

## SECOND DIVISION

[ G.R. No. 179937, July 17, 2009 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. GERALD LIBREA,  
APPELLANT.**

### D E C I S I O N

**CARPIO MORALES, J.:**

Gerald Librea (appellant) was charged and convicted by the Regional Trial Court (RTC) of Lipa City, Batangas of violation of Section 5, Article II of Republic Act (RA) No. 9165.

The Information against appellant reads:

That on or about the 9<sup>th</sup> day of October 2003 at about 7:30 o'clock [sic] in the evening at Basang Hamog, Barangay 1, Lipa City, Philippines, the above-named accused, without authority of law, did then and there willfully, unlawfully sell, deliver, dispose or give away to a police officer/informer-poser buyer, 0.04 grams/s of Methamphetamine Hydrochloride locally known as "shabu", which is a dangerous drug, contained in one (1) plastic sachet/s.<sup>[1]</sup> (Underscoring supplied)

At the pre-trial, appellant admitted, among other things, the "authenticity and due execution of Chemistry Report No. D-2424-03 prepared by P/Sr. Insp. Lorna R. Tria, but den[ied] that the specimen subject matter thereof came from [him]."<sup>[2]</sup>

From the testimonies of prosecution witnesses PChief Insp. Dante Novicio (Novicio) and SPO1 Alexander Yema (Yema) of the Anti-Illegal Drugs Special Operation Task Force (Task Force) of the Lipa City Police Station, the following version is gathered:<sup>[3]</sup>

On receipt from an "asset-informant" by Novicio of information that appellant was actively pushing drugs in various areas of Lipa City, surveillance and a test-buy was conducted which validated the information.

A buy-bust operation was soon conducted on October 9, 2003 at around 7:30 in the evening at "a squatters area" in *Basang Hamog*, Barangay 1, Lipa City, about 30 meters from the police station. Novicio, Yema, and PO1 Cleofe Pera (Cleofe), in the company of the informant who was given two P100 bills on which were marked "DPN" beside their serial numbers,<sup>[4]</sup> repaired to *Basang Hamog*. As the informant approached appellant who was standing by a store, Novicio, Yema, and Cleofe positioned themselves at a spot seven to ten meters away from appellant.

After the informant spoke to appellant to whom he gave the marked bills, appellant handed him a small plastic sachet which he scrutinized and brought to the members of the buy-bust team. Soon after Yema received the sachet and smelled it to be *shabu*, he, Novicio, and Cleofe approached appellant, introduced themselves as members of the police force, informed him of his rights, arrested him, and conducted a body search which yielded the two marked P100 bills.

Appellant was thereupon brought to the police station where Yema marked the sachet with "ACY" (representing his initials) on one side and "GCL" (representing the initials of appellant) on the other. Cleofe at once prepared the Inventory of Confiscated/Seized Items (Inventory)<sup>[5]</sup> on which appellant refused to affix his signature and a request for laboratory examination.

Upon the other hand, appellant gave his version as follows:<sup>[6]</sup>

After 7:00 in the evening of October 9, 2003, while he was at the store of his aunt Ester Calingasan (Ester) waiting for the *pancit* which he had ordered, three police officers arrived, arrested him, and forcibly took him to the police headquarters where he was detained. No test-buy or buy-bust operation took place. He saw the Inventory and the plastic sachet for the first time during the trial.

Ester corroborated appellant's testimony, adding that after he was arrested, she fetched his mother and accompanied her to the police headquarters where appellant was detained.

Branch 12 of the Lipa City RTC convicted appellant as charged, disposing as follows:

WHEREFORE, the Court finds the accused, GERALD LIBREA y CAMITAN, guilty beyond reasonable doubt, as principal by direct participation, of the crime of Violation [of] Section 5, 1<sup>st</sup> paragraph, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and sentences him to suffer the penalty of LIFE IMPRISONMENT and pay a fine of P500,000.00 and the costs.

The 0.04 gram of methamphetamine hydrochloride subject of this case is forfeited in favor of the government and ordered turned over to the Chief of Police of Lipa City for proper disposal in accordance with law.

Also, let the corresponding commitment order be issued for the transfer of detention of the accused to the Bureau of Correction, Muntinlupa City, Metro Manila.

Given this 14<sup>th</sup> day of September, 2005 at Lipa City.<sup>[7]</sup>

Before the Court of Appeals, appellant faulted the trial court