

FIRST DIVISION

[G.R. No. 217887, March 14, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. CLOVER
A. VILLARTA, ACCUSED-APPELLANT.**

DECISION

DEL CASTILLO, J.:

This is an appeal from the October 22, 2014 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR HC [No.] 01629, which affirmed the January 31, 2013 Decision^[2] of the Regional Trial Court (RTC), Branch 13 of Cebu City in Criminal Case Nos. CBU-88596 and CBU-88597 finding Clover A. Villarta (appellant) guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act (RA) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and sentencing him to life imprisonment and to pay a fine of P500,000.00 for the illegal sale of *shabu*, and to an indeterminate sentence of twelve (12) years and one (1) day to thirteen (13) years and to pay a fine of P300,000.00 for illegal possession of *shabu*.

Factual Antecedents

Appellant was charged with violation of Sections 5 and 11, Article II of RA 9165, for selling and for possessing, respectively, methamphetamine hydrochloride, locally known as *shabu*. The Information^[3] in Criminal Case No. CBU-88596 alleged:

That on or about the 3rd day of April 2010 at about 12:30 A.M., in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, [appellant], with deliberate intent, and without authority of law, did then and there sell, deliver or give away to poseur[-]buyer one (1) staple-sealed transparent plastic sachet of white crystalline substance weighing 0.01 gram, locally known as *shabu*, containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.

And the Information^[4] in Criminal Case No. CBU-88597 alleged —

That on or about the 3rd day of April, 2010 at about 12:30 A.M., in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, [appellant], with deliberate intent, did then and there have in his possession and control two (2) heat[-]sealed transparent plastic sachets of white crystalline substance x x x weighing 0.02 and 0.01 gram, or a total of 0.03 gram, locally known as *shabu*, containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.

Appellant pleaded not guilty to both Informations.^[5]

Version of the Prosecution

The prosecution built its cases chiefly upon the testimonial evidence^[6] furnished by PO2^[7] Joseph Bugtai (PO2 Bugtai). This witness testified that on April 2, 2010 at the Investigation and Detective Management Branch (IDMB) Office, Camp Sotero Cabahug, Gorordo Avenue, Cebu City, a confidential agent told him and his fellow police officers, namely, PO3 Regalado Dela Victoria (PO3 Dela Victoria), PO3 Melbert Dio,^[8] PO1 Alain Dignos, PO3 Almer Maglinte, and SPO1 Alfredo Petallar (SPO1 Petallar) that a certain Jake was engaged in illegal drug activities in Sanciangko^[9] Street, near the Sugo Hotel,^[10] hence he and his fellow police officers planned a buy-bust operation.

PO2 Bugtai narrated that they coordinated first with the Philippine Drug Enforcement Agency (PDEA) as evidenced by a Coordination Form and a Pre-Operation Report; that he was designated as poseur-buyer; that the confidential agent had already made a pre-arranged deal with Jake; that the buy-bust money consisting of two pieces of P100.00 carried SPO1 Petallar's initials and had been photographed; that he and the confidential agent arrived at Sanciangko Street riding in a motorcycle, while the rest of the buy-bust team followed on board an unmarked service vehicle; that when they reached Sanciangko Street at around 12:30 a.m. of April 3, 2010, Jake approached them and asked the confidential agent if he (PO2 Bugtai) was the buyer to which the confidential agent answered in the affirmative; that Jake said that the "item" was worth P200.00; that upon his request, Jake showed the same to him; that he said, "Okay, we're good," which meant that he was willing to buy the item; that Jake delivered the item to him and he gave Jake the buy-bust money; that after the exchange and as agreed upon during the buy-bust team's briefing, he flashed the pre-arranged signal by touching his hair with his left hand; that his companions then rushed towards them; that he held Jake and tried to recover the buy-bust money from him; that a scuffle ensued but he eventually recovered the buy-bust money with the help of his companions: that at that point, he arrested Jake and informed the latter of the offense he had committed and the rights of an accused; that as a matter of procedure, he conducted a body search upon Jake for any deadly weapon; and that as a result of said search, he recovered two packs of *shabu* from the right pocket of Jake's short pants.

