

## EIGHTH DIVISION

[ CA-G.R. CR-HC No. 06264, March 26, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
WILSON FAYLOGNA Y ABIAN, ACCUSED-APPELLANT.**

### D E C I S I O N

**LANTION, J.A.C., J.:**

This is an appeal from the *Decision*<sup>[1]</sup> dated 2 May 2013 of the Regional Trial Court of Bangui, Ilocos Norte, Branch 19, finding accused-appellant Wilson Faylogna y Abian **GUILTY** beyond reasonable doubt of violation of **Section 5, Article II of Republic Act No. 9165**<sup>[2]</sup> (illegal sale of prohibited drugs) in Criminal Case No. 2056-19. The decretal portion of the said *Decision* reads:

**"WHEREFORE,** the court finds the accused Wilson Faylogna **GUILTY beyond reasonable doubt** of violation of Section 5, R.A. No. 9165 or the Comprehensive Dangerous Drugs of 2002, and hereby imposes upon him the penalty life imprisonment plus a fine of Five hundred thousand pesos (P500,000.00), and to pay the costs.

The methamphetamine hydrochloride or shabu subject of this case is hereby declared forfeited in favor of the government, to be destroyed in accordance with the aforesaid law. The clerk of court is directed to coordinate with the Philippine Drugs Enforcement Agency for this purpose.

**SO ORDERED."**<sup>[3]</sup>

### THE ANTECEDENTS

The indictment of accused-appellant Wilson Faylogna (hereafter Appellant) stemmed from the Information<sup>[4]</sup> filed against him which pertinently reads:

xxx

xxx

That on or about 5:30 o'clock in the afternoon of February 9, 2012, at Poblacion 2, in the municipality of Pagudpod, province of Ilocos Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, feloniously and knowingly sell one heat sealed transparent plastic sachet containing methamphetamine hydrochloride, commonly, known as "shabu", a dangerous drug, weighing .0455 gram , worth Php 2,000.00 to poseur-buyer IO1 RICHIE CAMCHO, without the necessary license or authority from the appropriate government agency or authority to do so.

When arraigned, Appellant pleaded "**not guilty**" to the charge against him.<sup>[5]</sup> Both the Prosecution and the Defense stipulated: "that at about 5:30 o'clock in the afternoon of February 9, 2012, the accused was then in their house at Pob. 2 Pagudpod, Ilocos Norte."<sup>[6]</sup> Thus, on 5 July 2012, pre-trial was deemed terminated.

Trial ensued thereafter, with the Prosecution presenting 1.) Intelligence Officer (IO) 1 Richie Camacho; 2.) Police Officer (PO) 3 Joey Aninag; and Police Inspector (P/Insp.) Amiely Ann Navarro.

On the other hand, the Defense presented the testimonies of Marciano Domingo and Appellant himself.

### **THE FACTS (As culled from the Records)**

The Prosecution's version is synthesized by the Office of the Solicitor General as follows:<sup>[7]</sup>

"At About twelve o'clock noon on February 9, 2012, a confidential agent for the Philippine Drug Enforcement Agency (PDEA) arrived at the PDEA office in San Nicolas, Ilocos Norte. The informant approached Intelligence Officer 1 (IO1) Rechie Camacho to report the illegal drug activities of a certain "Tikong" who was later identified as herein appellant Wilson Faylogna. IO1 Camacho introduced the informant to their team leader, Investigation Agent 5 (IA5) Melvin S. Estoque, who thereafter interviewed the informant. The latter declared that he could accompany the PDEA agents to buy methamphetamine hydrochloride, more commonly known as shabu, from appellant. IA5 Estoque contacted the Provincial Anti-Illegal Drugs Special Operation Task Group (PAIDSOTG) to provide assistance in their planned buy-bust operation against appellant.

Shortly after the call, the PAIDSOTG team arrived at the PDEA office. The PAIDSOTG team was composed of their team leader, Captain Licudan, and team members PO2 Pola, PO2 Sygman Benigno, PO2 Sulmerin and PO3 Joey Aninag.

