

THIRD DIVISION

[G.R. No. 232083, November 27, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. COCOY
CATUBAY, ACCUSED,**

JONEPER JAIME Y DURAN, ACCUSED-APPELLANT.

DECISION

ZALAMEDA, J.:

This is an appeal^[1] seeking to reverse and set aside the Decision dated 01 December 2016^[2] of the Court of Appeals (CA) in C.A.-G.R. CEB CR-HC No. 02143 which affirmed the Judgment^[3] dated 28 May 2015 of Branch 34, Regional Trial Court (RTC) of Dumaguete City, finding Joneper Jaime y Duran (accused-appellant) guilty beyond reasonable doubt for violating Sections 5 and 11, Article II of Republic Act (RA) 9165^[4] in Criminal Case Nos. 2011-20433 and 2011-20432, respectively.

Antecedents

Accused-appellant and his co-accused, Cocoy Catubay (Catubay), were charged with violation of Section 5, Art II of RA 9165, in an Amended Information,^[5] the accusatory portion of which states:

Criminal Case No. 2011-20433

That on or about the 6th day of April 2011, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, acting together and mutually aiding one another, not being then authorized by law, did, then and there willfully, unlawfully and feloniously sell and deliver to a poseur-buyer one (1) heat sealed transparent plastic sachet containing 0.16 gram of Methamphetamine Hydrochloride, commonly called "shabu", (sic) a dangerous drug.

Contrary to Section 5, Article II, R.A. 9165.

In another Amended Information,^[6] accused-appellant was charged with violation of Section 11, Art. II of RA 9165, the accusatory portion of which states:

Criminal Case No. 2011-20432

That on or about the 6th day of April 2011, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and feloniously keep and possess two (2) heat sealed transparent plastic sachets containing an approximate aggregate weight

of 0.78 gram of Methamphetamine Hydrochloride, commonly called "shabu", (sic) a dangerous drug.

The accused has been found positive for Methamphetamine, a dangerous drug, as reflected in Chemistry Report No. DT-070-11.

Contrary to Section 11 , Article II, R.A. 9165. (Emphasis supplied)

Upon arraignment,^[7] accused-appellant pleaded not guilty to the charges. After pre-trial,^[8] trial on the merits ensued.

Version of the Prosecution

Acting on an information, a team was formed on 06 April 2011 to conduct a buy-bust operation on Catubay's alleged illegal sale of prohibited drugs. On their way to execute the entrapment operation, the informant was apprised that Catubay would not be able to deliver *shabu*. In his stead, accused-appellant was to undertake the transaction. Upon arrival of accused-appellant at the agreed meet-up point, PO2 Jerry Magsayo (PO2 Magsayo), the designated poseur-buyer, bought from him *shabu* worth Five Hundred Pesos (P500.00). When PO2 Magsayo asked if there were other available stocks, accused-appellant readily showed him two (2) more plastic sachets with suspected *shabu* worth P4,100.00 each.^[9]

Upon receipt of the buy-bust money, PO2 Magsayo executed the prearranged signal leading to accused-appellant's arrest. Two (2) other sachets with suspected *shabu* were recovered from accused-appellant's possession. The buy-bust team marked the seized items and proceeded right away to their office for the inventory and photograph taking as the crowd of onlookers began to thicken. The buy-bust team inventoried and photographed the seized items in the presence of accused-appellant, Brgy. Kagawad Dandy Catada, Department of Justice (DOJ) representative Anthony Chilius Benlot, and media representative Neil Rio.^[10]

The team brought the request for laboratory examination and drug test, together with the seized items, to the Philippine National Police Crime Laboratory in Dumaguete City. Forensic Chemist Police Chief Inspector Josephine Llana (PCI Llana) received the items and subjected them to physical and chemical examination. Per Laboratory Reports, the seized item⁸, as well as accused-appellant's urine sample, were found positive for *shabu*. PCI Llana turned-over the seized items to the evidence custodian for safe-keeping, and retrieved the same for submission to the trial court.^[11]

