at the Philippine Drug Enforcement Agency (PDEA) office in Quezon City, one of their confidential informants arrived and notified their team leader, Police Senior Inspector Jaime Santos (S/Insp. Santos), of the illegal drug activities of a certain "Pulo," later identified as appellant De Mesa. S/Insp. Santos immediately instructed the confidential informant to contact De Mesa by cellular phone, and order 50 grams of *shabu*. The confidential informant and "Pulo" agreed to meet at KFC, Redemptorist Road, Baclaran, Parañaque City, at around 1:00 p.m. of the same date.<sup>[3]</sup>

S/Insp. Santos then formed a team to undertake a buy-bust operation. During their briefing, PO2 Sistemio was designated to act as a poseur-buyer, while Police Officer 1 (PO1) Reywin Bariuad was to act as his immediate backup. S/Insp. Santos also handed PO2 Sistemio one piece of genuine Five Hundred Peso (P500.00) bill, on which the latter wrote his initials ("PVS"), and some boodle money to be used for the purchase of the *shabu*.<sup>[4]</sup>

The team then proceeded to the target area. The members of the team positioned themselves in their designated places. De Mesa, alias "Pulo," and his companion, a certain "Kamote," who was later identified as appellant Emmanuel Gonzales, arrived and approached PO2 Sistemio and the confidential informant. PO1 Bariuad, on the other hand, positioned himself four tables away from appellants. After the confidential informant introduced PO2 Sistemio as the buyer of *shabu*, De Mesa asked if the latter had the money. PO2 Sistemio answered in the affirmative. De Mesa then handed to PO2 Sistemio a blue SM Department Store plastic bag containing 10 plastic sachets of white crystalline substance suspected to be *shabu*. De Mesa then ordered Gonzales to take the money from PO2 Sistemio. Gonzales then allegedly told PO2 Sistemio, "First class *yan, pare, direkta kasi kami*."<sup>[5]</sup> At that instance, PO2 Sistemio introduced himself as a PDEA agent, and PO1 Bariuad

closed in. The police officers then arrested appellants and brought them first to a *barangay* hall at the back of Baclaran Church before they proceeded to the PDEA office. [6]

At the PDEA office, the arresting officers prepared documents for inquest proceedings, as well as a letter-request for the laboratory examination of the specimen.[7] Upon examination at the Philippine National Police (PNP) Crime Laboratory, it was learned that the white crystalline specimen, weighing 45.79 grams, recovered from appellants was positive as Methylamphetamine Hydrochloride or *shabu*. [8]

PO1 Bariuad corroborated PO2 Sistemio's testimony. [9]

The defense, on the other hand, presented its own version of the facts. Appellant De Mesa narrated that, at around 12 noon of April 7, 2004, he and Gonzales went to the KFC restaurant on Redemptorist Road, Baclaran, Parañaque City, to have lunch. While they were eating, a man (first man) approached them and asked if he could occupy the vacant seat at their table. Noticing that there was no longer any vacant seat in the restaurant, De Mesa acceded to the man's request. Then, another man (second man) arrived and sat on the seat in front of the first man. After a short conversation, De Mesa saw the first man handing over a blue plastic bag to the second man. Moments later, De Mesa was surprised when the second man introduced himself as a police officer, arrested the first man, then arrested him and Gonzales. The arresting officer then brought them to a *barangay* hall where they were asked by one of the arresting officers if the man who handed the plastic bag to the police officer (first man) was their companion. Despite their vehement denial, the arresting officers required them to sign a blank piece of paper. Thereafter, the arresting officers brought them to the PDEA office where they were detained. [10]

Appellant Gonzales corroborated De Mesa's testimony. Gonzales added that the arresting officers frisked them after they were arrested but no illegal drugs were recovered from them. After their arrest, they were brought to the PDEA office. While they were detained, a certain Captain Santos asked P100,000.00 from each of them in exchange for dropping the charges. When they failed to produce the amount, Captain Santos beat them. [11]

After trial, the court rendered a decision dated August 14, 2006, finding appellants guilty beyond reasonable doubt of the crime charged. The dispositive portion of the decision reads:

**WHEREFORE, PREMISES CONSIDERED**, finding both accused **GUILTY** beyond reasonable doubt for Violation of Section 5 in relation to Section 26, ART. II RA 9165 for selling without authority 45.79 grams of Methylamphetamine Hydrochloride, this Court hereby sentenced **Christopher de Mesa and Emmanuel Gonzales** to suffer the penalty of life imprisonment and to pay a fine of P500,000.00 each.

