

THIRD DIVISION

[G.R. No. 184804, June 18, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RASHAMIA HERNANDEZ Y SANTOS AND GRACE KATIPUNAN Y
CRUZ, ACCUSED-APPELLANTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

For review is the Decision^[1] of the Court of Appeals in CA-G.R. CR-H.C. No. 02465, dated 26 May 2008, affirming *in toto* the Decision,^[2] dated 14 August 2006, of the Manila Regional Trial Court (RTC), Branch 2, in Criminal Case No. 04-222804, finding accused-appellants Rashamia Hernandez y Santos and Grace Katipunan y Cruz guilty of illegal sale of *shabu* under Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and imposing upon them the penalty of life imprisonment.

The records of the case bear the following facts:

On 19 January 2004, an Information^[3] was filed before the RTC against appellants for illegal sale of *shabu* under Section 5, Article II of Republic Act No. 9165. The accusatory portion of the information reads:

The undersigned accuses RASHAMIA HERNANDEZ y SANTOS and GRACE KATIPUNAN y CRUZ of Violation of SEC. 5 Article II [of] Republic Act [No.] 9165, committed as follows:

That on or about January 14, 2004, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, not being authorized by law to sell, trade, deliver, or give away any dangerous drug, did then and there willfully, unlawfully and knowingly sell or offer for sale One (1) heat sealed transparent plastic sachet containing ZERO POINT ZERO FOUR SEVEN (0.047) gram of white crystalline substance known as "SHABU" containing methylamphetamine hydrochloride, which is a dangerous drug.

When arraigned on 13 February 2004, appellants, assisted by counsel *de officio*, pleaded "Not Guilty" to the charge. Trial on the merits thereafter ensued.

The prosecution presented as witnesses Police Officer 2 Gloybell Dimacali (PO2 Dimacali) and Police Officer 2 Joenardine Carandang (PO2 Carandang), both of whom are members of the Philippine National Police (PNP) and assigned at the Station Anti-Illegal Drugs Unit of Central Market, Sta. Cruz Manila Police Station 3. Their testimonies, taken together, produced the following narrative:

On 14 January 2004, at around 6:00 p.m., an informant went to the Station Anti-Illegal Drugs (SAID) Unit of Central Market, Sta. Cruz Manila Police Station 3 (police station) and reported to Police Chief Inspector Jimmy A. Tiu (Inspector Tiu), head of SAID, and PO2 Dimacali, the drug trafficking activities of a certain Larry and appellants in Callejon Flores, Solis Street, Tondo, Manila. Inspector Tiu formed a team and planned a buy-bust operation. The team agreed that PO2 Dimacali would act as the poseur-buyer, while PO2 Carandang, a certain PO2 Leonard Cipriano, PO2 Napoleon Osias and PO2 Marvin Flores would act as back-up during the buy-bust operation. Inspector Tiu gave PO2 Dimacali two one-hundred peso bills to be utilized as buy-bust money. PO2 Dimacali marked the monies with "SAID."^[4]

At about 8:00 p.m., the team, together with the informant, went to the house of Larry at Callejon Flores, Solis Street, Tondo, Manila. Upon arriving thereat, PO2 Dimacali and the informant proceeded inside Larry's house while the rest of the team positioned themselves outside the house. PO2 Dimacali and the informant approached appellants who were then inside the house. PO2 Dimacali told appellant Katipunan that he would buy two hundred pesos worth of *shabu*. Appellant Katipunan told appellant Hernandez, "*Akin na ang natitira mong isa.*" Appellant Hernandez brought out from her pocket one transparent plastic sachet containing *shabu* and handed it to appellant Katipunan. The latter then gave the plastic sachet to PO2 Dimacali. PO2 Dimacali handed the buy-bust money to appellant Katipunan who, in turn, gave it to appellant Hernandez. At this juncture, PO2 Dimacali removed his bull cap as a pre-arranged signal to his back-up team. PO2 Dimacali introduced himself as a police officer and held the hands of appellant Katipunan. Appellant Hernandez ran away but the back-up team chased and caught her, and recovered from her the buy-bust money.^[5]

Appellants, as well as the transparent plastic sachet of *shabu* and the buy-bust money recovered from them, were immediately brought to the police station. Thereupon, the plastic sachet of *shabu* recovered from appellants was marked by PO2 Dimacali with "GKC" (initials for Grace Katipunan Cruz, the full name of appellant Katipunan) and submitted it, together with the buy-bust money, to Inspector Tiu. The plastic sachet of *shabu* recovered from appellants was forwarded to the PNP Crime Laboratory of the Western Police District, U.N. Avenue, Ermita, Manila, for laboratory examination. PNP Forensic Chemist Judycel A. Macapagal found the contents thereof to be positive for *methylamphetamine hydrochloride* or *shabu*. Upon being weighed, the plastic sachet contained 0.047 gram of *shabu*.^[6]

The prosecution also adduced documentary and object evidence to buttress the testimonies of its witnesses, to wit: (1) letter-request for laboratory examination (Exhibit A);^[7] (2) one transparent plastic sachet of *shabu* (Exhibit B);^[8] (3) chemistry report of PNP Forensic Chemist Macapagal (Exhibit C);^[9] (4) buy-bust money (Exhibit D);^[10] (5) affidavit of apprehension executed by PO2 Dimacali, PO2 Carandang and PO2 Cipriano (Exhibit E);^[11] and (6) pre-operation/coordination sheet (Exhibit F).^[12]

For its part, the defense proffered the testimonies of appellants and their corroborating witnesses - namely, Maria Victoria Hernandez (Victoria) and Marileth Jacob (Marileth) - to refute the foregoing accusations. Appellants denied any liability and claimed that they were framed.

Appellant Hernandez testified that she visited appellant Katipunan at the latter's house in Tondo, Manila, on the afternoon of 14 January 2004. Later that day, she fell asleep inside the said house. At around 8:00 p.m., she was awakened by a commotion inside the same house. She stood up and saw male persons inside the house arresting appellant Katipunan. She was also apprehended. When she asked the reason for their arrest, one of the male persons retorted, "*Huwag na lang kayong magmatapang, sumama na lang kayo.*" The males introduced themselves as policemen. Subsequently, she, appellant Katipunan, and a certain Reynaldo Soriano (Soriano) -- appellant Katipunans alleged uncle who was with them inside the house during the arrest -- were brought to the police station. Soriano was beaten up by the policemen in the said station, but was released two days after the arrest.^[13]

Appellant Katipunan declared she was in her house at 1022 Callejon Flores, Solis Street, Tondo Manila on 14 January 2004. At about 5:00 p.m., appellant Hernandez arrived at her house. At about 8:00 p.m., while watching television inside her house with Soriano, she saw four males destroying the window of her house. These persons entered through the window, ransacked the house, and told her that they were looking for Larry. Thereafter, she, appellant Hernandez and Soriano were arrested and forcibly brought to the police station. Soriano was subsequently released from detention, because he gave money and a television set to the police officers. The policemen demanded from her P50,000.00 in exchange for her freedom, but she refused to accede.^[14]

Victoria, mother of appellant Hernandez, narrated that she lived in the same house with appellant Hernandez at 2109 Pista Street, Sta. Cruz, Manila; that on 14 January 2004, at about 4:00 p.m., she arrived home but could not find appellant Hernandez; that she looked for appellant Hernandez in her relatives' house and in the nightclub where the latter worked as Guest Relations Officer, but to no avail; that on the following day, she was informed by a friend that appellant Hernandez was arrested; that she went to the police station and found appellant Hernandez therein; and that appellant Hernandez was not a drug pusher.^[15]

Marileth, friend and neighbor of appellant Katipunan, stated that four males entered appellant Katipunan's house during the incident by destroying its window. She reported the incident to the police, but this was not blotted.^[16]

After trial, the RTC rendered a Decision finding appellants guilty of violating Section 5, Article II of Republic Act No. 9165 and imposing upon them the penalty of life imprisonment. They were also ordered to pay a fine of P500,000.00. The dispositive portion of the RTC Decision reads:

WHEREFORE, from the foregoing, judgment is hereby rendered, finding both accused, Rashamia Hernandez y Santos and Grace Katipunan y Cruz, **GUILTY** beyond reasonable doubt for violation of Sec. 5 Article II of Republic Act [No.] 9165, they are hereby sentenced each to life imprisonment and to pay a fine of P500,000.00 without subsidiary imprisonment in case of insolvency and to pay costs.

The specimen is forfeited in favor of the government and the Branch

Clerk of Court, accompanied by the Branch Sheriff, is directed to turn over with dispatch and upon proper receipt the said specimen to the Philippine Drug Enforcement Agency (PDEA) for proper disposal in accordance with the law and rules.^[17]

Aggrieved, appellants appealed to the Court of Appeals. On 26 May 2008, the Court of Appeals promulgated its Decision affirming *in toto* the RTC Decision, thus:

WHEREFORE, in the light of the foregoing, the appeal is **DISMISSED** for lack of merit. The assailed decision of the court a quo is **AFFIRMED**.^[18]

Appellants filed a Notice of Appeal on 11 June 2008.^[19]

In their Brief,^[20] appellants assigned the following errors:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE IDENTITY OF THE PROHIBITED DRUG CONSTITUTING THE *CORPUS DELICTI* OF THE OFFENSE.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

To secure a conviction for illegal sale of *shabu*, the following essential elements must be established: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and the payment thereof. In prosecutions for illegal sale of *shabu*, what is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti* as evidence. In the case at bar, the prosecution was able to establish through testimonial, documentary and object evidence the said elements.^[21]

PO2 Dimacali, the poseur-buyer, testified that appellants sold to him *shabu* during a legitimate buy-bust operation. His positive identification of appellants and direct account of the transaction are clear, thus:

Asst. Pros. Yap:

Police Officer Dimacali, what was your participation in this police operation against Rashamia Hernandez and Grace Katipunan?

Witness: I was the poseur-buyer in this operation, sir.

Q Now, when was (sic) this operation took (sic) place?

A On January 14, 2004 at 8:00 p.m., sir.

Q Where?

A Along Callejon Flores, Solis Street, Tondo, Manila.

Q Now, who was the target person of this operation?

A A certain Larry, Mia and Grace, sir.

Q Who furnished you of these particular names, these target persons?

A Our CI, sir.

Q When?

A Personally appeared in our office on January 14.

Q What time?

A At about 6:00 p.m., sir.

Q Aside from these names, what other details submitted by this informant?

A The informant gave information attended by our Chief, SAID regarding the illegal drug activities of certain Larry, Grace and Mia.

Q So, what was the response of this Police Commander?

A Major Tiu formed a team composed of PO1 Cipriano, PO1 Carandang, myself and I was given a specific assignment.

Q What was the assignment of these Cipriano and Carandang?

A Back up and arresting officers, sir.

Q What happened after the team was formed?

A We were briefed and we were tasked by Major Tiu, sir.

Q What were the tasks?

A Back up operatives and I was tasked as poseur-buyer, sir.

Q What happened next, Mr. Witness?

A We were given P200.00 by Major Tiu, sir.

Q When was that?

A Past 6:00 of January 14, sir.