

## THIRD DIVISION

[ G.R. No. 231838, March 04, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
FRANKIE MAGALONG Y MARAMBA\*\* @ ANGKIE, ACCUSED-  
APPELLANT.**

### DECISION

**PERALTA, J.:**

On appeal is the October 21, 2016 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07499, which sustained the February 11, 2015 Decision<sup>[2]</sup> of the Regional Trial Court (RTC), Branch 41, Dagupan City, Pangasinan, convicting appellant Frankie Magalong y Maramba @ Angkie (*Magalong*) of illegal sale of Methamphetamine Hydrochloride (*Shabu*), in violation of Section 5, Article II of Republic Act (R.A.) No. 9165, or the *Comprehensive Dangerous Drugs Act of 2002*.

On July 11, 2013, an Information was filed against Magalong, which alleged:

That on or about the 10<sup>th</sup> day of July 2013, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused **FRANKIE MAGALONG Y MARAMBA @ ANGKIE**, did then and there, willfully, unlawfully and [feloniously], sell and deliver to a poseur-buyer Methamphetamine Hydrochloride (*Shabu*), contained in one (1) heat-sealed plastic sachet, weighing more or less 4.031 grams, in exchange of P20,000.00, without authority to do so.<sup>[3]</sup>

In his arraignment, Magalong pleaded "not guilty."<sup>[4]</sup> Trial ensued while he was detained in the city jail.<sup>[5]</sup>

#### **Version of the Prosecution:**

On or about 2:00 p.m. of July 10, 2013, Intelligence Officer 1 (IO1) Raymund Tabuyo and Agent Jerico Jorge Inocencio of the Philippine Drug Enforcement Agency (PDEA) Regional Office 1, Pangasinan Sector Special Enforcement Team (PSSET) were told by a confidential informant (CI) that Magalong was selling illegal drugs in Sitio Tondaligan, Bonuan Gueset, Dagupan, Pangasinan. The report was relayed to their team leader, Agent Rogelito Daculla. Upon verification, it was found that Magalong was in their target list, *i.e.*, listed in the order of battle, for his involvement in illegal drugs in Pangasinan. A buy-bust operation was planned. The CI was instructed to call Magalong via cellphone and relay to him that he had a potential buyer. Magalong agreed to sell five (5) grams of shabu worth P20,000.00 and to meet in front of the Japanese Garden in Sitio Tondaligan by 6:00 p.m.

At 4:00 p.m., the PDEA operatives conducted a briefing. IO1 Tabuyo and Inocencio

were designated as the poseur-buyer and back-up/arresting officer, respectively. IO1 Tabuyo prepared a genuine P500.00 bill as buy-bust money and boodle money consisting of newspaper cutouts, with his markings placed thereon. It was also agreed that the pre-arranged signal would be the lighting of a cigarette after the sale. By 5:00 p.m., the PDEA team, composed of more or less 10 members including the CI, proceeded to the meeting place with the use of their service vehicle and another car.

When they were already near the transaction area, IO1 Tabuyo and the CI alighted from the PDEA service vehicle and boarded a jeepney going to the Tondaligan beach cottages. The other group members followed and strategically positioned themselves within the vicinity. Upon reaching the agreed place, IO1 Tabuyo and the CI stood by in a *sari-sari* store located beside the PJ cottage and right across the Japanese Garden. A few minutes later, a man that fit the description of Magalong arrived and went near them. The CI introduced IO1 Tabuyo as the friend interested to buy the merchandise. Magalong invited them to rent a room in PJ cottage to taste the illegal drugs, but IO1 Tabuyo declined reasoning that they have to leave the area at once as they have to attend a birthday party. Eventually, Magalong handed a plastic sachet containing what appeared to be a shabu and, in return, IO1 Tabuyo gave the payment. When Magalong noticed the boodle money, IO1 Tabuyo grabbed him and introduced himself as a PDEA agent. Inocencio and the other team members immediately rushed to the area. Magalong was frisked and apprised of his constitutional rights.

