

## SECOND DIVISION

[ G.R. No. 217668, February 20, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BENJIE CARANTO Y AUSTRIA, ACCUSED-APPELLANT.**

### DECISION

**CAGUIOA, J:**

This is an Appeal<sup>[1]</sup> under Section 13(c), Rule 124 of the Rules of Court from the Decision<sup>[2]</sup> dated September 26, 2014 of the Court of Appeals, Ninth Division (CA) in CA-G.R. CR-H.C. No. 05877, which affirmed the Decision<sup>[3]</sup> dated January 2, 2012 rendered by the Regional Trial Court, Branch 60, Baguio City (RTC) in Criminal Case No. 30936-R, finding herein accused-appellant Benjie Caranto y Austria (Benjie) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,<sup>[4]</sup> otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.

#### The Facts

The Information<sup>[5]</sup> filed against Benjie for violation of Section 5, Article II of RA 9165 pertinently reads:

That on or about the 4<sup>th</sup> day of August, 2010, along the vicinity of Dr. Cari[n]o St[.], Baguio City National High School, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, [and] feloniously sell, deliver, give away, and/or distribute one (1) heat[-]sealed plastic sachet containing methamphetamine hydrochloride weighing .07 gram which, after confirmatory test, was found positive for methamphetamine hydrochloride, a dangerous drug, to PO2 Christian Romero Boado Regional Anti[-]Illegal Special Operation Task Group of the Cordillera Administrative Region, in violation of the aforecited provision of law.

CONTRARY to SECTION 5, ART II OF REPUBLIC ACT 9165.<sup>[6]</sup>

Upon arraignment, Benjie pleaded not guilty to the offense charged.<sup>[7]</sup>

#### *Version of the Prosecution*

The version of the prosecution, as summarized by the CA, is as follows:

The prosecution presented three witnesses, namely: Police Senior Inspector Rowena Fajardo Canlas, PO2 Christian Boado, and SPO2 Raymund Tacio, in order to prove that in exchange for One Thousand (P1,000.00) Pesos, Benjie delivered one (1) heat-sealed plastic sachet

containing .07 gram of methamphetamine hydrochloride to PO2 Boado, acting as *poseur buyer*.

Through the testimony of these witnesses, the prosecution was able to establish the following facts:

**PO2 Christian Boado** of the Regional Anti-Illegal Drugs Special Operations Task Group (RAIDSOTG). On August 3, 2010, their office coordinated with the Philippine Drug Enforcement Authority-Cordillera Administrative Region (PDEA-CAR) in Camp Dangwa as evidenced by a Coordination Form. At around 1:00 o'clock in the afternoon of August 4, 2010, SPO4 Romeo Abordo received an information from a Confidential Informant (CI) that a certain Benjie was engaged in the sale of illegal drugs. At that time, Benjie, who may be found at Dr. Carirlo Street, was looking for a prospective buyer of a certain amount of drugs valued at One Thousand (P1,000.00) Pesos.

Upon learning this, a buy-bust operation was organized under the leadership of Superintendent Glen Lonogan. Thereafter, a buy-bust team was formed composed of Captain Melchor Ong as team leader; SPO1 Jones Tacayan as Evidence Custodian; SPO1 Albert Lag-ey as Investigator on case; SPO4 Romeo Abordo as second team leader, and SPO2 Raymund Tacio as back-up operative. Superintendent Lonogan, then, instructed Captain Ong to brief the team about the operation. Capt. Ong designated PO2 Boado to act as *poseur buyer* and gave him two (2) Five Hundred (P500.00)-Peso bills, with Serial Number HS576991 and AB342154, to serve as marked money. PO2 Boado photocopied the marked money immediately upon receipt thereof.

After their briefing, the buy-bust team proceeded from Camp Bado, Dangwa to Police Station 5 along Marcos Highway for coordination with PO2 Nelson Sad-ang. The private vehicles of SPO4 Abordo and SPO1 Lag-ey were used in the operation. PO2 Boado, the CI and a driver rode the vehicle of SPO4 Abordo while the other used the vehicle of SPO1 Lag-ey.

