

## THIRD DIVISION

[ G.R. NO. 172019, February 12, 2007 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
BOISAN CABUGATAN Y MACARAMBON, ACCUSED-APPELLANT.**

### DECISION

**CHICO-NAZARIO, J.:**

For Review is the Decision<sup>[1]</sup> of the Court of Appeals dated 28 October 2005 in CA-G.R. CR-H.C. No. 00174 entitled, "*People of the Philippines v. Boisan Cabugatan y Macarambon*," affirming the Decision<sup>[2]</sup> rendered by the Regional Trial Court of Baguio City, Branch 61, in Criminal Cases No. 20441-R and No. 20442-R, finding appellant guilty of illegal sale and of illegal possession of methamphetamine hydrochloride more popularly known as "*shabu*."

On 9 August 2002, two Informations were filed against appellant before the Regional Trial Court of Baguio City for violations of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The offense involved in Criminal Case No. 20441-R for violation of Section 5, Article II, of Republic Act No. 9165<sup>[3]</sup> was allegedly committed as follows:

That on or about the 8<sup>th</sup> day of August, 2002 in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused and without any authority of law, did then and there willfully, unlawfully and feloniously SELL, DISTRIBUTE and/or DELIVER a small transparent plastic heat sealed sachet containing white crystalline substance "Shabu" weighing 0.1 gram for ONE HUNDRED FIFTY PESOS (P150.00), Philippine Currency to PO3 Benedict Del-ong, a member of the Philippine National Police who acted as poseur-buyer, knowing fully well that said methamphetamine hydrochloride (SHABU), is a regulated [drug], in violation of the aforementioned provision of law.<sup>[4]</sup>

On the other hand, the Information relative to Criminal Case No. 20442-R for infringement of Section 11, Article II of the same law<sup>[5]</sup> reads:

That on or about 8<sup>th</sup> day of August, 2002 in the City of Baguio, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his/her possession and control one transparent plastic containing four (4) small transparent plastic sachet containing white crystalline substance "Shabu" weighing approximately 0.2 gm., marked as "RUA" "JF"; 0.2 gm marked "RUA" "JF"; 0.1 gm. Marked "RUA" "JF" and 0.1 gm marked "RUA" "JF", respectively; a regulated drug, without the

corresponding license or prescription, in violation of the aforecited provision of law.<sup>[6]</sup>

During his arraignment on 21 August 2002, appellant pleaded not guilty to both charges.<sup>[7]</sup>

On 17 September 2002, the pre-trial of the cases was held at which time appellant admitted the existence of the following documents:

1. Certification of Preliminary test on the five sachets marked as Exh. A and B as to the findings of the positive result for methamphetamine hydrochloride.
2. Chemistry Report No. D-070-2002
3. Buy-bust money
4. Request for Drug Test
5. Booking Sheet and Arrest Report of the accused.<sup>[8]</sup>

During the trial of the cases, the prosecution presented the testimonies of PO2 Benedict Del-ong, PO2 Gilbert Bulalit, and PO3 Roy Aguirre who were all members of the Baguio City Police.

The prosecution's version of the facts shows that on 8 August 2002, a reliable civilian informant, accompanied by a *barangay kagawad*, went to the Station 7 of the Baguio City Police. The informant purportedly advised Police Chief Inspector Eduardo Z. Garcia that a person by the name of Boisan was engaged in the illegal sale of *shabu* at Villacor Billiard Hall located on Otek St., Baguio City.<sup>[9]</sup>

Police Chief Inspector Garcia immediately formed a team to conduct a buy-bust operation to apprehend Boisan with PO2 Del-ong as the designated poseur-buyer.<sup>[10]</sup> Police Chief Inspector Garcia gave PO2 Bulalit one piece of P100.00 bill and a P50.00 bill. PO2 Bulalit proceeded to have the bills photocopied and authenticated by the City Prosecutor's Office.<sup>[11]</sup>

