

## SECOND DIVISION

[ G.R. No. 219852, April 03, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DAVE  
CLAUDEL Y LUCAS, 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 October 22, 2014 of the Court of Appeals, Twelfth (12<sup>th</sup>) Division (CA) in CA-G.R. CR-HC. No. 05973, which affirmed the Decision<sup>[3]</sup> dated October 31, 2012 rendered by the Regional Trial Court, Branch 204, Muntinlupa City (RTC) in Criminal Case No. 09-149, which found herein accused-appellant Dave Claudel y Lucas (Dave) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*, as amended.

#### The Facts

The Information filed against Dave for violation of Section 5, Article II of RA 9165 pertinently reads:

That on or about the 26<sup>th</sup> day of February, 2009, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to another a (sic) Methamphetamine hydrochloride, a dangerous drug, contained in one (1) heat-sealed transparent plastic sachet weighing 0.04 gram, in violation of the above-cite *[sic]* law.

Contrary to law.<sup>[4]</sup>

When arraigned, Dave pleaded not guilty to the offense charged.<sup>[5]</sup>

#### *Version of the Prosecution*

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

The prosecution presented its witnesses, [PO2] Rondivar Hernaez ([PO2 Hernaez]) and [PO1] Bob Yangson ([PO1 Yangson]), a member of the

buy-bust team. Their combined testimonies established the following facts:

On 26 February 2009, a buy-bust operation was conducted by the operatives of Station Anti-Illegal Drugs-Special Operation Task Group (SAID-SOTG) Muntinlupa Police following a report that a certain Dave Claudel ("Dave") is engaged in illegal drug activities. Prior to the buy-bust operation, Dave was also previously arrested for [v]iolation of RA 9165 involving illegal drugs.

In preparation for the buy-bust-operation [sic], the buy-bust team prepared the Pre-Operational Sheet and Coordination Sheet which they faxed to the Philippine Drug Enforcement Agency (PDEA). In turn, the buy-bust team received a Certificate of Coordination from PDEA.

Team Leader, Chief Inspector Paningbatan assigned [PO2] Hernaez as the poseur[-]buyer while PO1 Yangson was designated as the immediate back up. C/Insp. Paningbatan handed [PO2] Hernaez a Five Hundred Peso Bill buy-bust money on which the latter wrote his initials "RH" on the lower right portion of the bill. It was agreed upon that [PO2] Hernaez will light a cigarette as a pre-arranged signal that the sale of illegal drugs was consummated.

[PO2] Hernaez admitted that he was already familiar with Dave as he used to see him in court hearings. However, he was not aware whether Dave could also remember him. At any rate, to prevent being recognized, [PO2] Hernaez wore a disguise by changing his clothes. He wore a gray polo shirt, maong pants, leather shoes and a cap to cover his face. He also needed an asset to accompany him as Dave would not sell drugs to anyone except those known to him.

At around 9:30 o'clock [sic] in the evening, the team proceeded to the target place in Tuazon Street, Barangay Poblacion. As planned, [PO2] Hernaez together with the asset walked towards Tuazon Street corner Rizal Street where it was dark and there was no light. The asset pointed [to] alias Dave as the person selling illegal drugs. Upon seeing each other, the asset nodded to Dave. The asset then introduced [PO2] Hernaez to Dave as his kumpare from Parañaque who is interested in buying shabu as there was scarcity of shabu in Parañaque. Dave asked them how much would they buy from him to which [PO2] Hernaez replied, "Php500.00, pare." Dave reached into the secret pocket of his maong pants and told [PO2] Hernaez, "*Tamang-tama pare huling kasa ko na lang 'to pauwi na rin ako*". [PO2] Hernaez handed Dave the buy-bust money while Dave handed him a transparent plastic sachet containing white crystalline substance. After examining the plastic sachet, [PO2] Hernaez lit his cigarette. [PO1] Yangson, the assigned back-up of [PO2] Hernaez immediately rushed to the scene and assisted in arresting Dave.

After informing Dave of his rights, [PO2] Hernaez and the rest of the buy-bust team brought Dave to their office where they recovered from him the buy-bust money. The plastic sachet remained in [PO2] Hernaez's custody until they reached their office. Upon arriving thereat, [PO2]

Hernaez placed the marking "DC" on the seized plastic sachet. They conducted an Inventory of the seized item in the presence of Dave and Rodolfo Baldobino, DAPCO representative.

[PO2] Hernaez explained that they contacted a representative from the media and the barangay but they received a negative reply as it was already around 10:00 or 11:00 o'clock in the evening. Photographs of Dave, the buy-bust team, and the confiscated items were also taken. They also prepared a Request for Laboratory Examination which [PO2] Hernaez and [PO1] Yangson submitted to the Crime Laboratory. [PO2] Hernaez also took custody of the seized item and submitted the same to the Custodian in the Crime Laboratory.

