

## SECOND DIVISION

[ G.R. No. 158033, July 30, 2004 ]

**RAMIL CABUGAO Y SISON, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**PUNO, J.:**

This is a petition for review of the decision<sup>[1]</sup> and resolution<sup>[2]</sup> of the Court of Appeals in CA-G.R. No. CR No. 24578, affirming the decision<sup>[3]</sup> of the Regional Trial Court of Dagupan City, Branch 41, which found the petitioner Ramil S. Cabugao guilty of violation of Article III, Section 15 of Republic Act No. 6425, as amended.

The information against the petitioner Cabugao reads as follows:

That on or about the 12<sup>th</sup> day of March, 1999, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, RAMIL CABUGAO y Sison, did then and there, wil(l)fully, unlawfully and criminally, sell and deliver to a customer Shabu weighing more or less .5 gram contained in a small plastic sachet, without authority to do so.

Contrary to Article III, Sec. 15, R.A. 6425, as amended.<sup>[4]</sup>

The petitioner pleaded "not guilty" upon arraignment.<sup>[5]</sup>

During the trial, the prosecution presented the testimonies of SPO2 Augusto P. Domingo,<sup>[6]</sup> Police Superintendent Theresa Ann B. Cid, and SPO1 Rolando Lomibao.

SPO2 Domingo testified that he has been a policeman in Dagupan City from January 25, 1999. On March 12, 1999, at around 8:40 p.m., the members of the Task Force Anti-Drug of the Dagupan City Police Station conducted a buy-bust operation at M.H. Del Pilar Street in Dagupan City, against the petitioner Cabugao after fifteen (15) days of surveillance. Fifteen (15) minutes before the buy-bust operation, he arranged to sell *shabu* to the petitioner. During the operation, he approached the petitioner who was seated on a bench in front of Caliman Lodge along M.H. Del Pilar Street. He gave the petitioner two P100 bills which he previously marked with his signature. He arrested the petitioner after the latter handed to him a small plastic sachet of shabu. At the time of the arrest, the other members of the task force were scattered at a distance of 3 to 5 meters away from him. The petitioner was then brought to the police station where the incident was recorded in the police blotter.<sup>[7]</sup>

SPO1 Rolando Lomibao, a member of the Dagupan City Police Station's Task Force

Anti-Drug, also testified for the prosecution. He said he has been in service as a policeman since 1987. He recalled that in the evening of March 12, 1999, he, together with SPO2 Domingo, SPO1 Danilo Frias, SPO1 Allan Daus, and their team leader Senior Police Inspector Romeo Caramat, went to M.H. Del Pilar Street to hold a buy-bust operation. SPO2 Domingo acted as the poseur buyer in the operation as he was the one who arranged with the petitioner the sale of *shabu*. They knew the location of petitioner Cabugao because of their assets. When they arrived at M.H. Del Pilar Street, the petitioner was standing in front of Caliman Lodge. SPO2 Domingo approached the petitioner and handed to him two marked P100 bills. At that time, he was about three meters away from them. SPO2 Domingo arrested the petitioner after the latter gave him the plastic sachet containing *shabu*. He helped in the apprehension of the petitioner. He bodily searched the petitioner and found a 9-inch dagger in his possession. They turned over the petitioner to the police station and requested for a laboratory examination of the contents of the plastic sachet.

Superintendent Wendy Garcia Rosario, the Chief of Police of the Dagupan City Police Station, sent a letter-request<sup>[8]</sup> to the Philippine National Police (PNP) Crime Laboratory of Lingayen, Pangasinan, for an examination of the contents of the sachet handed over by the petitioner. He also reported to the Dangerous Drugs Board the buy-bust operation.<sup>[9]</sup> SPO2 Domingo and SPO1 Rolando Lomibao, as members of the task force, executed a joint affidavit regarding the incident.<sup>[10]</sup>

Theresa Ann Bugayong-Cid, a forensic chemist at the PNP Crime Laboratory of San Fernando, La Union, testified that she examined the specimen and found it to contain methamphetamine hydrochloride (*shabu*).<sup>[11]</sup>

For his part, the petitioner denied that a buy-bust operation was conducted against him by the police. His testimony was buttressed by witnesses Teresa Azurin, Maria Luz Villamil, and Romeo Cabugao.

Teresa Azurin was a waitress of the "*turo-turo*" (eatery) at the sidewalk along M.H. Del Pilar Street where the incident took place. She testified that on March 12, 1999 at around 8:30 in the evening, two men came to their eatery, bought cigarettes and asked for candies. One of them said he would get his money to pay for the candies. To her surprise, the man drew his gun and poked it to her lone customer, the petitioner Cabugao. The two men then frisked the petitioner but found nothing from him. They handcuffed the petitioner and forcibly took him away. She was shocked by the incident and went inside the "*eskenita*" (alley). The following morning, the parents of the petitioner dropped by their eatery and paid the food bill of their son. She gave them a receipt.<sup>[12]</sup>

Maria Luz Villamil is the sister of the petitioner's classmate Victorino Villamil. She testified that on March 12, 1999, at 8:30 in the evening, she was at a store along M.H. Del Pilar Street when she saw a man approach the petitioner Cabugao while the latter was eating. She was about "two(-)arm(s) length"<sup>[13]</sup> away from the petitioner at that time. The man poked a gun at the petitioner and frisked him. Thereafter, some men forced him to go with them. She heard the petitioner say: "why, what is my fault"; he also asked if they have a search warrant. He begged to be allowed to telephone his parents but was refused. He called on the people around him to inform his parents, telling them his address and telephone number.

She went to the address given by the petitioner and informed his parents of the incident.<sup>[14]</sup>

The petitioner Cabugao, 32 years old, testified that while he was eating at a sidewalk store at M.H. Del Pilar Street on March 12, 1999 at around 8:30 in the evening, SPO1 Domingo suddenly poked a gun at him and warned him "Don't move or else I will shoot you." On the other hand, SPO1 Lomibao ordered him to raise his hands. He was bodily frisked but nothing was found on him. He was handcuffed and pulled to an owner-type jeep. He resisted as they did not have a warrant of arrest but to no avail. He begged to be allowed to call his parents but was refused. He then shouted for help so the people present would know what was happening. He was kicked while a certain SPO1 Allan Daus fired his gun. He was then brought to the police station, specifically to Senior Inspector Romeo Caramat. He was forced to sign a blank paper but he did not. After that, he was incarcerated in the city jail. He denied that a buy-bust operation took place and that a sachet of shabu and a dagger were recovered from his possession. He said that before the incident or on March 12, SPO2 Domingo and SPO1 Lomibao asked him to act as an asset in apprehending two of his neighbors suspected to be drug pushers. He agreed, but before he could help them, the suspects were arrested by other members of the Dagupan City Police Station. He asked for their forgiveness but they warned him: "the time will come that you (the petitioner) will have your day."

Romeo Cabugao, 63 years old, the father of the petitioner, testified that after Villamil informed them of the March 12, 1999 incident, he, together with his wife, immediately went to M.H. Del Pilar Street. They talked to some people in the area, including witness Azurin who related to them in detail the incident. The next day, they paid the food bill of ₱30.00 incurred by the petitioner, for which an unofficial receipt was issued by Azurin. He declared that before the incident, SPO2 Domingo and SPO1 Lomibao frequented their house looking for his son, Ramil. The two wanted his son to act as an asset to apprehend suspected drug pushers living at the back of their house. He advised his son to refuse as the two police officers have questionable background. SPO1 Lomibao has been involved in drug pushing while SPO2 Domingo has been found guilty of acts of lasciviousness and dismissed from the service.

He also testified that his son was also charged with violation of Batas Pambansa Blg. 6 or illegal possession of deadly weapon. The charge was dismissed for the repeated failure of SPO2 Domingo and SPO1 Lomibao to appear in court despite due notice. A certified true copy of the resolution<sup>[15]</sup> of the Summary Hearing Officer of the PNP Regional Office I imposing a one-rank demotion against SPO1 Lomibao, an authenticated copy of the decision<sup>[16]</sup> of the Regional Director of the PNP Regional Office I dismissing SPO2 Domingo from the PNP, and the order<sup>[17]</sup> of the Municipal Trial Court in Cities of Dagupan City, Branch 1, dismissing the case against the petitioner for illegal possession of deadly weapon, were marked and submitted as exhibits for the defense. The information<sup>[18]</sup> filed against the two neighbors suspected of drug pushing, Evangeline Mendoza and Dave Doe, and the order<sup>[19]</sup> of the Regional Trial Court of Dagupan City, Branch 40, convicting Evangeline Mendoza upon her plea of guilty for violation of Article III, Section 16 of R.A. No. 6425, as amended, were also offered as exhibits.

After trial, the trial court convicted petitioner Cabugao, to wit:

WHEREFORE, the accused is found guilty beyond reasonable doubt for violation of Art. III, Section 15, RA 6425, as amended, and is hereby sentenced to suffer the penalty of six (6) months, as the minimum to four (4) years, two (2) months and one (1) day, as the maximum, and to pay the costs.

SO ORDERED.<sup>[20]</sup>

The petitioner appealed to the Court of Appeals which, however, affirmed his conviction on November 22, 2002. His motion for reconsideration was also denied.

