

## SECOND DIVISION

[ G.R. No. 227184, February 06, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. BRYAN LABSAN Y NALA AND CLENIO DANTE Y PEREZ, ACCUSED-APPELLANTS.**

### D E C I S I O N

#### **CAGUIOA, J:**

Before the Court is an ordinary appeal<sup>[1]</sup> filed by accused-appellants Bryan Labsan y Nala (Labsan) and Clenio Dante y Perez (Dante) (collectively, accused-appellants) assailing the Decision<sup>[2]</sup> dated July 21, 2016 of the Court of Appeals, Twenty-Third Division, Cagayan de Oro City (CA), in CA-G.R. CR HC No. 01355-MIN, which affirmed the Judgment<sup>[3]</sup> dated October 14, 2014 of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 25, in Criminal Case Nos. 2012-948, 2012-949 and 2012-950, finding accused-appellants guilty beyond reasonable doubt of the crimes punished under Sections 5 and 11, Article II of Republic Act No. (RA) 9165,<sup>[4]</sup> otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

#### **The Facts**

Three (3) Informations<sup>[5]</sup> were filed against accused-appellants, two of which are for Illegal Possession of Dangerous Drugs and one for Illegal Sale of Dangerous Drugs, before the RTC of Cagayan de Oro City. The Informations read as follows:

#### **[Criminal Case No. 2012-948]**

x x x x

That on September 29, 2012, at more or less one thirty in the early dawn, at Nazareth, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, without lawful authority to sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drugs, for a consideration of Two Hundred Pesos, Philippine Currency, (Php200.00), did then and there, willfully, unlawfully and criminally, sell and give away to a poseur-buyer, a white crystalline substance believed to be methamphetamine hydrochloride locally known as shabu, contained in a heat-sealed transparent cellophane sachet, which substance weighing 0.02 gram, after laboratory qualitative examination before the Philippine National Police Regional Crime Laboratory Office 10, tested positive for the presence of methamphetamine hydrochloride, a dangerous drug, with the accused knowing the substance to be dangerous drug.

Contrary to law.<sup>[6]</sup>

**[Criminal Case No. 2012-949]**

x x x x

That on September 29, 2012, at more or less one thirty in the early dawn, at Nazareth, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess or use any dangerous drugs, did then and there, willfully, unlawfully and criminally have in his possession, control and custody, two (2) heat-sealed transparent plastic sachets, containing white crystalline substance believed to be dangerous drug locally known as shabu, with an aggregate weight of 0.06 gram, which substance tested positive for the presence of x x x methamphetamine hydrochloride, a dangerous drug locally known as shabu, after confirmatory test conducted by the Philippine National Police, Regional Crime Laboratory Office No. 10, Camp Evangelista, Patag, Cagayan de Oro City, with the said accused knowing the substance to be dangerous drug.

Contrary to law.<sup>[7]</sup>

**[Criminal Case No. 2012-950]**

x x x x

That on September 29, 2012, at more or less one thirty in the early dawn, at Nazareth, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess or use any dangerous drugs, did then and there, willfully, unlawfully and criminally have in his possession, control and custody, one (1) heat-sealed transparent plastic sachet, containing white crystalline substance believed to be dangerous drug locally known as shabu, weighing 0.03 gram, which substance tested positive for the presence of x x x methamphetamine hydrochloride, a dangerous drug locally known as shabu, after confirmatory test conducted by the Philippine National Police, Regional Crime Laboratory Office No. 10, Camp Evangelista, Patag, Cagayan de Oro City, with the said accused knowing the substance to be dangerous drug.

