

## THIRD DIVISION

**[ G.R. NO. 169141 (Formerly 159854-56),  
December 06, 2006 ]**

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ROMEO DEL  
MUNDO Y STA. MARIA, APPELLANT.**

### DECISION

**TINGA, J.:**

Romeo del Mundo y Sta. Maria (appellant) was charged before the Regional Trial Court (RTC) of Makati, Branch 135, for violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165 in two (2) Informations that read:

CRIMINAL CASE No. 02-3038

That on or about the 18<sup>th</sup> of October 2002, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously sell, give away, distribute and transport Methylamphetamine Hydrochloride (shabu), a regulated drug, weighing ZERO POINT ZERO THREE GRAM (0.03 gram) contained in one heat-sealed transparent plastic sachet.

CONTRARY TO LAW.<sup>[1]</sup>

CRIMINAL CASE NO. 02-3039

That on or about the 18<sup>th</sup> day of October 2002, in the City of Makati, Philippines and within the jurisdiction of this honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without corresponding license or prescription, did then and there willfully, unlawfully and feloniously have in his possession, direct custody and control zero point zero three (0.03) gram of Methylamphetamine hydrochloride (shabu), which is a dangerous drug in violation of the above cited law.

CONTRARY TO LAW.<sup>[2]</sup>

Upon arraignment, appellant pleaded not guilty to the charges.<sup>[3]</sup> Trial ensued. After trial, his co-accused Susan Pugal was acquitted from a separate charge for violation of Section 11, Article II, R.A. No. 9165. However, in a Decision<sup>[4]</sup> dated 8 September 2003, the RTC found appellant guilty beyond reasonable doubt of the crime charged. The RTC disposed as follows:

WHEREFORE, it appearing that the guilt of the accused ROMEO DEL MUNDO y STA. MARIA was proven beyond reasonable doubt for violation of Sections 5 and 11, Article II of R.A. [No.] 9165, as principal, with no mitigating or aggravating circumstances, accused is hereby sentenced:

1. In Criminal Case No. 02-3038, to suffer life imprisonment and to pay a fine of P500,000.00;
2. In Criminal Case No. 02-3039, to suffer imprisonment for a period of twelve [12] years and one [1] day, as minimum, to twenty [20] years and a fine of P300,000.00; and
3. To pay the costs.

It appearing that the guilt of accused SUSAN PUGAL y PINGOL in Criminal Case No. 02-3040 was not proven beyond reasonable doubt, she is hereby acquitted of the crime of violation of Section 11 of RA [No.] 9165.

Let the zero point zero nine [0.09] gram of Methylamphetamine Hydrochloride be turned over to the PDEA for proper disposition.

**SO ORDERED.**<sup>[5]</sup>

Culled from the records and decisions of the courts below, the antecedents follow.

The office of Cluster 2 of the Makati Anti-Drug Abuse Council (MADAC) received a report from a confidential informant that a certain Romy, later identified as appellant, was engaged in the selling of prohibited drugs, particularly *shabu*. Proceeding from this information, the head of MADAC Cluster 2 formed a team to conduct a buy-bust operation and designated MADAC agent Norman A. Bilason (Bilason) as the poseur-buyer, to be provided with two (2) marked P100 bills.<sup>[6]</sup> <sup>[7]</sup>

On 18 October 2002, at around 5:00 o'clock in the afternoon, the informant accompanied Bilason to the place where appellant was reported to be plying his trade. Meantime, the rest of the MADAC and Drug Enforcement Unit (DEU) operatives positioned themselves at a strategic place to monitor the transaction.<sup>[8]</sup>

Bilason and the informant approached appellant who was then standing at the corner of Pasong Tirad and Ponte Streets in Tejeros, Makati and talking to his female companion, later identified as Pugal and allegedly a "scorer" according to the informant. The informant introduced Bilason to appellant as a buyer of *shabu*. Appellant asked Bilason how much he intended to buy. Bilason replied, "*Dos lang, panggamit lang.*" Then, appellant received the P200.00 marked money from Bilason while handing the latter one (1) plastic sachet<sup>[9]</sup> of *shabu* which came from the left pocket of his pants. Next, Bilason gave the pre-arranged signal. The rest of the team closed in. Bilason introduced himself as a member of MADAC and, with the team, placed appellant and Pugal under arrest. Two (2) plastic sachets<sup>[10]</sup> and the marked money were recovered from appellant while one (1) plastic sachet<sup>[11]</sup> was confiscated from Pugal. Appellant and Pugal were duly apprised of the nature of their arrest and their constitutional rights.<sup>[12]</sup>

Afterwards, appellant and Pugal were brought to the DEU office for proper disposition. Tests conducted on the plastic sachet yielded positive results for Methylamphetamine Hydrochloride.<sup>[13]</sup>

The parties stipulated that the physical science report<sup>[14]</sup> was duly accomplished after the specimens of *shabu* had been subjected to laboratory tests. Hence, the prosecution dispensed with the presentation of the Forensic Chemist. The parties likewise stipulated that: (1) MADAC agent Diomedes Camporaso confiscated from Pugal one [1] plastic sachet suspected to contain *shabu*; and (2) SPO2 Wilmer Antonio was the team leader of the buy-bust operation wherein he assisted in the arrest of appellant.<sup>[15]</sup>