Later in the afternoon, the team proceeded to Villacor Billiard Hall. PO3 Aguirre and PO2 Bulalit positioned themselves inside a public utility jeepney parked near the entrance of the billiard hall. The other member of the team, PO1 Eugene Raymundo, stood about four to five meters away.<sup>[12]</sup>

When they reached the designated place, they were met by a man wearing a black bull cap and a gray sweatshirt with collar. This person was identified during the trial to be appellant. After the civilian informant introduced PO2 Del-ong and appellant to each other, the latter asked PO2 Del-ong how much worth of *shabu* was he willing to purchase. PO2 Del-ong replied that he had only P150.00 with him. After he handed this sum to appellant, the latter drew from his right front pocket a small sachet which he gave to PO2 Del-ong. PO2 Del-ong then examined the content of the sealed plastic sachet. Certain that what appellant gave him was *shabu*, PO2 Del-ong scratched his head using his left hand to alert his fellow team members that the sale of *shabu* was already consummated. Thereupon, the rest of the buy-bust team rushed towards appellant and informed him that he was being arrested. They likewise advised him of his constitutional rights.<sup>[13]</sup>

PO3 Aguirre then frisked appellant and recovered from the latter four small transparent sachets containing crystalline substance.

Appellant was thereafter taken to the police station where the buy-bust team prepared the arrest report, booking sheet, and their joint affidavit. They also made a request for the initial testing of the evidence they confiscated from appellant. The task of conducting the preliminary test was performed by PO2 Joseph Filog who issued a certification dated 8 August 2002, the pertinent portion of which states:

The purpose of which is to determine the presence of regulated drug on the above specimen.

That by using the "SIMONS REAGENT" to the white crystalline substance from the five (5) plastic heat sachets, gave **POSITIVE** result of "DARK BLUE COLOR" which indicates the presence of Methamphetamine Hydrochloride, an active component of Shabu, a regulated drug.<sup>[14]</sup>

The sachets of white crystalline substance were also examined by the Regional Crime Laboratory Office of the Philippine National Police. This test yielded the following results:

#### FINDINGS:

Qualitative examination conducted on the above-stated specimens (Exhs. "A", B-1 thru B-4) gave POSITIVE result to the test for the presence of Methamphetamine hydrochloride (SHABU), a regulated drug. x x x

#### CONCLUSION:

Exhs. "A", B-1 thru B-4 contain Methamphetamine hydrochloride, a regulated drug. x x x.<sup>[15]</sup>

Appellant was likewise subjected to a drug test which allegedly showed that he was a *shabu* user.<sup>[16]</sup>

Expectedly, accused presented an entirely different version of what transpired during that afternoon and claimed that the buy-bust never took place.<sup>[17]</sup> According to appellant, he is a Maranaw who earns a living by peddling sunglasses in Baguio City. At the time the supposed buy-bust operation took place, he was playing billiard with two others at the Villacor Billiard Hall when three men in civilian clothes arrived.<sup>[18]</sup> Appellant identified two of the men who came inside the billiard hall to be PO2 Del-ong and PO3 Aguirre.<sup>[19]</sup>

The group of PO2 Del-ong allegedly frisked appellant's fellow players and was able to recover a single plastic sachet from one of them. PO2 Del-ong, who was then standing beside appellant, held the latter's hand, pointed a gun at his head, and warned him not to do anything or else he would be shot.<sup>[20]</sup> PO3 Aguirre then called for a mobile car and appellant, together with his two companions, was brought to the Station 7 of the Baguio City Police.<sup>[21]</sup> In the police station, appellant was handcuffed to the window rail. After a few hours, one of the arresting officers came to see him and asked appellant if he could settle his case by paying a

sum of money to the police<sup>[22]</sup> or he could just identify others who are engaged in drug trade in Baguio City.<sup>[23]</sup> Appellant likewise claimed that he learned later on that the two others who were arrested with him were able to settle their cases and had been set free.<sup>[24]</sup>

As for the result of his drug test, appellant stated that he was a drug user while he was still residing in Mindanao and that he decided to move to Baguio City to evade the habit.<sup>[25]</sup>