After said coordination, the buy-bust team left for Dr. Cariflo Street, where Benjie may be found. Upon reaching said place, the CI exchanged text messages with Benjie informing the latter that he was already in the area. When Benjie showed up at the meeting place, the CI pointed at him so that PO2 Boado may be able to identify him. The car they were riding got closer to where Benjie was while their back-up team trailed them. After alighting from the vehicle, the CI approached Benjie and introduced PO2 Boado to him as the prospective buyer. Benjie asked for the money. PO2 Boado handed him two (2) Five Hundred (P500.00)-Peso bills and Benjie gave him a plastic sachet containing *shabu*. PO2 Boado then removed his bull-cap, the pre-arranged gesture for the back-up team to assist him in the arrest of Benjie.

The back-up team composed of SPO2 Tacio and SPO1 Lag-ey approached Benjie, introduced themselves as police officers, and placed him under arrest. Benjie did not resist the arrest. Benjie was frisked for deadly weapons but what was recovered from him was a Nokia cellphone and

two (2) Five Hundred (P500.00)-Peso bills. PO2 Boado marked the items on the site with his initials. Benjie was then brought to Police Station 5 along with the confiscated items including the plastic sachet of *shabu* in PO2 Boado's possession which were brought for inventory as stated in a Certification thereto. The following individuals were present during the inventory: herein appellant Benjie; Prosecutor Ruth Bernabe, the representative of the DOJ; Danilo Patacsil, an elected Barangay official; and Roi Molina of the BCBC, the media representative. After the inventory, PO2 Boado turned over the items to SPO1 Takayen, the designated Evidence Custodian, at Police Station 5. SPO1 Takayen then requested PO2 Boado to bring the plastic sachet of *shabu* to Police Senior Inspector Rowena Canlas (PSI Canlas) of the PNP Crime Laboratory at Camp Bado, Dangwa.

After the arrest, Benjie was brought to Baguio General Hospital for medico-legal examination and drug test.

**SPO2 Raymund Tacio** of the Regional Anti-Illegal Drugs Special Operations Task Group (RAIDSOTG). SPO2 Tacio clarified that their team conducted a surveillance in the afternoon of August 3, 2010 in response to the numerous complaints from concerned citizens of an alleged drug activity by a certain taxi driver. Prior to conducting their surveillance, their team coordinated with the PDEA in Camp Dangwa. The other portions of SPO2 Tacio's testimony merely corroborated the testimony of PO2 Boado.

The testimony of PSI Canlas, as summarized by the RTC is as follows:

**"Police Senior Inspector Rowena Canlas** (PSI Canlas for brevity) is a Forensic Chemist at the PNP Regional Crime Laboratory-Cordillera. She was presented by the Prosecution as an expert witness. On August 4, 2010, PSI Canlas received a written request from Regional Anti-[Illegal] Drugs Special Operations Task Group (RAIDSOTG) to conduct a qualitative examination upon a certain specimen and an examination on the person of one Benjie Caranto. The items examined were delivered by PO2 Boado. PSI Canlas weighed the specimen and it yielded .07 grams. After which she conducted a chemical examination, using the ***Simon's*** and ***Marquiz Tests***, which gave a positive presumptive result for the presence of ***methamphetamine hydrochloride***. After conducting a confirmatory test, PSI Canlas concluded that the items submitted contain ***methamphetamine hydrochloride*** or also known as ***shabu***. These findings of PSI Canlas are reflected in Chemistry Report No. D-47-2010. PSI Canlas also conducted a urine test on Benjie Caranto and that upon examination of the urine sample taken from the latter, it gave a positive result for the presence of ***shabu*** which means that he uses the said substance. The urine test is reflected in Chemistry Report No. DT-17-21010. After the said examination, the evidence were turned over by PSI Canlas to the evidence custodian."<sup>[8]</sup>

## *Version of the Defense*

On the other hand, the defense's version, as summarized by the CA, is as follows:

To refute the testimony of the prosecution witnesses, the defense offered the testimonies of accused Benjie Caranto and that of his nephew, Al Caranto.

In his testimony, Benjie stated that he is a taxi driver employed by Intermenso Taxi. His reliever from taxi-driving duties is his nephew, Al Caranto.