IO1 Tabuyo seized and marked the illegal drug, buy-bust money, and boodle money. In the presence of Magalong, he also conducted an inventory of confiscated items at the place of arrest and, thereafter, prepared the Certificate of Inventory of Drug Evidence.<sup>[6]</sup> Ricardo C. Mejia (*Barangay* Chairman of Bonuan Gueset), Robert R. Ramirez (representative of the Department of Justice), and John Germano and Charisse Victoria (representatives of the media), affixed their signatures on the certificate. The representatives of the DOJ and media signed the certificate at the PDEA office in Astrodome, Tapuac District, while the *barangay* chairman did the same at the *barangay* hall of Bonuan Gueset.<sup>[7]</sup>

IO1 Tabuyo was in possession of the plastic sachet of shabu, buy-bust money, and boodle money as the team proceeded to the PDEA office. There he prepared the requests for laboratory examination of the drug evidence and medical examination of Magalong.<sup>[8]</sup> During the preparation of the letter requests, the plastic sachet of shabu was in his custody as it was placed in the buy-bust kit he was holding.<sup>[9]</sup> Together with Magalong and Inocencio, he delivered the request for laboratory examination and the specimen to the Pangasinan Provincial Crime Laboratory Office.<sup>[10]</sup> In the PDEA office, the Booking Sheet and Arrest Report<sup>[11]</sup> of Magalong was prepared by Inocencio and the Joint Affidavit of Arrest<sup>[12]</sup> was executed by him and IO1 Tabuyo. Pictures of the proceedings made after the arrest of Magalong were also taken.<sup>[13]</sup>

On July 11, 2013, Police Senior Inspector (*PSI*) Myrna MalojoTodeño, who was a Forensic Chemical Officer of the crime laboratory, and a certain SPO1 Verceles personally received the request for laboratory examination<sup>[14]</sup> of the seized evidence, particularly described as: "One (1) small heat-sealed transparent plastic

sachet containing white crystalline substance suspected to be shabu with an approximate weight of 5 grams with markings Exh. A, 07-10-13, RAT and signature."<sup>[15]</sup> Upon receiving the specimen, PSI Todeño conducted a qualitative examination, which, as evidenced by the initial and final laboratory reports (Chemistry Report No. D-129-2013L),<sup>[16]</sup> gave positive result to the test for the presence of Methamphetamine Hydrochloride.<sup>[17]</sup> Based on the logbook of incoming and outgoing specimen,<sup>[18]</sup> the plastic sachet of shabu was turned over by PSI Todeño to Police Officer 3 (PO3) Elmer Manuel, who was the Evidence Custodian, but was later on retrieved from the latter by the former pursuant to a subpoena issued by the trial court.<sup>[19]</sup>

### **Version of the Defense:**

Only Magalong testified for the defense. He denied that he was one of the drug personalities in Pangasinan being monitored by the police. He recalled that on July 1, 2013 he was in the Town Proper of Dagupan waiting for a jeep bound for Bonuan Boquig (as he was from Bonuan Boquig-Longos) when two men approached and talked to him. They tapped his left shoulder and said, "*kumusta pare, balato.*" Surprised as they were unknown to him, he replied that he does not have money. The men retorted that they do not believe him as he earns so much because he is one of the targets in their office. When he asked what office they belong, the men claimed that they were from PDEA. He then told them to go back to their office since they were just extorting money. In response, the unidentified men looked daggers at him and uttered something which he could not understand. So he went away from them. He neither went to the PDEA office to complain about his alleged listing nor reported to the police what happened.

On July 10, 2013, Magalong was at the Japanese Garden in Bonuan Tondaligan. He was with his cousin, Ferdinand Reyes, drinking liquor at the seashore. As he was going out of the Japanese Garden, somebody asked him if he is Frankie Magalong. When he replied in the affirmative, he was instantly grasped and boarded in a red car. He was brought to the Dagupan City Astrodome and to another place unknown to him since it was already late at night and he was a little bit drunk.

After trial, the RTC convicted Magalong of the crime charged. The dispositive portion of the February 11, 2015 Decision states:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused Frankie Magalong y Maramba @ Angkie **GUILTY** beyond reasonable doubt of the crime of violation of Section 5, Article II of Republic Act 9165, and pursuant thereto, he is sentenced to suffer the penalty of life imprisonment and fine in the amount of Five Hundred Thousand Pesos (Php500,000.00).

The shabu subject of this case weighing 4.031 grams and the buy[-]bust money of P20,000.00 as well as the boodle money are hereby forfeited in favor of the government and to be disposed in accordance with the law.