Appellant, a 63-year old jobless resident of Tejeros, Makati, interposed the defense of denial. He claimed that there was never a time in his life that he sold *shabu*. He alleged that in the afternoon of 18 October 2002, he was inside his house lying down with his grandchild. He was awakened from sleep when police officers kicked the door open and entered the house. The police officers forced him to reveal the whereabouts of the *shabu* and the money. Appellant replied that he does not sell *shabu*. Then, the police officers searched the house but were not able to find anything. Subsequently, appellant was asked to go out of the house and board the police officers' service vehicle for allegedly selling *shabu*. Appellant entrusted his grandchild to his wife's sibling.<sup>[16]</sup>

At the DEU office, appellant was told to escape but he did not as he claimed not to have done anything wrong. Ten (10) minutes after, Pugal arrived. Appellant came to know of the charges against him on the day he was arrested. Allegedly, these are false charges but appellant failed to file any complaint against the arresting officer for lack of money.<sup>[17]</sup>

Appellant was found guilty as charged and the judgment of conviction was elevated to the Court for automatic review. In a Resolution<sup>[18]</sup> dated 6 September 2004 of the Court in G.R. Nos. 159854-56,<sup>[19]</sup> the cases were transferred to the Court of Appeals pursuant to the Court's ruling in *People v. Mateo*.<sup>[20]</sup>

Before the Court of Appeals, appellant argued that the trial court erred in: (1) according greater weight to the evidence adduced by the prosecution and disregarding the defense of denial interposed by appellant; and (2) finding appellant guilty beyond reasonable doubt of the offenses charged.<sup>[21]</sup>

The Court of Appeals in a Decision<sup>[22]</sup> dated 27 June 2005, in CA-G.R. CR No. 00232, affirmed with modifications the decision of the trial court. The dispositive portion of the decision reads:

**WHEREFORE,** the appealed *Decision* is **AFFIRMED** with **MODIFICATION**. Appellant Romeo del Mundo y Sta. Maria is hereby **ACQUITTED** in Crim. Case No. 02-3039. His conviction in Crim. Case No. 02-3038 for violation of Section 5, Article II of RA No. 9165 and all other aspects of the Decision are maintained.

**SO ORDERED.**<sup>[23]</sup>

The Court of Appeals held that in Criminal Case No. 02-3038, the details of the sale of *shabu* between appellant and the MADAC operatives have been clearly and sufficiently shown.<sup>[24]</sup> However, the appellate court entertained doubts with respect to appellant's culpability in Criminal Case No. 02-3039 resulting to his acquittal therein. The appellate court observed that the prosecution did not produce evidence to show that appellant was actually in possession of the second sachet supposedly containing 'shabu.'<sup>[25]</sup>

Appellant is now before the Court submitting for resolution the same matters argued before the Court of Appeals, though this time he questions only his conviction in Criminal Case No. 02-3038, for the illegal sale of *shabu*, as he was acquitted of the charge in Criminal Case No. 02-3039 by the appellate court. Through his Manifestation (In Lieu of Supplemental Brief)<sup>[26]</sup> dated 14 November 2005, appellant stated that will not file a Supplemental Brief and in lieu thereof, he will adopt the Appellant's Brief he had filed before the appellate court. The Office of the Solicitor General likewise manifested that it is no longer filing a supplemental brief.<sup>[27]</sup>

Appellant principally contends that the non-presentation before the trial court of the informant and witnesses other than MADAC agents Bilason and Camporaso militates against the trustworthiness of the prosecution's theory.<sup>[28]</sup>

The Court is not persuaded.

The pertinent provision of Article II of R.A. 9165<sup>[29]</sup> reads as follows:

SEC. 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.*- The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten Million Pesos (P10,000,000.000) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The elements necessary in every prosecution for the illegal sale of 'shabu' are: (1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>[30]</sup> What is material is the proof that the transaction or sale transpired, coupled with the presentation in court of the *corpus delicti*. *Corpus delicti* is the body or substance of the crime, and establishes the fact that a crime has been actually committed. It has two elements, namely: (1) proof of the occurrence of a certain event; and (2) some person's criminal responsibility for the act.<sup>[31]</sup>

MADAC agent Bilason, the poseur-buyer, clearly established that an illegal sale of *shabu* actually took place and that appellant was the author thereof. He testified as follows:

Fiscal Moreno to witness:

Q: How did you come to know the accused in this case?  
A: On October 18, 2002, we arrested both accused Romeo del Mundo and Susan Pugal.

Q: For what particular offense?  
A: For violation of Sections 5 and 11.

Q: Did you conduct a buy-bust operation against said accused?  
A: Yes, sir.

Q: Was the buy bust operation successful?  
A: Yes, sir.

Q: In connection with the buy-bust operation that you conducted against the accused, do you recall having executed a Joint Affidavit of Arrest?  
A: Yes, sir.

Q: If that affidavit will be shown to you, will you be able to identify the same?  
A: Yes, sir.

Q: I am showing to you a Pinagsanib Na Sinumpaang Salaysay. Please go over this and tell the Court if this is the same affidavit that you executed?  
A: Yes, sir.

Fiscal Moreno:

This was previously marked as Exhibits A and A-1.

x x x x

Fiscal Moreno:

For purposes of expediency and to save the material time of the Honorable Court, we propose for stipulation with the defense that this Pinagsanib na Sinumpaang Salaylay (sic) will form part as the direct testimony of the witness.

Atty. Quiambao:

We agree, your Honor.

x x x x<sup>[32]</sup>

In the *Pinagsanib na Sinumpaang Salaysay*,<sup>[33]</sup> Bilason together with SPO2 Wilmer Antonio and MADAC Agent Camporaso narrated in detail the sale of *shabu* made by appellant to Bilason. Based on a tip from a confidential informant, a team composed of MADAC and DEU agents was formed to conduct a buy-bust operation. The team proceeded to the place wherein, according to the confidential informant, appellant