Contrary to law.<sup>[8]</sup>

When arraigned, accused-appellants individually pleaded not guilty to the offenses charged against them.<sup>[9]</sup>

Thereafter, joint trial on the merits of the three (3) criminal cases ensued. The prosecution presented four (4) witnesses, namely: Police Inspector Kinthur<sup>[10]</sup> Estaniel Tandog (PI Tandog), PO3 Jimmy Vicente (PO3 Vicente), PO3 Cyrus Baillo (PO3 Baillo), and SPO1 Joel Tarre (SPO1 Tarre).<sup>[11]</sup>

The RTC dispensed with the testimony of PI Tandog after the defense admitted to the following facts but subject to the stipulation that PI Tandog does not know the

source of the specimens which he examined as well as the admissibility of the evidence:

1. That PI Estaniel Tandog is an expert witness being the forensic chemist of the PNP Crime Lab stationed at Camp Evangelista, Cagayan de Oro City;
2. That he received two letters request for the laboratory examination of the specimen attached thereto as well as for the drug examination of the accused.
3. That he conducted laboratory examination as requested and reduced his finding into writing denominated as Chemistry Report No. D-202-2012 and Chemistry Report No. DTCRIM 189 & 190-2012.
4. That he brought with him the chemistry Reports and the specimen which he examined for marking and identification.<sup>[12]</sup>

The facts established by the prosecution from the testimonies of its witnesses and documentary evidence submitted before the RTC were summarized by the CA as follows:

In the early morning of 29 September 2012, while the police officers assigned at City Anti-Illegal Drugs Task Force (CAIDTF), Cagayan de Oro City Police Office led by PCI Cacdac were having their tour of duty at the night cafe in Divisoria, Cagayan de Oro City, a Confidential Informant (CI) arrived and informed PCI Cacdac that a certain "Opaw" and "Bryan" were selling illicit drugs at Barangay Nazareth, Cagayan de Oro City. A short briefing was thereafter conducted by the team together with the CI for a possible buy-bust operation.

After the briefing, the team, composed of PO3 Vicente, SPO1 Tarre, PO3 Daleon, SPO1 Tagam, PO3 Baillo and PO3 Aguala, proceeded to Barangay Nazareth. PCI Cacdac, PO3 Vicente, and PO3 Aguala rode a taxi in going thereat while the rest of the team used their service motorcycle in going to the target place. The team used ordinary marked money consisting of two (2) One Hundred Peso (P100.00) bills with initials of "JPV" on it as buy-bust money.

Before the team arrived at the target area, the CI disembarked first from the taxi and approached the two (2) suspects at the side of the road. The CI and the suspects knew each other. PO3 Baillo likewise positioned himself at about 10-15 meters from where the CI transacted with the suspects. PO3 Baillo saw the actual transaction of the CI and the suspects as there was a light coming from the lamp post. He saw the CI give the ordinary marked money to "Opaw" while "Bryan" gave one (1) heat-sealed sachet plastic cellophane to the CI.

Immediately after the exchange, the CI removed his bull cap as the agreed pre-arranged signal to show that the transaction was already consummated. Hence, the buy-bust team rushed towards the suspects and the CI and introduced themselves to them and informed them of their constitutional rights. PO3 Vicente bodily searched the suspects and he recovered from "Bryan" two (2) sachets of suspected shabu. Likewise,

PO3 Vicente recovered from "Opaw" one (1) sachet of suspected shabu, the two (2) P100.00 bills used as buy-bust money, and an improvised hand gun. Also, the sachet of suspected shabu subject of the buy-bust operation was turned over by the CI to PO3 Vicente. Then, the buy-bust team took pictures of the items recovered from the suspects at the area.

The suspects, who were later known as appellants Labsan and Dante, were then brought to the CAIDTF office for proper documentation. Upon their arrival thereat, PO3 Vicente turned over to SPO1 Tarre the seized items. SPO1 Tarre then marked the seized items with the following initials: "A-1, 09-29-12, 'BB' CAIDTF, BRAYAN/CLENIO", "A-2, 09-29-12, CAIDTF, BRAY AN", "A-3, 09-29-12, CAIDTF, BRAYAN", and "A-4, 09-29-12, CAIDTF, CLENIO". The markings were done in the presence of PO3 Vicente, the other members of the team, and also the accused-appellants.

Thereafter, SPO1 Tarre turned over the marked items together with the crime laboratory requests for the examination thereof to the PNP Crime Laboratory, and the living body of the two (2) appellants to PO3 Vicente and PO3 Baillo for drug testing.