Undaunted, the petitioner Cabugao filed this petition and submits the following assignment of errors:

### **I**

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE INCONSISTENT AND INCREDIBLE STATEMENTS OF THE PROSECUTION WITNESSES.

### **II**

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE PROSECUTION WITNESSES' ASSERTION THAT THERE WAS A BUY-BUST OPERATION.

### **III**

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF VIOLATION OF SECTION 15, ARTICLE III OF REPUBLIC ACT 6425, WHEN THE GUILT OF THE LATTER WAS NOT PROVEN BEYOND REASONABLE DOUBT.

We find the petition impressed with merit.

The decisions of both courts below failed to take into account vital pieces of evidence that engender serious doubt on the guilt of the petitioner.

First, we shall consider the documentary evidence of the defense which cannot but erode the credibility of prosecution witnesses SPO2 Augusto Domingo and SPO1 Rolando Lomibao. We refer to: (a) the authenticated copy of the Order of Police Chief Superintendent Velasco dated February 28, 1997 showing that SPO2 Domingo was found guilty of grave misconduct for acts of lasciviousness and ordered dismissed from service; and (b) the certified true copy of the Resolution of Police Senior Inspector Sotero Lucas Soriano, Jr. dated December 8, 1997 showing that SPO1 Rolando Lomibao was convicted of grave misconduct when he was found positive of metabolite (*marijuana*) and demoted from the rank of SPO1 to PO3.

The respondent, through the Office of the Solicitor General (OSG), tries to minimize the significance of these pieces of documentary evidence. It contends that they are hearsay evidence because they are not certified and were only identified by the petitioner's father, Romeo Cabugao.<sup>[21]</sup> It also argues that the demotion of SPO1 Lomibao and the dismissal from service of SPO2 Domingo have no bearing on the culpability of the petitioner.<sup>[22]</sup>

We disagree.

The contention of the respondent that the subject documents are uncertified is erroneous. Under the Rules of Court, when the original of a document is in the custody of a public officer or is recorded in a public office, its contents may be proved by a certified copy issued by the public officer in custody thereof.<sup>[23]</sup> The Rules does not require that the certification should be in a particular form. The four-page Resolution dated December 8, 1997 contains a stamped certification signed by Police Inspector David U. Ursua of the Legal Service, PNP Regional Office I of Parian, San Fernando, La Union.<sup>[24]</sup> The three-page Decision dated February 28, 1997 has the handwritten authentication of Police Inspector Mario L. Aduan, also from the same office, on each and every page.<sup>[25]</sup> They ought to satisfy the requirement of the Rules on certification.

Moreover, the respondent did not raise the hearsay objection when the subject documents were offered in evidence by the defense. When the father of the petitioner was asked during direct examination if he had proof that SPO2 Domingo was dismissed from service and that SPO1 Lomibao was involved in drug activities, the prosecution objected on other grounds, *i.e.*, that "the line of questioning is now irrelevant and immaterial" and that "(t)his is not (*sic*) the character of the complainant which is in issue."<sup>[26]</sup> When the subject documents were marked as exhibits, the prosecution again did not raise any objection. When the documents were formally offered in evidence, the respondent once more did not object on the ground of hearsay. The prosecution objected on the ground that the documents are "off-tangent to the issue in this case."<sup>[27]</sup>

The Rules of Court requires that grounds for objection must be specified, whether orally or in writing.<sup>[28]</sup> The result of violating this rule has been spelled out by this Court in a number of cases. In **Krohn vs. Court of Appeals**,<sup>[29]</sup> the counsel for the petitioner objected to the testimony of private respondent on the ground that it was privileged but did not question the testimony as hearsay. We held that "in failing to object to the testimony on the ground that it was hearsay, counsel waived his right to make such objection and, consequently, the evidence offered may be admitted." In **Tan Machan vs. De la Trinidad**,<sup>[30]</sup> the defendant assailed as error the admission of plaintiff's book of account. We rejected the contention and ruled that an appellate court will not consider any other ground of objection not made at the time the books were admitted in evidence. In the case at bar, the respondent did not assail in the trial court the hearsay character of the documents in question. It is too late in the day to raise the question on appeal.

At any rate, these documentary pieces of evidence cannot be cavalierly dismissed as irrelevant. They have a material bearing on the credibility of the prosecution witnesses, SPO2 Domingo and SPO1 Lomibao. SPO2 Domingo has been dismissed from the service as of February 28, 1997. At the time of the incident on March 12, 1999, he was no longer a policeman and yet misrepresented himself as one. On the other hand, SPO1 Lomibao has been found guilty of drug use. Their credibility as truth tellers leaves much to be desired.

Furthermore, the participation of SPO2 Domingo in the alleged buy-bust operation