The period during which the accused has undergone preventive imprisonment shall be credited to him in full in the service of his sentence if he agrees voluntarily in writing to abide by the same

disciplinary rules imposed upon convicted persons.

SO ORDERED.<sup>[20]</sup>

Magalong moved for a reconsideration of the Decision, but it was denied.<sup>[21]</sup> Subsequently, the case was elevated to the CA *via* notice of appeal.<sup>[22]</sup> However, the appellate court affirmed the RTC Decision.

Now before Us, both Magalong and the People manifested that they would no longer file a Supplemental Brief, taking into account the exhaustive arguments and discussions in their respective Briefs before the CA.<sup>[23]</sup>

The appeal is unmeritorious.

For a successful prosecution of illegal sale of dangerous drugs under Section 5, Article II of R.A. No. 9165, the following elements must be satisfied: (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and the payment therefor.<sup>[24]</sup> In the crime of illegal sale of dangerous drugs, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money consummate the illegal transaction.<sup>[25]</sup> What matters is the proof that the sale actually took place, coupled with the presentation in court of the prohibited drug, the *corpus delicti*, as evidence.<sup>[26]</sup> In this case, the Court finds that all the requisites for the sale of an illegal drug were met. Based on the testimonies of IO1 Tabuyo and Inocencio, which were supported by the documentary evidence offered by the prosecution and admitted by the trial court, the identities of IO1 Tabuyo as the buyer,<sup>[27]</sup> Magalong as the seller, the *shabu* as the dangerous drug, and the P500.00 bill as the marked money, as well as the fact that the sale actually took place, have all been proven beyond reasonable doubt.

Contrary to the position of Magalong, the confidential informant need not be presented in order to successfully hold him criminally liable. Confidential informants are usually not presented in court because of the need to hide their identity and preserve their invaluable service to the police.<sup>[28]</sup> Where the sale was actually witnessed and adequately proved by prosecution witnesses, like in this case, the non-presentation of the confidential informant is not fatal since the latter's testimony will merely be corroborative of the apprehending officers' eyewitness testimonies.<sup>[29]</sup> Presentation of confidential informant is necessary, if not indispensable, when the accused vehemently denies selling prohibited drugs and there are material inconsistencies in the testimonies of the arresting officers, or there are reasons to believe that the arresting officers had motives to testify falsely against the accused, or when the informant was the poseur-buyer and the only one who actually witnessed the entire transaction.<sup>[30]</sup> These exceptional circumstances are not present here.

Further, the chain of custody does not suffer from any fatal flaw. At the time of the commission of the crime on July 10, 2013, the applicable law was R.A. No. 9165.<sup>[31]</sup> Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002, has defined chain of custody as -

the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition.<sup>[32]</sup>

The chain of custody rule is but a variation of the principle that real evidence must be authenticated prior to its admission into evidence.<sup>[33]</sup> To establish a chain of custody sufficient to make evidence admissible, the proponent needs only to prove a rational basis from which to conclude that the evidence is what the party claims it to be.<sup>[34]</sup> In other words, the prosecution must offer sufficient evidence from which the trier of fact could reasonably believe that an item is still what the government claims it to be.<sup>[35]</sup> In the prosecution of illegal drugs, the well-established federal evidentiary rule in the United States is that when the evidence is not readily identifiable and is susceptible to alteration by tampering or contamination, courts require a more stringent foundation entailing a chain of custody of the item with sufficient completeness to render it improbable that the original item has either been exchanged with another or been contaminated or tampered with.<sup>[36]</sup> The Court has adopted this rule in *Mallillin v. People*,<sup>[37]</sup> where it was discussed how, ideally, the chain of custody should be established:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.<sup>[38]</sup>

Thus, the links in the chain of custody that must be established are: (1) the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; (2) the turnover of the seized illegal drug by the apprehending officer to the investigating officer; (3) the turnover of the illegal drug by the investigating officer to the forensic chemist for laboratory examination; and (4) the turnover and submission of the illegal drug from the forensic chemist to the court.<sup>[39]</sup>

In this case, Magalong did not present any evidence to substantiate his allegation that the integrity and evidentiary value of the *shabu* presented as evidence at the trial have been compromised at some point. Instead, the body of evidence adduced by the prosecution supports the conclusion that the integrity and evidentiary value