

FIRST DIVISION

[CA-G.R. CR-H.C. No. 05459, May 26, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
IBRAHIM MOLUK Y PINDAO, ACCUSED-APPELLANT.**

D E C I S I O N

BARRIOS, M. M., J.:

On appeal is the Decision dated 08 September 2011 of the Regional Trial Court, Branch 35, Iriga City, Camarines Sur, in Criminal Case No. IR-6756 which convicted accused-appellant of Illegal Sale of Shabu. The dispositive portion reads:

"x x x

WHEREFORE, finding accused IBRAHIM MOLUK Y PINDAO, guilty beyond reasonable doubt of selling dangerous drugs as penalized under Section 5, Article II of Republic Act No. 9165, said accused is hereby sentenced to a penalty of life imprisonment and to pay a fine of Five hundred thousand (P500,000) pesos. The two sachets of methamphetamine hydrochloride which both came from the accused are confiscated subject for proper disposition and destruction of the Philippine Drug Enforcement Agency (PDEA). Send a copy of this judgment to the PDEA and the Dangerous Drugs Board.

SO ORDERED."

THE ANTECEDENT FACTS

The Information reads:

" x x x

That on or about 12:45 o'clock in the afternoon, January 12, 2004 at Barangay Sagrada, Municipality of Baao, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, said accused without authority, did then and there willfully, unlawfully and feloniously sell, made, deliver and give away to a poseour buyer one (1) transparent sachet containing methamphetamine hydrochloride a dangerous drug, locally known as shabu with a net weight of 1.8225 grams, and subsequently recovered one plastic sachet, containing shabu with a net weight of 3.8165 to the damage and prejudice of the government.

Acts contrary to law."

When arraigned, accused-appellant pleaded "Not Guilty".

During the pre-trial, the parties stipulated on the identity of the accused-appellant, marked the evidences for the prosecution, and named the witnesses to be presented

by both sides as reflected in the minutes of the preliminary conference. Thereafter, trial on the merits ensued.

The witnesses for the prosecution were police officers of the Baao Municipal Police Station, Camarines Sur, namely: Severino Buffe Jr., Allan Abendante, Andrew Alcomendas, Eulogio Barbonio, the informant Antonio Biag Jr., and the forensic chemist Police Inspector Josephine M. Clemen. It is gathered that on 12 January 2004, at around 12:45 in the afternoon, the policemen received a report that a certain Muslim was selling drugs in front of the Videoke Bar located at Zone 1, Barangay Sagrada, Baao, Camarines Sur. As Chief Intelligence Officer of the Baao PNP, Police Officer Buffe immediately devised an entrapment operation where Abendante was designated to act as poseur-buyer. The buy-bust money was a Five Hundred (P500) Peso bill that was marked with a dot on the forehead of the picture of Ninoy Aquino. At the target area, Buffe and Barrameda positioned themselves behind an owner type jeep while poseur-buyer Abendante and the informant approached accused-appellant who, at the time, was seated on a long wooden bench in front of the videoke bar.

When introduced as a buyer of "*shabu*", Abendante took the P500.00 marked money from his pocket and handed it to accused-appellant who took it and placed it in his own pocket. In turn, accused-appellant reached something from his pocket and told Abendante that what he had therein was worth more than P500.00 and thus, needed to reduce its quantity. At that point, without waiting for accused-appellant to trim down the contents, Abendante introduced himself as a police officer and immediately arrested accused-appellant. Officers Buffe and Barrameda rushed to the scene and frisked accused-appellant. They were able to retrieve from accused-appellant another sachet of "*shabu*" and the P500.00 marked money from his right pocket. The sachets seized from accused-appellant was marked by Abendante with the initials "A" and "L" and "2" in the presence of the other police officers. After apprising accused-appellant of his constitutional rights, they brought accused-appellant to the precinct and the seized items were turned over to the Duty Investigator Andrew Alcomendras. Upon receipt, Alcomendras affixed his signature on the sachets of *shabu* and prepared a request for laboratory examination of the drugs and request for drug examination of the accused-appellant. Thereafter, he personally delivered the items to the crime laboratory in Legaspi City. After proper examination, Chemistry Report No. D-004-04 was issued by forensic chemist PI Josephine Clemen stating that the tests gave a positive result for the presence of methamphetamine hydrochloride or "*shabu*".

In his defense, accused-appellant denied the charges against him. He narrated that on 12 January 2004, he was roaming around Sagrada, Baao, Camarines Sur selling CDs, sunglasses and watches. He was at the side of the road when two (2) men called for him and asked what he was selling and he showed them his goods. Just then, a man arrived and informed the duo that a policeman was coming. With that, the three (3) men scampered away from him. At that point, three (3) policemen in civilian attire arrived. Two (2) of them handcuffed him as the other one poked a gun at him. When he inquired what he had done, they told him that will be explained at the headquarters. He was then boarded on the policemen's owner type jeep and brought to the Municipal Hall where he stayed for about thirty (30) minutes. The police put him in the cell, and was later temporarily brought out to view two (2) transparent plastic sachets containing white substance. He was asked if the sachets came from him, to which he replied in the negative. Just the same, he was made to point at the items and a picture was taken. Then he was brought back inside the