Version of the Defense

Accused-appellant denied the charges against him. He alleged that a car stopped in front of him while he was passing by the LBC warehouse. A certain Miguel Dungog alighted from the said car, grabbed and handcuffed him. He was made to board the car and saw three (3) men inside who were looking for Catubay. When they failed to locate the latter, accused appellant was instead brought in an office where he was forced to admit ownership of the money and drugs atop a table. They proceeded to the hospital for medical examination and he was detained at the police station

afterwards.^[12]

Ruling of the RTC

On 28 May 2015, the RTC rendered its Judgment,^[13] the dispositive portion of which reads:

WHEREFORE, in Criminal Case No. 2011-20433, accused JONEPER JAIME y DURAN is found guilty beyond reasonable doubt of the offense of illegal selling of 0.16 gram of shabu to PO2 Jerry Magsayo, who acted as poseur-buyer, in violation of Section 5, Article II of the Comprehensive Dangerous Drugs Act of 2002, and the court hereby imposes upon him the penalty of LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

In Criminal Case No. 2011-20432, accused Joneper Jaime is also found guilty beyond reasonable doubt of the offense of illegal possession of 0.78 gram of shabu, a dangerous drug, in violation of Section 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and the court hereby imposes upon him the indeterminate penalty of TWELVE (12) YEARS AND ONE (1) DAY, as minimum, to FOURTEEN (14) YEARS, as maximum term, and to pay a fine of FOUR HUNDRED THOUSAND PESOS (P400,000.00).

X x x.

SO ORDERED.^[14]

The RTC gave credence to the straightforward, consistent and credible testimonies of the prosecution witnesses that accused-appellant was caught *in flagrante* selling *shabu* and also found in possession of two (2) more sachets of *shabu*. The police officers were likewise accorded the presumption of regularity in the performance of their duties. The RTC further held that there was compliance with the law in preserving the integrity of the seized items, and an unbroken chain in the custody of the same until its submission to court. It was likewise disclosed that the offense of illegal possession of *shabu* was attended by an aggravating circumstance considering that at the time of its commission, accused-appellant was found positive for *shabu*.^[15]

Ruling of the CA

On appeal, the CA affirmed the findings of the RTC.^[16] It stressed that accused-appellant's act of handing to PO2 Magsayo a sachet of *shabu*, along with PO2 Magsayo's subsequent act of handing the payment, consummated the illegal sale of *shabu*.

Hence, this appeal.

Issue

The sole issue in this case is whether the CA correctly found accused-appellant

guilty beyond reasonable doubt of illegal sale and illegal possession of dangerous drugs under RA 9165.

Ruling of the Court

The elements of illegal sale and illegal possession of shabu were adequately proven

In the prosecution of a case for illegal sale of dangerous drugs, the prosecution must be able to establish the following essential elements: (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 its payment.^[17] To emphasize, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited drug, the *corpus delicti*, as evidence.^[18]

Here, the prosecution was able to establish the elements of the illegal sale of *shabu* through the testimony of PO2 Magsayo:

PROSECUTOR CORTES: When you were already at the Bypass Road, what happened again?

PO2 MAGSAYO: When we were already there, our informant contacted Cocoy Catubay and Cocoy Catubay told us that he will send someone to deliver and accept payment.

Q: After you were informed that he will be sending the person who can also receive the money, what happened next?

A: After a few minutes, a person approached us in our brown tinted car and immediately went inside.

X x x.^[19]

Q: So the person who went inside the car his name is Joneper Jaime?

A: Yes, ma'am, we learned his name after the arrest, ma'am.

Q: When this Joneper Jaime entered the car, what happened next?

A: After he entered the car, our confidential informant told Joneper Jaime that I was the one who was going to purchase.

Q: After the confidential informant told Joneper Jaime that you were the one who was going to purchase, what happened next?

A: After our confidential informant introduced me to Joneper Jaime, I told Joneper Jaime that I am going to buy five hundred pesos worth of "shabu" (sic) ma'am.

Q: What, if any, was his reaction?

A: He immediately gave me the one (1) transparent plastic