PO2 Bugtai further recounted that he was in custody of the subject dangerous drugs from the place of the incident and back to the IDMB office; that the buy-bust team failed to bring a container to seal the seized dangerous drugs; that as the buy-bust team had no marking paraphernalia at the time, he marked at the police station the dangerous drugs subject of the sale as CAV-BB, while the two items recovered during the body search were marked as CAV and CAV-1; that after the marking, they made a request for laboratory examination of the subject seized dangerous drugs; that he also delivered the subject seized dangerous drugs to the crime laboratory; that he came to know the true name of Jake, the appellant herein; that PO3 Dela Victoria took pictures of the subject seized dangerous drugs; that it was SPO1 Petallar who signed the inventory that he (PO2 Bugtai) prepared, with a notation stating that "no *barangay* official available to sign the inventory receipt"; and that no representative from the media and from the Department of Justice

(DOJ) signed the inventory because of difficulty in getting their presence early in the morning.

The prosecution and the defense entered into a stipulation regarding the testimonies of SPO1 Petallar and the Philippine National Police's (PNP's) Forensic Chemist.

Thus, the RTC's Order of May 10, 2012^[11] stated:

In view of the fact that the prosecution and the defense stipulated that if SPO1 Petallar would testify[, then] the gist of his testimony would be, as follows:

1. That he was one of the back-ups in the buy-bust operation;

x x x x

4. That he rushed up after seeing the pre-arranged signal to assist the poseur[-]buyer in arresting the accused;

5. The buy [-bust] money was recovered by [PO2] Bugtai and that the same could be identified by him through the marking he [had] made; and

6. That he has no personal knowledge with [regard] to the actual exchange of money for shabu.^[12]

With respect to the testimony of the Forensic Chemist, the prosecution and the defense likewise entered into a stipulation, to wit:

[Assistant City Prosecutor Jose Nathaniel S. Andal (Pros. Andal) and appellant's counsel, Public Attorney's Office Lawyer Atty. Benison Harayo (PAO), to the RTC]

Pros. Andal:

My next witness will be the forensic chemist, Ryan Sala [Sala], Your Honor. May we know from the defense, Your Honor, if they will admit that [Sala] is an expert in the field of forensic chemistry?

[PAO]:

Yes, Your Honor.

Pros. Andal:

That he was the one who examined the evidence.

[PAO]:

Yes, Your Honor.

Pros. Andal:

That he prepared Chemistry Report No. D-307-2010.

[PAO]:

Yes, Your Honor.

Pros. Andal:

We will admit also, Your Honor, that [Sala] has no knowledge as to the source of the evidence and that he has no knowledge whether there was tampering, if any, of the evidence prior to the delivery of the same to the Crime Laboratory.

COURT:

ORDER: In view of the fact that the defense admitted the expertise of [Sala], the existence of the documentary and object evidence, that he examined the object evidence and that in connection therewith he prepared a chemistry report, and the fact that the prosecution admitted that [Sala] had sic knowledge with respect to the source of the object evidence he examined and that he has no knowledge also if the evidence was tampered before the same was examined, the prosecution therefore is dispensing with his testimony.^[13] (Emphasis supplied.)

The prosecution formally offered the following exhibits,^[14] viz. a Coordination Form signed by SPO1 Petallar, Police Chief Inspector George V. Ylanan and Police Superintendent Pablo G. Labra II with time/date indicated as 2339H April 2, 2010 (Exhibit "A"),^[15] a Pre-Operational Report signed by SPO1 Petallar (Exhibit "B"),^[16] two P100.00 bills used as buy-bust money (Exhibit "C"),^[17] object evidence (Exhibit "D"),^[18] a letter-request for laboratory examination (Exhibit "E"),^[19] a print-out of the photographs (Exhibit "F"),^[20] an Inventory Receipt (Exhibit "G"),^[21] the pertinent page of the relevant police blotter (Exhibit "H"),^[22] and Chemistry Report No. D-307-2010 (Exhibit "I").^[23] The RTC admitted all of these pieces of evidence.^[24]