IA5 Estoque conducted a briefing for the buy-bust operation against appellant. IO1 Camacho was designated as the poseur buyer while PO3 Aninag was appointed as his immediate backup who will assist in arresting appellant. IA5 Estoque gave IO1 Camacho one (1) genuine one thousand peso (Php1,000.00) bill with serial number LH471776 and one (1) counterfeit one thousand peso (Php1,000.00) bill with serial number Z451636 as buy-bust money. IO1 Camacho placed his initials "RQC" on the front lower right portion of the bills. It was agreed that IO1 Camacho will signal the consummation of the buy-bust transaction by removing his bull cap.

At about two-thirty in the afternoon that same day, the buy-bust team

composed of four (4) agents from PDEA, five (5) PAIDSOTG officers and one (1) confidential informant, boarded a van and proceeded to Pagudpud, Ilocos Norte. At about four o'clock in the afternoon, the team arrived at the area beside Hannah's Resort in Pagudpud, Ilocos Norte where they conducted the final briefing. At about five o'clock in the afternoon, IO1 Camacho, PO3 Aninag and the confidential informant boarded a tricycle and proceeded to appellant's house. The rest of the buy-bust team followed on board the van.

After about ten (10) minutes, IO1 Camacho, PO3 Aninag and the confidential informant arrived at appellant's house in Poblacion 2, Pagudpud, Ilocos Norte. IO1 Camacho and the confidential agent alighted from inside the tricycle while PO3 Aninag went down from behind the tricycle driver. PO3 Aninag positioned himself around ten (10) meters away on the other side of the road where he can view the transaction. The rest of the buy-bust team positioned themselves within the area and provided perimeter security.

IO1 Camacho and the informant approached appellant who was sitting outside his house. The informant introduced IO1 Camacho to appellant as someone who was interested in buying shabu. Appellant asked how much shabu IO1 Camacho wanted to buy and the latter replied two thousand pesos (Php2,000.00) worth. Appellant then handed one (1) heat-sealed transparent plastic sachet containing a white crystalline substance. IO1 Camacho inspected the contents of the plastic sachet, handed appellant the two marked bills as payment, and removed his bull cap. Upon seeing the pre-arranged signal indication that the buy-bust transaction had been consummated, PO3 Aninag immediately approached them, introduced himself as a police officer, and placed appellant under arrest. Three (3) other members of the buy-bust team rushed to the scene to provide assistance. IO1 Camacho informed appellant of his rights and assisted in handcuffing him. IO1 Camacho also searched appellant and recovered the buy-bust money from his right front pocket.

While at the place of arrest, IO1 Camacho started preparing the inventory, marking the items confiscated from appellant and taking their photographs. However, because the crowd of civilians surrounding them was steadily increasing in size, the buy-bust team leader was constrained to withdraw his team from the area for security reasons. The buy-bust team and appellant proceeded to the Pagudpud Police Station where IO1 Camacho continued the inventory of the confiscated items and completed the Certificate of Inventory. IO1 Camacho maintained custody over the seized items from appellant's house to the police station. The inventory was witnessed by appellant and Barangay Councilor Rocky Curamment who likewise signed the Certificate of Inventory.

At about twelve fifteen in the early morning of February 10, 2012, IO1 Camacho brought a letter-request for laboratory examination signed by IA5 Estoque and the plastic sachet obtained from appellant to the Philippine National Police (PNP) Crime Laboratory. IO1 Camacho maintained custody over the plastic sachet from the Pagudpud Police Station to the PNP Crime Laboratory where he turned over both the

letter-request and the plastic sachet to PO1 Erlanger F. Aguinaldo, the Police Non-Commissioned Officer (PNCO) tasked to receive requests from other police stations and government agencies at that time.