The prosecution presented PO2 Del-ong as a rebuttal witness. He stated that while they were waiting for the mobile patrol car after the appellant's arrest, a minor boy and a companion approached appellant and asked if he still had drugs to sell.<sup>[26]</sup> The buy-bust team then decided to arrest the two would-be-buyers. As the drug test of the boy revealed that he was a drug user, he was referred to the Youth and Women Section of the Baguio City Police Office. They were, however, compelled to release his companion as his drug test established that he was not a drug user and because he claimed that he had just met the minor boy that afternoon.<sup>[27]</sup>

On 1 December 2003, the trial court rendered its decision sustaining the prosecution, thus:

WHEREFORE, judgment is rendered finding the accused GUILTY as charged on both counts and he is hereby sentenced as follows: a) in Criminal Case No. 20441-R, to Life Imprisonment and to pay a fine of P1,000,000.00, and b) in Criminal Case No. 20442-R, to a prison term of twelve (12) years and one (1) day to fifteen (15) years, to pay a fine of P300,000.00, and the costs.<sup>[28]</sup>

Appellant seasonably filed a Notice of Appeal elevating the case to this Court.<sup>[29]</sup>

As the trial court meted a penalty of life imprisonment, the case was transferred to the Court of Appeals for appropriate action and disposition pursuant to our ruling in *People v. Mateo*.<sup>[30]</sup>

On 28 October 2005, the Court of Appeals rendered the now assailed decision affirming *in toto* the decision of the trial court.<sup>[31]</sup> Appellant is again before us proclaiming his innocence.<sup>[32]</sup>

Appellant assigns the following errors:

## I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL FAITH AND CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES AND IN CONVICTING THE ACCUSED-APPELLANT FOR VIOLATION OF SECTIONS 5 AND 11, ARTICLE II OF REPUBLIC ACT NO. 9165.

## II

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE OFFENSES CHARGED.<sup>[33]</sup>

Appellant claims that the prosecution failed to establish his guilt beyond reasonable doubt. He faults the trial court for giving "full faith and credence to the [testimonies] of the prosecution witnesses"<sup>[34]</sup> even when he had categorically denied the occurrence of any buy-bust operation. He also assails his arrest by the Baguio City Police as it was carried out without a valid warrant.<sup>[35]</sup> As his arrest was illegal, it follows that the search conducted by the police upon his person was similarly unlawful.<sup>[36]</sup>

Appellant's arguments fail to persuade.

It is a fundamental rule that findings of the trial courts which are factual in nature and which involve the credibility of witnesses are accorded respect when no glaring errors, gross misapprehension of facts and speculative, arbitrary and unsupported conclusions can be gathered from such findings. The reason for this, being, that the trial court is in a better position to decide the credibility of witnesses having heard their testimonies and observed their deportment and manner of testifying during the trial.<sup>[37]</sup> The rule finds an even more stringent application where said findings are sustained by the Court of Appeals as in this case.<sup>[38]</sup>

Considering, however, that at stake is no less than the liberty of appellant, we thoroughly examined the entire records of this case. Unfortunately for appellant, we failed to identify any error committed by the trial court both in its appreciation of the evidence presented before it and in the conclusion it reached.

In the prosecution of offenses involving this provision of the statute, it is necessary that the following elements be established: (1) the identity of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment therefore.<sup>[39]</sup> What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.<sup>[40]</sup>

In this case, all the elements of the crime have been sufficiently established. The witnesses for the prosecution were able to prove that the buy-bust operation indeed took place and the *shabu* subject of the sale was brought and duly identified in court. The poseur-buyer (PO2 Del-ong) positively identified appellant as the one who sold to him a packet of white crystalline substance<sup>[41]</sup> which was later confirmed by two chemical examinations to be *shabu*.<sup>[42]</sup>

As recalled by the PO2 Del-ong, the designated poseur-buyer, the events that led to the apprehension of appellant are as follows:

Q When the male Civilian Informant went to your office and gave those informations, what happened next?

A Acting on said information and with supervision of our Chief of office, Police Chief Inspector Garcia formed our team to