The Clerk of Court is hereby directed to forward the specimen subject of this case to the Philippine Drugs (sic) Enforcement Agency (PDEA) for proper disposition and to prepare the Mittimus for the immediate transfer

of both accused to the New Bilibid Prisons Muntinlupa.

**SO ORDERED.**<sup>[12]</sup>

Appellants appealed their conviction to the CA. On February 27, 2009, the CA rendered judgment dismissing the appeal and affirming the trial court's decision.<sup>[13]</sup>

In their Supplemental Brief,<sup>[14]</sup> appellants reiterated their arguments before the CA. They aver that the prosecution failed to indubitably establish that the *shabu* presented in court as evidence was the very same white crystalline substance allegedly sold by and seized from them. They allege that the police officers failed to strictly abide by the requirements of the law on the proper handling and custody of dangerous drugs in the course of the alleged buy-bust operation. They claim that no photographs of the seized items were taken and no inventory report was made by the apprehending officers. They also claim that the police officers' testimonies failed to establish when and where the seized items were marked.

The appeal has no merit and must be dismissed.

In a prosecution for illegal sale of dangerous drugs, the following elements must be proven: (1) that the transaction or sale took place; (2) that the *corpus delicti* or the illicit drug was presented as evidence; and (3) that the buyer and seller were

identified.<sup>[15]</sup> The presence of these elements is sufficient to support the trial court's finding of appellants' guilt.<sup>[16]</sup> What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited or regulated drug. The delivery of the contraband to the poseur-buyer and the receipt of the marked money consummate the buy-bust transaction between the entrapping officers and the accused.<sup>[17]</sup> The presentation in court of the *corpus delicti* -- the body or substance of the crime - establishes the fact that a crime has actually been committed.<sup>[18]</sup>

Records disclose that the prosecution successfully established the elements of the crime.

Appellants tried to pin the crime on an unknown third person, who was allegedly the actual target of the buy-bust operation, and claimed that they were erroneously implicated in the crime. The claim, however, is incredible. There is no proof that they were merely picked up with the "true" suspect who was allegedly released from detention before they were arraigned. Appellants have not satisfactorily explained why this person was not charged along with them.

Moreover, nothing in the record even remotely indicates that there was indeed a third person arrested with them. Immediately after their arrest, appellants were brought to a *barangay* hall where a *barangay* official witnessed the inventory of the items seized, and signed the Certification.<sup>[19]</sup> The Certification contains only the names of herein appellants De Mesa and Gonzales, along with the name and signature of Reynaldo Go, Executive Officer of Barangay Baclaran. Even if, as appellants claim, the third person arrested with them made a "deal" with the PDEA officers later on, this third person's arrest should have likewise been reflected in all

the documents pertaining to their arrest, which were all executed before such deal was allegedly made. In addition, the request for physical examination<sup>[20]</sup> and drug dependency examination<sup>[21]</sup> of appellants indicates the names of only the two appellants.<sup>[22]</sup>

Likewise, the letter of S/Insp. Santos, requesting appropriate legal action by the city prosecutor dated April 8, 2004, states that there were only two suspects.<sup>[23]</sup> The joint affidavit of arrest<sup>[24]</sup> prepared by PO2 Sistemio and PO1 Bariuad narrated the buy-bust operation and arrest of appellants as the only two suspects in the case. All in all, the evidence clearly and convincingly proves that herein appellants were the subject of the buy-bust operation conducted by PDEA operatives on April 7, 2004.

In contrast, the trial court found that the arresting officers testified in a straightforward manner<sup>[25]</sup> such that the court was convinced that "no ill motive or wrong doing could be ascribed" to the latter.<sup>[26]</sup> The trial court also held that "unlike in many other cases tried before this Court where certain irregularities were committed by police operatives that cast doubt on the credibility of the operations, this operation appears to have been made without abuse and in a regular manner."<sup>[27]</sup>

In cases involving violations of the Dangerous Drugs Law, appellate courts tend to rely heavily on the trial court's assessment of the credibility of witnesses, because the latter had the unique opportunity, denied to the appellate courts, to observe the witnesses and to note their demeanor, conduct, and attitude under direct and cross-examination. Hence, its factual findings are accorded great respect, even finality, absent any showing that certain facts of weight and substance bearing on the elements of the crime have been overlooked, misapprehended, or misapplied.<sup>[28]</sup>

Next, appellants contend that the police officers failed to strictly abide by the requirements of the law as regards the proper handling and custody of dangerous drugs seized in the course of an alleged buy-bust operation.<sup>[29]</sup>

This contention is likewise unmeritorious.

Section 21 of R.A. No. 9165 states:

**Sec. 21.** *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* - The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

- (1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence