

SPECIAL TWENTIETH DIVISION

[CA-G.R. CR NO. 01526, July 18, 2014]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FILOMENA FIGUEROA VILLAPANE, ACCUSED-APPELLANT.**

D E C I S I O N

QUIJANO-PADILLA, J.:

This is an appeal^[1] from the June 8, 2010 Judgment^[2] of the Regional Trial Court (RTC), Branch 57, Cebu City in Criminal Case No. CBU-76442 finding accused-appellant Filomena Figueroa Villapane guilty beyond reasonable doubt of illegal possession of dangerous drugs in violation of Section 11, Article II of Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002).

The Antecedents

Accused-appellant was charged under an Information^[3] which reads:

The undersigned Assistant Prosecutor of the City of Cebu, accuses FILOMENA VILLAPANE Y FIGUEROA A.K.A. FELOMINA VILLAPANE Y FIGUEROA for Violation of Sec. 11 Art. II of RA 9165, committed as follows:

That on or about the 12th day of March, 2006, at about 7:30 P.M., in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there have in her possession and under her control ten (10) heat-sealed plastic packets of white crystalline substance with a total net weight of 1.98 grams locally known as "shabu", containing Methylamphetamine hydrochloride, a dangerous drug, without authority of law.

CONTRARY TO LAW.

Upon arraignment on May 10, 2006, accused-appellant, duly assisted by counsel, pleaded not guilty to the crime charged.^[4]

During the pre-trial conference, there were no stipulation of facts for admission by the parties but the following issues were submitted for resolution: 1) whether or not the accused is guilty of the crime as charged; and 2) legality of arrest and search warrant.^[5]

Thereafter, trial on the merits ensued.

The prosecution presented as its witnesses, PO3 Cesar Pandong^[6] and PO2 Benigno Ilagan,^[7] and formally offered in evidence Exhibits "A" to "E," namely: the Letter

Request for Laboratory Examination dated March 12, 2006;^[8] ten (10) plastic packs of white crystalline substance marked "FFV-01" to "FFV-10";^[9] Chemistry Report No. D-464-2006;^[10] police blotter;^[11] and the brown pouch marked "FFV."^[12]

The prosecution likewise presented Jude Daniel Mendoza, Forensic Chemist of the PNP Crime Laboratory, Camp Sotero Cabahug, Gorordo Avenue, Cebu City. He testified on the laboratory examination he conducted on the submitted specimens.^[13]

For its part, the defense presented accused-appellant^[14] herself and Joan Tuñacao^[15] as its witnesses but did not formally offer in evidence any documentary exhibits.

The Prosecution's Version

As summarized by the Office of the Solicitor General (OSG),^[16] the version of the prosecution is as follows:

On March 12, 2006, at about 6:40 p.m., PO3 Cesar Pandong (PO3 Pandong), a PNP member assigned at the Cebu City Police Office (CCPO), Criminal Investigation and Intelligence Branch (CIIB) and temporarily detailed at PDEA 7 based at Camp Sotero Cabahug, Gorordo Ave., Cebu City, was on duty at said office when he received a call from their confidential informant informing him about the presence of a lady in yellow blouse and maong pants who was peddling shabu at the pier in Arellano Blvd. corner V. Sotto St., Cebu City.^[17]

PO3 Pandong immediately relayed the report to his fellow officers on duty namely PO3 Bezaleel Olmedo, Jr. (PO3 Olmedo) and PO2 Benigno Andrew Ilagan (PO2 Ilagan) who coordinated by phone with PDEA 7.^[18] After a short briefing, PO3 Pandong, PO2 Ilagan and PO3 Olmedo proceeded to the pier to conduct verification and surveillance operation.^[19]

At around 7:30 p.m., PO3 Pandong and his companions arrived at their targeted area. They were on board an unmarked vehicle crossing the street when they noticed a woman (accused-appellant) who matched the description given by their informant. She was standing on the roadside of Arellano Blvd. corner V. Sotto Street and appeared to be waiting for somebody.^[20] PO3 Pandong then proceeded to a store a meter or two behind accused-appellant on the pretext of buying something while his co-officers strategically positioned themselves eight (8) meters from appellant to observe her activities.^[21]

Apparently sensing their presence, accused-appellant drew out from her front pocket a brown pouch, measuring about 1 1/2 by 2 inches, and slowly dropped it to the ground. When the pouch reached the ground, several plastic packs came out from the pouch and scattered on the ground.^[22] PO3 Pandong and his companions recognized the plastic packs as shabu since the place was well-lighted.^[23]

Upon realizing that the conduct of their surveillance has been compromised due to the circumstances PO3 Pandong and his companions rushed towards accused-

appellant and introduced themselves as police officers.^[24] PO2 Ilagan then held and arrested accused-appellant while simultaneously informing her of her constitutional rights and the nature of the offense she committed.^[25] Meanwhile, PO3 Pandong picked up the brown pouch and ten (10) plastic packs of shabu which were scattered on the ground (Exh. "B"). PO3 Olmedo then acted as security for his companions in the event that accused-appellant's companions attempted to rescue her.^[26]

Thereafter, PO3 Pandong and his companions brought accused-appellant together with the recovered items to the police station for investigation and proper disposition.^[27] At the police station, PO3 Pandong instructed PO2 Olmedo to reflect accused-appellant's arrest and the seizure of the illegal drugs (Exh. "D") from her in the police blotter.^[28]

At the station, the police learned that accused-appellant's name is "Filomena Villapane y Figueroa." Afterwards, in her presence and that of PO2 Olmedo, PO3 Pandong marked the brown pouch (Exh. "E") with accused-appellant's initials - "FFV," while the ten (10) recovered packets of shabu were marked as "FFV-01" to "FFV-10."^[29]

Subsequently, a letter-request for laboratory examination of the items seized was prepared by PO2 Olmedo (Exh. "A").^[30] In the same evening of March 12, 2006, PO3 Pandong delivered the letter-request and the subject specimens, with markings "FFV-01" to "FFV-10" (Exh. "B"), to the PNP Crime Laboratory Station 7.^[31] Per rubber stamped impression "RECEIVED," the delivered specimens were received by PO2 Sudaria of the PNP Crime Laboratory on March 12, 2006 at 2020 hrs. (Exhibit "A-1"). PO2 Sudaria then turned over the specimens to Forensic Chemist, Jude Daniel Mendoza who forthwith conducted the necessary tests thereon. All the specimens yielded positive results for Methamphetamine Hydrochloride, a dangerous drug.^[32] His findings for all the specimens were reflected in Chemistry Report No. D-464-2006 (Exhibit "C").^[33]

The Appellant's Version

The facts as alleged by the accused-appellant were summarized in its Brief^[34] as follows:

Accused-appellant Filomena Figueroa Villapane testified that on the date in question, she was in Manalili, Cebu City to buy clothes for her children's school activities. Thereafter, she went back to the house of Joan Tuñacao who is the godmother of her son. While accused-appellant was on board a jeepney, on her way to the pier area to go home to Hilongos, Leyte, the jeepney stopped as a passenger disembarked. However, two persons (policemen) pulled her out and she shouted because she was forced to board a taxi with one policeman while the other policeman drove a motorcycle. In a waiting shed near Camp Sotero Cabahug, the policemen demanded Php 40,000.00 for her release when in fact she did not commit a crime.^[35]

Joan Tuñacao, on the other hand, testified that she knows the accused as she is her "kumare." Accused-appellant went to her house at around past noon on March 12, 2006. At around 2:00 o'clock in the afternoon, the two of them went to Manalili

because accused-appellant bought shoes and clothes for her children. At past 5:00 o'clock in the afternoon, accused-appellant boarded a passenger jeepney bound for Pier 3 as she was leaving for Leyte. The following day, she learned that accused-appellant was arrested.^[36]

The Ruling of the RTC

In its June 8, 2010 Judgment^[37] the RTC convicted accused-appellant for illegal possession of dangerous drugs. The dispositive portion^[38] of the assailed Judgment reads:

"For all the foregoing, accused Filomena Villapane Y Figueroa is hereby sentenced to suffer the penalty of imprisonment ranging from twelve (12) years and one (1) day to fifteen (15) years and a fine of P300,000.00.

The ten (10) plastic sachets of shabu is forfeited in favor of the government.

SO ORDERED."

The RTC held that the evidence adduced by the prosecution established beyond reasonable doubt the guilt of accused-appellant for the crime charged. It did not find impressive accused-appellant's claim of extortion by the police officers and instead found the positive and direct testimonies of the police officers to be credible. It ruled that absent proof of evil motive on the part of the police officers, the presumption of regularity which runs in their favor stands. It likewise concluded that the identity and chain of custody of the shabu had been duly preserved.

Insisting on her innocence, accused-appellant is now before Us with this lone assignment of error:

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT THE PROSECUTION FAILED TO PROVE HER GUILT BEYOND REASONABLE DOUBT.^[39]

This Court's Ruling

The appeal lacks merit.

Accused-appellant insists that her guilt was not proven beyond reasonable doubt based on the following considerations, to wit: that the claim of the police officers that the accused-appellant threw the pouch, which contained packs of shabu, on the ground is not only incredible but also defies logic and is not worthy of belief; and that the integrity of the seized illegal drugs which was the *corpus delicti* of the offense was questionable since the requirements provided under Section 21 of RA 9165 regarding the custody and disposition of seized drugs have not been complied with.

We do not agree with accused-appellant.

All the elements for the prosecution of illegal possession of shabu were sufficiently established in this case.

In a successful prosecution for illegal possession of dangerous drugs, like *shabu*, the following elements must be established: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.^[40]

In this case, the prosecution successfully established all the elements of illegal possession of shabu. The testimony of PO3 Pandong reveals that a surveillance operation was organized and conducted in response to a tip from an informant that a certain woman, who later turned out to be the accused-appellant, was peddling shabu in the pier area. He spontaneously narrated in detail the circumstances before, during and after accused-appellant's apprehension. He also categorically and positively identified accused-appellant as the one who slowly dropped the brown pouch which contained plastic sachets of shabu.^[41] Accused-appellant was clearly in possession of the ten (10) plastic packs of shabu at the time of her arrest. PO3 Pandong and PO2 Ilagan clearly testified that PO3 Pandong picked up the scattered packs of shabu which spilled out from the brown pouch which accused-appellant purportedly dropped to the ground. PO3 Pandong likewise clearly identified the *corpus delicti* of the crime which they recovered from accused-appellant and duly marked in her presence and that of PO2 Ilagan.^[42]

PO2 Ilagan corroborated the declarations of PO3 Pandong. He also identified the specimens seized from accused-appellant which were marked by PO3 Pandong in his presence. PO2 Ilagan also identified the documents which he himself prepared such as the police blotter and joint affidavit of apprehension. He further identified the Chemistry Report No. D-464-2006 which their office received from the PNP Crime Laboratory.^[43]

Meanwhile, Forensic Chemist Jude Daniel Mendoza identified Chemistry Report No. D-464-2006 and confirmed that the items turned over to them by PO3 Pandong and received by his office, thru PO2 Sudaria, were tested and were found positive for methamphetamine hydrochloride.^[44]

Moreover, accused-appellant did not adduce evidence showing her legal authority to possess the *shabu*. Finally, accused-appellant freely and consciously possessed the ten (10) plastic packs of shabu. As correctly pointed out by the RTC, the element of possession and control by accused-appellant of the ten (10) plastic packs of shabu has been established and that her act of surreptitiously dropping the brown pouch which contained shabu was done for the purpose of divesting herself discreetly of the illegal drugs.^[45]

Based on the foregoing observations, We are satisfied that the prosecution's evidence established the guilt of accused-appellant beyond reasonable doubt.

Prosecutions for illegal drugs depend largely on the credibility of the police officers who conducted the buy-bust operation or surveillance operation, as in this case. Their narration of the incident, "buttressed by the presumption that they have regularly performed their duties in the absence of convincing proof to the contrary,