Version of the Defense

Appellant presented himself as the sole witness for the defense.^[25] He testified that he was in his sister's house on April 2, 2010; that he texted his acquaintance, one named Mark, for them to go out on a date; that he arrived at the Sogo Hotel at about 10:30 p.m. or 11:00 p.m. and waited for Mark; that Mark arrived at said place around 12:30 a.m. of April 3, 2010; that after telling Mark that they will go inside the Sogo Hotel, around four people in civilian attire suddenly told him that he was under arrest; that he was shocked, hence he resisted; that he saw one of those trying to arrest him slip something into his pocket because at that time he was wearing a six-pocket shorts; that he asked the reason for his arrest; that he was beaten up instead when he said that the evidence was planted; that he did not see anymore the person who had slipped something into his pocket; that Mark was present when he was arrested; that Mark then told, him that what happened was "just fair" as he did not immediately give them money; that Mark probably set him up; that he only knew Mark a month before his arrest; that he was certain that he was transferred from one police station to another but he could not exactly recall whether he was brought first to the Mabolo police station, and then to the Gorordo

police station; that Mark was no longer present when we was brought to the police station; that he was punched in his stomach, at. the police station when he shouted aloud that the prohibited substance was planted by the police; that the only police officer who was present during his arrest was SPO1 Petallar; that the persons who arrested him were strangers to him; that he believed that Mark was in league with the policemen who planted the drug on him; that the reason why Mark became angry with him was because he (appellant) did not readily share his money with him (Mark); that during his previous meeting with Mark, the latter was already hinting that he wanted money but he (appellant) had to leave suddenly to attend to a client's inquiry about a certain property in Collinwood Subdivision; that he really did not know much about Mark except for unverified information that Mark was a Criminology graduate and that his father was a Colonel; that the policemen never returned his bag and its contents; and that it was only two days after his arrest that he learned that cases for illegal possession and for illegal sale of dangerous drugs had been filed against him.

Appellant further claimed that the charges against him were fabricated; that the alleged poseur-buyer, PO2 Bugtai, was never present during the arrest as shown by the latter's incorrect statements regarding the location of his fellow police officers during the arrest; that there was no transaction at all involving drugs; that he did not file a case against the policemen because he was in jail and because he knew that no case against said policemen would prosper; that before his arrest, he was a licensed real estate consultant and not a drug peddler; that as a licensed real estate consultant, he was earning good income and had won the top seller award five times prior to his arrest; and that he, however, did not hire a private lawyer because he has no more income and his savings were to be used for his needs in jail and the payments for his house where his parents also lived.

Appellant offered in evidence the Identification Card issued to him by Primary Homes, Inc. (Exhibit "I").^[26] It was admitted in evidence by the RTC.^[27]

Ruling of the Regional Trial Court

In its Decision of January 31, 2013,^[28] the RTC found appellant guilty beyond reasonable doubt of the crimes charged. The dispositive part thereof reads:

WHEREFORE, judgment is hereby rendered finding the accused CLOVER A. VILLARTA GUILTY beyond reasonable doubt for Violation of Section 5, Art. 2, RA 9165 in CBU-88596 and sentences him to a penalty of LIFE IMPRISONMENT, plus fine in the amount of P500,000.00.

In CBU-88597, he is also found GUILTY beyond reasonable doubt for possession of the two (2) sachets of *shabu* which [are] found positive for the presence of methamphetamine hydrochloride. The court imposes an imprisonment of TWELVE (12) YEARS AND ONE (1) DAY TO THIRTEEN (13) YEARS, plus fine in the amount of P300,000.00.

The one (1) staple[-]sealed transparent plastic pack of *shabu* weighing 0.01 gram mentioned in the information and marked as Exhibit D for the prosecution is hereby ordered CONFISCATED AND DESTROYED.

The two plastic sachets of *shabu* with a total weight of 0.03 gram mentioned in the information are also ordered CONFISCATED AND DESTROYED.