

THIRD DIVISION

[G.R. No. 182419, February 10, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
WILFREDO ENCILA Y SUNGA, ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

Before Us is an appeal from the Decision^[1] dated 11 October 2007 of the Court of Appeals in CA-G.R. CR-HC No. 02146 entitled, ***People of the Philippines v. Wilfredo Encila Y Sunga alias "Freddie,"*** affirming the Decision^[2] rendered by the Regional Trial Court (RTC) of Makati City, Branch 64, in Criminal Cases No. 03-3693 and No. 03-3694, finding accused-appellant Wilfredo Encila y Sunga alias "Freddie" guilty beyond reasonable doubt of illegal sale, and illegal possession of methamphetamine hydrochloride, more popularly known as "*shabu*."

On 19 September 2003, two separate Informations were filed against accused-appellant before the RTC of Makati City for violation of Sections 5 and 11, Article II, Republic Act No. 9165, as amended, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, for allegedly (a) selling 0.22 gram of *shabu* and (b) being in illegal possession of 2.63 grams of *shabu*.

The offense involved in Criminal Case No. 03-3693 for violation of Section 5,^[3] Article II of Republic Act No. 9165, was allegedly committed as follows:

That on or about the 18th day of September 2003, in the City of Makati Philippines and a place within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, distribute and transport zero point twenty two (0.22) grams of Methylamphetamine Hydrochloride (*shabu*) which is a dangerous drug in consideration of five hundred (P500.00) pesos.^[4]

On the other hand, the Information pertaining to Criminal Case No. 03-3694 for violation of Section 11, ^[5] Article II of the same law, reads:

That on or about the 18th day of September 2003, in the City of Makati Philippines and a place within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have in possession two point sixty three (2.63) grams of Methylamphetamine Hydrochloride, which is a dangerous drug.^[6]

Upon his arraignment on 22 October 2003, accused-appellant, assisted by a counsel *de officio*, pleaded "NOT GUILTY" to both charges.^[7] Pre-trial was conducted. Trial on the merits followed.

During trial, the prosecution presented four witnesses: Forensic Chemist Police Inspector (P/Insp.) Richard Allan Mangalip, whose testimony was the subject of stipulation during the initial trial of the case; Makati City Anti Drug Abuse Council (MADAC) operative Ruben Potencion, the designated poseur-buyer; MADAC operative Richard Prior, back-up operative; and Police Officer 3 (PO3) Jay Lagasca, the team leader.

The prosecution's version is as follows:

Sometime in September 2003, an informant^[8] reported to the MADAC office in *Barangay* San Isidro that accused-appellant Wilfredo Encila alias "Freddie" was rampantly selling illegal drugs. On the basis of this information, a buy-bust operation against the latter was planned by the MADAC operatives, headed by PO3 Jay Lagasca. The buy-bust operation was coordinated^[9] with the Philippine Drug Enforcement Agency (PDEA). It was agreed upon by the team conducting the buy-bust operation that MADAC operative Ruben Potencion was to act as poseur-buyer. He was provided with one piece of marked five hundred peso bill.^[10]

On 18 September 2003, at about 3:30 in the afternoon, the buy-bust team, composed of ten people on board two vehicles, proceeded to E. Ramos Street, *Barangay* Pio del Pilar, Makati City. After a fifteen-minute wait, appellant was spotted by the team standing near a *sari-sari* store along E. Ramos Street. The informant and MADAC operative Ruben Potencion approached appellant. The informant introduced Ruben Potencion to appellant as a potential buyer of *shabu*. Accused-appellant asked Ruben Potencion how much *shabu* was needed. The latter replied that he needed P500.00 worth of *shabu*. Appellant received the marked money from Ruben Potencion and took out one plastic sachet containing *shabu* from his left pocket. Ruben Potencion examined the sachet and, upon being satisfied that the sachet contained *shabu*, gave the pre-arranged signal by throwing his lighted cigarette.

PO3 Jay Lagasca, with the assistance of back-up MADAC operative Richard Prior, rushed in and frisked appellant. Upon orders to empty his pockets, accused-appellant was found in possession of one piece of P500.00 bill, which was the marked buy-bust money, and six plastic sachets with suspected *shabu*. PO3 Lagasca placed appellant under arrest, informing him of the crime he committed and of his constitutional rights. Accused-appellant was asked his full name, and he answered. Ruben Potencion marked the plastic sachet of *shabu* with the initials of accused-appellant, "WSE," for the illegal sale; and the other plastic sachets recovered from the latter after his arrest, "WSE-1 to "WSE-6."

Accused-appellant was brought to the Makati City Police Station, Anti-Illegal Drugs Special Operation Task Force; then to the Philippine National Police (PNP) Crime Laboratory, to which all seven sachets were sent for examination.^[11] The examination yielded the following results:

SPECIMEN SUBMITTED:

Seven (7) small heat-sealed transparent plastic sachet each containing white crystalline substance having the following markings and recorded net weights:

A (WSE) = 0.22 gram

B (WSE-1) = 1.30 grams

C (WSE-2) = 0.53 gram

D (WSE-3) = 0.41 gram

E (WSE-4) = 0.01 gram

F (WSE-5) = 0.25 gram

G (WSE-6) = 0.13 gram

FINDINGS:

Qualitative examination conducted on the above stated specimen gave POSITIVE result to the tests for the presence of Methylamphetamine Hydrochloride, a dangerous [drug].^[12]

The contents of the seven plastic sachets were found positive for methylamphetamine hydrochloride (*shabu*), a dangerous drug, as evidenced by Physical Science Report No. D-1160-03S issued by Forensic Chemist Richard Allan B. Mangalip.

