

## SIXTEENTH DIVISION

[ CA-G.R. CR H.C. No. 06069, May 13, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
GEORGE GALLA, JR. Y ARRIETA, ACCUSED-APPELLANT.**

### D E C I S I O N

**MACALINO, J:**

This is an appeal seeking to reverse and set aside the Decision<sup>1</sup> dated December 27, 2012 ("assailed Decision") of the Regional Trial Court of Lingayen, Pangasinan, Branch 37 ("RTC"), in Criminal Case No. L-9366, the dispositive portion of which reads:

**"WHEREFORE**, this court finds the accused **George Galla y Arrieta** guilty beyond reasonable doubt of committing the crime of illegal sale of dangerous drugs, defined and penalized under Article II, Section 5, of Republic Act [No.] 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. Accordingly, he is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand (P500,000.00) Pesos.

The period of detention of the accused since 22 December 2011 is credited in his favor.

**SO ORDERED.**"<sup>[2]</sup>

This case commenced from the Information dated January 4, 2012, containing the following accusatory allegations against accused-appellant George Galla, Jr.:

"That on or about December 22, 2011 in the evening in Maramba Boulevard, Libsong West, Lingayen, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused did, then and there, wilfully, unlawfully and feloniously sell one (1) sachet of Methamphetamine Hydrochloride or Shabu, a dangerous drug, worth P500.00 to PO2 Arnold B. Sabiniano, a police officer, acting as poseur-buyer during the police buy bust operation conducted on his person; the said dealing by the said accused with dangerous drugs was without authority."

Contrary to Article II, Section 5 of Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002)."<sup>[3]</sup>

Accused-appellant was arraigned on February 6, 2012 and he pleaded not guilty to the charge.<sup>[4]</sup> Pre-trial conference was held on March 5, 2012, where only the identity of the accused was stipulated upon.<sup>[5]</sup> Trial thereafter ensued. The

respective versions of the prosecution and defense were summarized in the assailed Decision of the RTC as follows:

"On 22 December 2011, a buy-bust operation was hatched after a confirmation was made regarding a transaction involving dangerous drugs between a civilian asset and the accused George Galla Jr. y Arrieta alyas "Karlott". A short briefing was conducted by the Chief of Police and a P500.00 peso bill was marked by PO1 Juner C. Delantar with his initials "JCD" thereon. He (PO2 Sabiniano) was designated as the poseur-buyer. At around 12:30 o'clock in the afternoon of the same day, he together with the team leader SPO1 Mardy delos Santos, PO1 Juner C. Delantar, and the civilian asset went to the Maramba Boulevard in Lingayen, Pangasinan. They waited in the place for the accused to arrive while the civilian asset was contacting him. At about 6:30 o'clock in the evening, the accused arrived. The civilian asset approached and talked to the accused, after which he (PO2 Sabiniano) was called to approach them. After he joined them, the accused asked PO2 Sabiniano how much will he be buying. He replied that he wants to buy shabu worth P500.00. The accused demanded payment first to which he complied by handing the accused the P500.00 marked money (Exhibit "D"). The accused placed the marked money in his pocket then handed him a plastic heat-sealed sachet containing suspected shabu. After receiving the plastic sachet of shabu, he raised his right hand as a sign to his fellow officers, SPO1 delos Santos and PO1 Delantar who came from behind a fence where they were positioned while the transaction between the accused and PO2 Sabiniano was on-going. He then introduced himself as a police officer, bodily frisked the accused, and recovered from the latter's right pocket the marked money. While still at the place of the incident, he marked the confiscated plastic sachet of shabu with his initials "ABS". Thereafter, the accused was brought to the police station and was turned over to PO2 Rodolfo Naungayan (who was then the police investigator) together with the marked money and the confiscated item. A Receipt of Confiscated/Recovered Items (Exhibit "C") was prepared and signed by him (Exhibit "C-1") and by the accused (Exhibit "C-2"). The pictures of the accused and the confiscated drug were also taken (Exhibits "I", "I-1" and "I-2"). The accused and the seized item were then brought to the PNP Crime Laboratory in Lingayen, Pangasinan for examination (TSN August 28, 2012, pp. 3-10).

SPO1 Mardy delos Santos and PO1 Juner C. Delantar confirmed their presence at the place of the incident where PO2 Sabiniano and the accused consummated the sale of the dangerous drug (TSN May 9, 2012, pp. 8-9; TSN June 19, 2012, p. 7). PO1 Delantar also testified that he marked the P500.00 with his initials "JCD" which was used in the buy-bust operation (TSN June 19, 2012, p. 4).

The testimony of PO1 Rodolfo Naungayan was dispensed with after the defense admitted the nature of his testimony to the effect that he was the duty investigator who received the confiscated shabu from PO2 Sabiniano and was one of the police officers who brought and submitted the seized drug to the Provincial Crime Laboratory for examination (Order dated June 19, 2012).