At about twelve twenty in the morning of February 10, 2012, Forensic Chemist Amiely Ann Luis Navarro received the letter-request and the subject plastic sachet from PO1 Aguinaldo and conducted qualitative and quantitative examinations on the white crystalline substance contained therein. She prepared an Initial Laboratory Report indicating that the 0.0455 gram of white crystalline substance contained in the plastic sachet submitted for examination tested positive for the presence of methamphetamine hydrochloride, also known as shabu, a dangerous drug. She likewise prepared Chemistry Report No. D-007-2012-IN which affirmed the findings contained in the Initial Laboratory Report. The examination and the report were finished at around two fifteen in the morning of February 10, 2012. After the laboratory examination, Forensic Chemist Navarro placed the small plastic sachet inside a bigger transparent plastic bag which she marked with her initials "AALN", the date February 10, 2012, and the case number D-007-2012. She then turned over the marked item to SPO2 Flojo, the evidence custodian of the PNP Crime Laboratory who was on duty at the time. On March 2, 2012, the specimen was turned over by SPO2 Flojo to PO1 Aguinaldo who was designated as evidence custodian in her stead. On November 22, 2012, Forensic Chemist Navarro retrieved the subject plastic sachet from PO1 Aguinaldo and submitted the same to the court a quo."

In his *Brief*,<sup>[8]</sup> Appellant's version of the facts was narrated as follows:

"14. Accused vehemently denied that the PDEA-PAIDSOTG implemented a buy-bust operation as Accused claimed that on or about the material time and date that the alleged drug bust was undertaken he was then inside his house while preparing food and liquor for the men he had hired to dig a well at the back of his house as they were about to complete the project;

15. Accused testified that three (3) days prior to the alleged police raid, he hired three men named Marciano Domingo, Robi Dalusong and Arman Rico to dig a well only a meter away from the house's western wall and adjoining the back door;

16. That at about the same time the alleged drug bust happened, Accused testified that he was inside the living room of his house and making a call on his cellular phone when a van abruptly stopped at the eastern side of his house just in front (sic) of his house of his house;

17. Two men alighted therefrom and they went to the northern side of his house and through a jalousie window asked the accused if he knew a certain "Tikong" and when Accused said it was him, the two men went through the back door of the house and grabbed and frisked him but found no contraband in his possession;

18. Other men got down from the van and then entered accused Tikong's

house and they eventually searched the premises over his objections as he wanted the local Barangay Chairman to be contacted but his pleas went unheeded;

19. The men headed by PCI Licudan then just brought him to the PNP Pagudpud Municipal Police Station where the alleged sachet of shabu was there shown to him for the first time by Camacho and that he was told that he was being charged for illegal sale of shabu;

20. Marciano Domingo, the eldest of the three (3) men who had been digging the well at the western side of the Accused's house and close to the backdoor testified that they were about to complete their well - excavation project at around 5 PM of February 9, 2012 when he saw two men barged into the Accused's house thru the backdoor and they proceeded directly to his (Accused's) location at the sala and frisked him and that other men then went inside the house using the backdoor; the men afterward brought with them the Accused when they left the house;"

On 2 May 2013, the court *a quo* rendered the assailed Decision.

Appellant filed a Motion for *Reconsideration*<sup>[9]</sup> but the same was denied by the court *a quo*.<sup>[10]</sup>

Aggrieved, Appellant appealed the Decision of the court *a quo* raising following assignment of errors:

I

THE LOWER COURT ERRED IN DECIDING THAT THERE WAS A VALID BUY-BUST OPERATION JOINTLY UNDERTAKEN IN A REGULAR MANNER BY THE PDEA AND PAIDSOTG.

II

THE LOWER COURT ERRED IN GIVING FULL FAITH AND CREDIT TO THE TESTIMONIES OF AND OTHER EVIDENCE PRESENTED BY THE MEMBERS OF THE PDEA-PAIDSTOG AND THEIR WITNESSES.

III

THE LOWER COURT ERRED IN NOT GIVING FULL FAITH AND CREDIT TO THE TESTIMONY OF THE ACCUSED AND HIS WITNESS.

IV

THAT ASSUMING THE SEIZED EVIDENCE IS ADMISSIBLE, THE PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT.<sup>[11]</sup>

**THIS COURT'S RULING**

Perusing the four (4) assignment of errors, Appellant principally argues that the court *a quo* erred in convicting him despite the Prosecution's alleged failure to prove his guilt beyond reasonable doubt. In contending that he should be acquitted, Appellant banks on the alleged procedural lapses committed by the police officers