On August 4, 2010, Benjie picked Al up at a Total gas station to be relieved from [his] driving duties. Al dropped Benjie off at Dr. Carino Street where he resides. Since it was raining at that time, Benjie ran to a nearby house to shield himself from the rain. Suddenly, a male person who was about eight (8 m.) meters away, approached him and asked him if his name was "Amboy". Benjie told the male person that it was not his name. Three (3) other individuals approached him and invited him to their office and the first person to approach him ran away. Benjie was told that he was being invited to their office because there is a complaint against him, was handcuffed and was placed inside a vehicle.

Benjie was brought to Camp Dangwa, La Trinidad, Benguet. He was allegedly forced to admit ownership of a plastic sachet containing *shabu*. He claimed that he was interrogated for about three (3) hours. He also claimed that the men boxed him causing a tear in his white driver's uniform. Thereafter, he was brought to Police Station 5 and the men allegedly called for media persons to come over. Then he was brought to Baguio General Hospital for medico-legal examination. During his testimony, he denied having received a text message from any person regarding the buying and selling of *shabu* or having anything to do with the sale of *shabu*. He clarified that the plastic sachet of *shabu* and the two (2) Five Hundred (P500.00)-Peso bills were only shown to him at the police officers' office in Camp Dangwa.

On cross-examination, Benjie stated that he does not recall having done anything which could have angered the arresting officers.

Al Caranto's testimony was admitted and stipulated on by the parties as follows:

1. That he is a driver-reliever of the accused Benjie Caranto;
2. That on August 4, 2010, he met Benjie Caranto at the Total Gasoline Station located at Legarda Road, Baguio City;
3. That he brought the accused, Benjie Caranto, to Carino Street and dropped him at that place; and
4. That after dropping the accused, he saw that he was approached by three male persons.<sup>[9]</sup>

## **Ruling of the RTC**

In the assailed Decision dated January 2, 2012, the RTC held that all the elements of illegal sale of dangerous drugs had been proven by the prosecution.<sup>[10]</sup> The prosecution clearly and adequately presented in detail the transaction that took place between the accused and the poseur-buyer.<sup>[11]</sup> It further ruled that in the absence of proof of motive to falsely impute a serious crime against an accused, the presumption of regularity in the performance of official duty shall prevail over the accused's self-serving defense of denial and frame-up.<sup>[12]</sup> He was informed of his constitutional rights and the procedures in relation to the accused and the evidence obtained from him was presumed to have been properly observed absent any fact showing the contrary.<sup>[13]</sup>

The dispositive portion of the Decision reads:

**WHEREFORE**, the Court finds accused BENJIE CARANTO y AUSTRIA **GUILTY BEYOND REASONABLE DOUBT** of the crime charged. He is hereby sentenced to suffer the penalty of *life imprisonment* and to pay the fine of **FIVE HUNDRED THOUSAND PESOS (P500,000.00)** as provided for by **Section 5, Article II of Republic Act 9165**.

**SO ORDERED.**<sup>[14]</sup>

Aggrieved, Benjie appealed to the CA.

## **Ruling of the CA**

In the assailed Decision dated September 26, 2014, the CA affirmed Benjie's conviction. The dispositive portion of the Decision reads:

**WHEREFORE**, in view of the foregoing, the instant appeal is hereby **DENIED**. The Decision dated January 2, 2012 of the Regional Trial Court of Baguio City, Branch 60, in Criminal Case No. 30936-R which convicted accused-appellant Benjie Caranto y Austria for the sale of illegal drugs in violation of Sec. 5, Art. II of Republic Act No. 9165 is hereby **AFFIRMED**.

**SO ORDERED.**<sup>[15]</sup>

The CA ruled that the prosecution was able to sufficiently establish the presence of all the elements of illegal sale of dangerous drugs.<sup>[16]</sup> It further ruled that in cases involving violation of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they enjoy the presumption of having performed their duties in a regular manner, unless there is evidence to the contrary suggesting ill-motive on their part or deviation from the regular performance of their duties.<sup>[17]</sup> Since no proof of such ill-motive on the part of the buy-bust team was adduced by Benjie, the RTC did not err in giving full faith and credence to the prosecution's account of the buy-bust operation.<sup>[18]</sup> Also, it held that the police officers' failure to take photographs of the seized items while in the presence of the accused, a member of the media, a representative of the Department of Justice (DOJ), and an elected Barangay official does not affect the admissibility of the seized drugs.<sup>[19]</sup> Lastly, it held that although the police officers did not strictly