Afterwards, [PO2] Hernaez came to know that the result of the Laboratory Examination yielded positive for methamphetamine hydrochloride. Thereafter, they executed a Joint Affidavit, a Booking Sheet and Spot Report of the incident.<sup>[6]</sup>

#### *Version of the Defense*

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

The defense presented as its witnesses, the accused himself, Dave Claudel, Ligaya Santos and Emmerlyn Arellano [(Emmerlyn)]. Their combined testimonies narrate the following facts:

On 26 February 2009 at about 6:00 o'clock in the evening in P. Tuazon Street, Poblacion, Muntinlupa City, Dave Claudel was fetching water near the store of his sister, Ligaya Santos ("Ligaya"). Ligaya was manning her store with her employee, Emmerlyn Arellano, when more or less six (6) armed men with guns and handcuffs arrived. Dave eventually came to know that the *[sic]* two (2) of these men were police officers [PO1] Yangson and [PO2] Hernaez. Dave was surprise[d] when [he was] instructed by the police officers to follow them. He was ordered to raise his hands and then he was handcuffed. The police officers were looking for a can as they bodily searched him. Unaware as to what they were talking about, Dave failed to give an answer. Consequently, one of the men hit him on his face. Dave insisted that nothing was recovered from him. H[is] sister, on the other hand, was crying and trembling with fear as the police officers threatened them saying, "nagbebenta kayo ng drugs kaya ikukulong namin kayo." Dave and Ligaya were taken aboard the police vehicle and were brought to [the] Muntinlupa police station.

Upon arrival at the police station, one of the arresting officers spoke to Ligaya. The police officer informed her that she is suspected of being involved in her brother's illegal drug activities. Ligaya denied the said allegation and insisted that her brother is not selling drugs. Thereafter, the police officers turned their attention to Dave sitting next to her. The police officers questioned Dave about his illegal drug activities and forced

him to admit as to the location of some cash. Dave denied having knowledge of what they were talking about.

Afterwards, another police officer talked to Ligaya and told her that she could go home but before she could leave the precinct[,] she must give One Hundred Thousand Pesos (Php100,000.00) for Dave's release. Ligaya responded that they did not have that amount of money to which the police officers answered, "tutuluyan nila si Dave". The police officer[s] then showed her a sachet which they will use as evidence against Dave. Thereafter, she was release[d] from the precinct while Dave remained incarcerated.

After Ligaya left, [PO2] Hernaez spoke to Dave and showed him one (1) plastic sachet and one (1) Five Hundred Peso bill that will be used as evidence against him. Dave questioned the evidence as the same was not his and was not recovered from him. However, [PO2] Hernaez remained silent. Instead, he was put in jail. Dave only became aware of the charge against him when he was taken and presented before the Fiscal.<sup>[7]</sup>

### **Ruling of the RTC**

In its Decision<sup>[8]</sup> dated October 31, 2012, the RTC held that the prosecution sufficiently established that Dave was caught in *flagrante delicto* of selling drugs to a poseur-buyer during a buy-bust operation.<sup>[9]</sup> It stressed that the police officers are entitled to the presumption of regularity in the performance of their official functions in the absence of any ill motive or bad faith on their part.<sup>[10]</sup> Lastly, it ruled that the testimony of defense witness Emmerlyn deserves scant consideration for being inconsistent and conflicting.<sup>[11]</sup>

The dispositive portion of the Decision reads:

WHEREFORE, premises considered and finding the accused GUILTY beyond reasonable doubt of the crime herein charged, DAVE CLAUDEL y LUCAS is sentenced to LIFE IMPRISONMENT and to pay a FINE of P500,000.00

The preventive imprisonment undergone by the accused shall be credited in his favor.

The drug evidence is ordered transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

Issue a MITTIMUS committing accused DAVE CLAUDEL y LUCAS to the New Bilibid Prison (NBP) for the service of his sentence pending any appeal that he may file in this case.

**SO ORDERED.**<sup>[12]</sup>

Aggrieved, Dave appealed to the CA.

### **Ruling of the CA**

In its Decision<sup>[13]</sup> dated October 22, 2014, the CA affirmed Dave's conviction. The dispositive portion of the Decision reads:

**WHEREFORE**, premises considered, the instant appeal is **DENIED**. The Judgment dated 31 October 2012 of the Regional Trial Court of Muntinlupa City Branch 204 in Criminal Case No. 09-149 is hereby **AFFIRMED**.

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

The CA ruled that the elements of illegal sale of dangerous drugs have been amply proven by the prosecution to affirm the conviction of Dave.<sup>[15]</sup> It held that non-compliance with the strict requirements of Section 21 of RA 9165 is not necessarily fatal to the prosecution's case.<sup>[16]</sup> What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items.<sup>[17]</sup> Finally, it found that the police officers exerted earnest efforts to obtain the presence and signatures of the required witnesses, but the same proved futile as they received a negative reply since it was already late at the time of the buy-bust operation.<sup>[18]</sup>

Hence, the instant appeal.

### **Issue**

Whether Dave's guilt for violation of Section 5 of RA 9165 was proven beyond reasonable doubt.

### **The Court's Ruling**

The appeal is meritorious. Dave is accordingly acquitted.

In cases involving dangerous drugs, the confiscated drug constitutes the very *corpus delicti* of the offense<sup>[19]</sup> and the fact of its existence is vital to sustain a judgment of conviction.<sup>[20]</sup> It is essential, therefore, that the identity and integrity of the seized drug be established with moral certainty.<sup>[21]</sup> Thus, in order to obviate any unnecessary doubt on its identity, the prosecution has to show an unbroken chain of custody over the same and account for each link in the chain of custody from the moment the drug is seized up to its presentation in court as evidence of the crime.<sup>[22]</sup>