The qualitative examination conducted on the specimens and urine sample taken from appellants Labsan and Dante gave positive result to the presence of methamphetamine hydrochloride or shabu.<sup>[13]</sup>

For the defense, Labsan and Dante were presented in court. Their testimonies are summarized as follows:

In the early dawn of 29 September 2012, appellant Labsan was sleeping in their house at Nazareth, Cagayan de Oro City when he was awakened by the barking of a dog outside. When he looked outside the house, he saw a multicab parked with appellant Dante at the driver's seat. Appellant Dante is the sweetheart of the cousin of appellant Labsan's live-in-partner. Appellant Dante was looking for his sweetheart at that time.

While appellants Labsan and Dante were conversing outside the house, a taxi stopped at the rear portion of the multicab and a person came out and approached them. Then, two (2) motor vehicles stopped in front of the multicab while another taxi stopped beside it. Armed men in civilian attire disembarked from the vehicles and poked their guns at appellant Labsan. Appellants Labsan and Dante were then handcuffed and the armed men asked appellant Labsan where his house is.

Appellant Labsan pointed to the armed men his house and he and appellant Dante were brought inside the house. The armed men opened all the bedrooms as if they were looking for something, but they found nothing. [They then asked Dante and Labsan if it is true that the two of them are selling shabu in that area which they denied outright. Appellant Labsan protested his arrest asking what offense had he committed but he was told to shut up so that he and appellant Dante will not be harmed.<sup>[14]</sup>] The appellants were then brought outside the house and were later

boarded in the multicab. Pictures were also taken of the appellants inside the house.

Appellants Labsan and Dante were brought by the armed men to Maharlika Detention Center. On their way to Maharlika, the armed men introduced themselves as policemen. x x x<sup>[15]</sup>

At the Maharlika, [appellant] Labsan spotted his cellphone and he pleaded to the policemen to give him his cellphone so that he could contact his father, but they denied his plea. [Appellant] Labsan was instead put inside the detention cell in the company of other detainees, while [appellant] Dante was taken somewhere by the police. Later[,], [appellant] Labsan was taken out from the cell and brought to the office.

At the office, the policemen told [appellants] [L]absan and Dante to just admit the allegations against them, but [appellant] Labsan refuse[d] telling the police that they have not committed any wrongdoings. The policemen x x x bargained with them asking to reveal someone who is engage[d] in dealing illegal drugs, but [appellants Labsan and Dante] told the police that they do not know of anyone engaged in illegal drugs. [Appellants] Labsan and Dante were then taken to the crime laboratory, and upon their return to the Maharlika, Baillo asked [appellant] Labsan of his relationship with a former police officer, and [appellant] Labsan revealed to the police that his father is retired police officer Captain Benito Labsan.

x x x After he revealed the name of his father, Baillo discreetly revealed to him ([appellant] Labsan) that they ([appellant] Labsan and Baillo) are "igso" (god-brothers), and that Baillo had served under his ([appellant] Labsan['s]) father when the latter was still in active service. Baillo further told [appellant] Labsan that the latter should have revealed to him his relationship with retired officer Labsan much earlier.<sup>[16]</sup>

#### *Ruling of the RTC*

In its Judgment<sup>[17]</sup> dated October 14, 2014, the RTC found accused-appellants guilty beyond reasonable doubt for illegal sale and illegal possession of dangerous drugs, the dispositive portion of which reads:

**WHEREFORE**, premises considered, this Court hereby finds that:

1. In Criminal Case No. 2012-948, accused **BRYAN LABSAN y NALA and CLENIO DANTE y PEREZ** are both **GUILTY BEYOND REASONABLE DOUBT** of the offense defined and penalized under Section 5, Article II of R.A. 9165 and each is hereby sentenced to the penalty of **LIFE IMPRISONMENT** and for each to pay a Fine in the amount of **P500,000.00** without subsidiary imprisonment in case of non-payment of Fine;
2. In Criminal Case No. 2012-949, accused **BRYAN LABSAN y NALA** is **GUILTY BEYOND REASONABLE DOUBT** of the crime defined and penalized under Section 11, Article II of R.A. 9165, and hereby sentences him to a penalty of **IMPRISONMENT** ranging