The testimony of the Forensic Chemist Police Senior Inspector Myrna Malojo-Tadeno was also dispensed with (Order dated April 2012) after the defense stipulated on the existence of the Memorandum/Request for Forensic Examination (Exhibit "E"); the Initial Laboratory Report (Exhibit "F"); the Final Laboratory Report (Exhibit "K"); and the examined Specimen (Exhibit "J"). The initial and final laboratory examinations of the confiscated one heat-sealed transparent plastic with markings and weighing 0.49 grams of white crystalline substance gave positive result to the tests for the presence of methamphetamine hydrochloride, a dangerous drug.

Denying the accusation, the accused George Galla, Jr., testified that at around 5:00 o'clock in the afternoon of 22 December 2011, while he was on his way home coming from the residence of his brother-in-law, he was flagged down at the corner of Casaclang St., and Maramba Boulevard in Lingayen, Pangasinan. A person then asked him if he was selling drugs to which he replied that he was not. The companions of that person, one of which, was Mardy delos Santos, boarded him into a vehicle and brought him to the police station. The motorcycle he was riding in was also brought to the police station. Thereat, they obtained his name and frisked him. Despite the fact that nothing was taken from his possession, he was still detained. Later on, he was brought out of jail and was made to point to an item in a sachet. Thereafter, he was brought to the Provincial Crime Laboratory to undergo a drug test. He was made to sign the Receipt of Confiscated Item which he did because he was told that he will be allowed to leave if he signs the document. He denied selling dangerous drugs (TSN September 28, 2012, pp. 2-8)."<sup>[6]</sup>

The RTC thereafter rendered the assailed Decision finding accused-appellant guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165. From the judgment of conviction, accused-appellant filed the present appeal praying for the reversal of the judgment of conviction on the following grounds:

#### **"I**

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTION 5, ARTICLE II, OF REPUBLIC ACT NO. 9165.

#### **II**

THE COURT A QUO GRAVELY ERRED IN GIVING CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES ON THE ALLEGED BUY-BUST OPERATION.

#### **III**

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PRESENT THE CONFIDENTIAL INFORMANT.

#### **IV**

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT WITHOUT TAKING INTO ACCOUNT THE SEIZED ITEM'S CUSTODIAL CHAIN."<sup>[7]</sup>

Accused-appellant insists that the testimonies of PO2 Sabiniano and SPO1 delos Santos are "inherently irreconcilable on material points." He points out that while SPO1 delos Santos spoke of a surveillance which led to the buy-bust operation and where PO2 Sabiniano was allegedly a member of the surveillance team, the latter denied prior knowledge of accused-appellant or being a part of the surveillance team. Accused-appellant further points out that the presence of the supposed civilian asset was not clearly established, thus casting serious doubt on the very existence of the buy-bust operation. He also insists that the prosecution failed to establish the element of sale and that the testimony of PO2 Sabiniano is incredible. Accused-appellant argues that the presentation of the civilian asset is indispensable because allegedly, he was the one who negotiated the drug deal. He asserts that the chain of custody is broken because of the absence of inventory, statutory witnesses and counsel for accused-appellant upon signing the Receipt of Property Seized. Accused-appellant likewise questions the lack of clear picture and evidence of the seized item's evidentiary value while being transferred from one link to another. He notes that PO2 Sabiniano did not describe under what conditions the seized item was delivered to PO2 Naungayan until the same reached P/Insp. Malojo-Tadeno and the trial court.

***The appeal has no merit.***

The evidence presented by the prosecution proved all the essential elements of the crime of illegal sale of prohibited drugs, which are: 1) the identities of the buyer and seller, object and consideration; and 2) the delivery of the thing sold and the payment thereof. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually occurred, coupled with the presentation in court of the substance seized as evidence.<sup>[8]</sup>

In this case, it has been shown that the sale of shabu was consummated and a buy-bust operation took place on December 22, 2011. PO2 Sabiniano, as the poseur-buyer, and accused-appellant, as seller, agreed on the price of PhP500.00 for 0.49 grams of shabu. It was later on confirmed that the substance recovered from accused-appellant was indeed shabu. The testimony of PO2 Sabiniano, who was the poseur-buyer in the sale and thus armed with sufficient personal knowledge on the transaction, established accused-appellant's sale of the illegal drug. The alleged inconsistencies in the testimonies of the prosecution witnesses are mere minor matters, which do not detract from the fact that a buy-bust operation was conducted. Inconsistencies in the testimonies of prosecution witnesses with respect to minor details and collateral matters do not affect the substance of their declaration, its veracity or the weight of their testimonies. Further, contrary to the insistence of accused-appellant, the non-presentation of the confidential informant is not fatal to the prosecution. Informants are usually not presented in court because of the need to hide their identity and maintain their valuable service to the police.<sup>[9]</sup>

Further, the trial court's appreciation of the witnesses' testimonies and the other evidence presented during the proceedings before it deserves respect. Well-settled is the principle that except when there appears on record some fact or circumstance of weight and influence which the trial court has overlooked, misapprehended or misinterpreted, the trial court's evaluation of the credibility of witnesses and their