The accused's urine sample was found positive for THC^[13] metabolites and methylamphetamine hydrochloride, which meant he was a user of *marijuana* and methylamphetamine hydrochloride or *shabu*, both dangerous drugs.

The prosecution also submitted, apart from the testimonial evidence given by the three witnesses, several documentary pieces of evidence:

- (1) Makati City Police Anti-Illegal Drug Special Operation Sub Task Force PNP Aid SOTF Coordination Form dated 18 September 2003 with control number PDEA NOC 1809-03-14 indicating the details of the buy-bust operation (area, duration, vehicles, members of the buy-bust team, equipment);
- (2) Request for Laboratory Examination dated 18 September 2003;
- (3) Physical Science Report No. D-1160-03S;
- (4) White crystalline substance with marking "WSE";
- (5) Photocopy of the P500-Peso Bill marked C2 above the Serial Number EJO88272;
- (6) Sworn Statements of MADAC Ruben Potencion and PO3 Jay

Lagasca;

(7) Spot Report dated 18 September 2003 made by the DEU of the PNP Anti-Illegal Drugs Special Operation Sub Task Force regarding accused-appellant's arrest;

(8) Final Investigation Report dated 19 September 2003 of the Makati City Police.^[14]

The charges were denied by accused-appellant. The defense presented him and his alleged daughter, and they gave their own version.

Accused-appellant testified that he was 43 years old and worked as a contractual painter, having finished Grade III only.

Wilfredo Encila^[15] and daughter Jocelyn Encila^[16] testified that there was no buy-bust operation on 18 September 2003. On direct examination, accused-appellant asserted that at around 4:00 o'clock in the afternoon of 18 September 2003, he was arrested by the MADAC Police operatives at the house of a certain Danny, located at E. Ramos St., *Barangay* Pio del Pilar in Makati City. He was at said place because he brought his TV set to Danny for repair. The house of Danny was just a block away from his house. Danny, whose surname the accused-appellant did not know, was engaged in repairing of TV sets and other house appliances at his residence. He was not aware of any violation he committed.

On cross examination, however, accused-appellant mentioned that he was with his daughter at the house of Danny when four armed men in civilian clothes barged into the house and introduced themselves as police officers. He and Danny were frisked, but the police officers did not recover anything from the two of them. Despite their strong protests, accused-appellant and Danny were handcuffed. They asked the policemen why they were being apprehended, but they were simply ignored and forced to board a vehicle. Jocelyn Encila ran away in fear and reported the incident to their relatives. The two men were thereafter brought to the Makati City police station for further investigation, and Wilfredo Encila was turned over to the Crime Investigation Division. Danny was later released. It was only during the inquest proceedings in court that accused-appellant learned of the charges filed against him. Danny was not charged.

Accused-appellant also testified that, of the three prosecution witnesses who testified in court, only PO3 Jay Lagasca was among the four men who held him in the house of Danny.^[17]

On 21 February 2006, after the prosecution and the defense rested their respective cases, Makati RTC Branch 64 convicted accused-appellant after determining that the prosecution had proven his guilt beyond reasonable doubt in Criminal Cases No. 03-3693 for illegal sale of *shabu* and No. 03-3694 for illegal possession of *shabu*. In its joint Decision,^[18] the trial court disposed of the cases as follows:

WHEREFORE, in view of the foregoing, judgment is rendered as follows:

1. In Criminal Case No. 03-3693, the accused WILFREDO ENCILA y SUNGA is found GUILTY beyond reasonable doubt of the crime of

violation of Section 5, Article II, Republic Act No. 9165 and is sentenced to suffer the penalty of the (sic) life imprisonment and to pay the fine of P500,000.00; and

2. In Criminal Case No. 03-3694, the accused WILFREDO ENCILA y SUNGA is found GUILTY beyond reasonable doubt of the crime of violation of Section 11, Art. II, Republic Act No. 9165 and is sentenced to suffer the indeterminate penalty of TWELVE (12) YEARS and ONE (1) DAY as minimum to FOURTEEN (14) YEARS and ONE (1) DAY as maximum pursuant to the Indeterminate Sentence Law (R.A. No. 4103, as amended).

The accused is likewise ordered to pay a fine of P300,000.00.

The period during which the accused was under detention shall be considered in his favor pursuant to existing rules.^[19]

Aggrieved by the decision, accused-appellant filed a Notice of Appeal, informing the trial court that he was appealing the same to the Court of Appeals.^[20] He thereafter filed his appellant's brief on 18 October 2006. The Office of the Solicitor General filed the People's brief on 19 March 2006.

In a Decision dated 11 October 2007, the Court of Appeals affirmed the challenged RTC decision, disposing as follows:

WHEREFORE, premises considered, the Appeal is hereby DENIED and the questioned Decision dated February 21, 2006 of the Regional Trial Court (RTC), Branch 64, Makati City in Criminal Case Nos. 03-3693 & 03-3694 is AFFIRMED.^[21]

Accused-appellant then filed a Notice of Appeal with the Court of Appeals on 30 October 2007 to appeal its decision before this Court.^[22] In the meantime, accused-appellant remained committed at the Bureau of Corrections in Muntinlupa City.^[23]

Presented before this Court, *via* Notice of Appeal, is accused-appellant's lone assignment of error:

THE COURT A *QUO* ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The core issue for resolution is whether or not error attended the trial court's findings, as affirmed by the Court of Appeals, that accused-appellant is guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. 9165.

In praying for his acquittal, accused-appellant denies the charges and claims that the prosecution's evidence failed to establish his guilt beyond reasonable doubt. According to the defense, the trial court relied heavily on the deficiency or weakness of the defense evidence,^[24] instead of looking at the weight of the evidence presented by the prosecution. The defense argued that the trial court erred in finding fault in every minor and inconsequential discrepancy in the testimony of the