

SECOND DIVISION

[G.R. No. 177163, April 24, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ALEX BALAGAT, DEFENDANT AND APPELLANT.**

D E C I S I O N

CARPIO MORALES, J.:

Alex Balagat (appellant) was, by Information filed before the Regional Trial Court (RTC) of Pasig City, charged with violating Section 5, Article 11 of Republic Act No. 9165 as follows:

That on or about the 16th day of September 2002, in the Municipality of San Juan, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and knowingly sell, deliver and give away to a poseur buyer, PO2 Erwin Taasin, one (1) heat-sealed transparent plastic sachet containing 0.03 grams of white crystalline substance, which were found positive to the test for methamphetamine hydrochloride, also known as "shabu", which is a dangerous drug, in consideration of the amount of Php 100.00, in violation of the above-cited law.^[1] (Underscoring supplied)

During the pre-trial, the parties stipulated

that [Forensic Chemist Annalee R. Forro] received the Request for Laboratory Examination dated September 16, 2002 and the specimen allegedly confiscated from the accused, that upon her examination, the specimen marked in the Chemistry Report No. D-1834-02E A to I proved positive for methamphetamine hydrochloride, a dangerous drug while specimen J to M gave negative result.^[2] (Emphasis and underscoring supplied)

Via the testimonies of its witnesses PO1 Erwin Taasin (Taasin) and PO2 Mario Madarang (Madarang), the following version of the prosecution^[3] is culled:

At 5:30 PM of September 16, 2002, Taasin, then stationed at the Station Drug Enforcement Unit (SDEU), Office of the San Juan Metro Manila Police Station, received a report from an informant that someone was selling *shabu* at Tabing-Ilog Street, Barangay Salapan, San Juan. The informant described the suspect as wearing short pants and a red *sando* with the words "bugle boy" printed thereon. The SDEU chief thus organized a buy-bust team composed of Taasin who was designated poseur buyer, PO1 Romeo G. Lañada (Lañada), and Madarang.

On reaching Tabing-Ilog Street in a private car at around 6:00 PM of September 16, 2002, Taasin alighted and, at a distance of 25 meters, saw appellant who matched

the description given by the informant.

Taasin thereupon approached appellant, told him "*Ii-score ako ng piso*," and handed appellant a previously marked P100 bill. Appellant took the bill in exchange for which he handed therein a plastic sachet of suspected *shabu*.

Lañada and Madarang at once approached appellant who repaired to his 15-meter away house where he was apprehended. They recovered the buy-bust money from appellant. As a man, later identified to be Wilfredo Rodriguez (Rodriguez) and a woman, later identified to be Jennifer Narvaes (Jennifer), were sitting on a plywood bed in front of which were drug paraphernalia, the team also apprehended the two and confiscated the paraphernalia. A plastic sachet of suspected *shabu* and a plastic bag containing four small plastic sachets also of suspected *shabu* were also seized from appellant's house.

Taasin turned over to an investigator at the SDEU Office the plastic sachet recovered from appellant on which the investigator marked "AMB." When tested, the contents of the plastic sachet yielded positive for the presence of *shabu*.^[4]

In his defense,^[5] appellant claimed as follows: He was arguing with Jennifer in his house when Rodriguez arrived to collect from him service charge for laundry. As he started talking with Rodriguez, two persons entered his house, one of whom drew a gun saying "*Huwag kayong kikilos, diyan lang kayo*." The two frisked him and took money from Jennifer who voluntarily gave them *shabu* which she took from her brassiere.

The two armed men then searched the house, boarded him and his companions on a vehicle, and brought them to the San Juan Police Station where he and Rodriguez were detained.

Madarang soon asked him for P30,000 in exchange for his liberty. On the advice of his (appellant's) brother, Romeo Balagat (Romeo), he did not heed the demand.

By Decision dated April 20, 2005,^[6] Branch 157 of the Pasig City RTC convicted appellant, disposing as follows:

WHEREFORE, the Court finds accused ALEX BALAGAT Y MAKIGANGAY **GUILTY** beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165 and hereby sentences him to suffer *Life Imprisonment* and to pay a fine of PHP 500,000.00.

The evidence subject of the instant case are forfeited in favor of the Government and the Officer-in-Charge of this Court is directed to cause their immediate transmittal to the Philippine Drug Enforcement Agency (PDEA) for disposal in accordance with law.

SO ORDERED.

On appeal before the Court of Appeals, appellant alleged that the trial court

I. X X X GROSSLY MISAPPRECIATED THE FACTS AND CIRCUMSTANCES OF THE CASE;