

THIRD DIVISION

[G.R. No. 179148, July 23, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ALEXIS DINDO SAN JOSE Y SUICO, ACCUSED-APPELLANT.

D E C I S I O N

BERSAMIN, J.:

The successful prosecution of a criminal case must rest on proof beyond reasonable doubt. The State must establish all the elements of the offense charged by sufficient evidence of culpability that produces a moral certainty of guilt in the neutral and objective mind. Any proof less than this should cause the acquittal of the accused.

The Case

The accused hereby urges the thorough review and reversal of the decision promulgated on April 27, 2007,^[1] and asserts that the Court of Appeals (CA) erroneously affirmed his convictions for violations of Section 15 and Section 16 of Republic Act No. 6425 (*Dangerous Drugs Act of 1972*), and for illegal possession of firearms and ammunition as defined and punished under Presidential Decree No. 1866, as amended, through the judgment rendered on April 13, 2005 by the Regional Trial Court (RTC), Branch 156, in Pasig City.^[2]

Antecedents

The CA summarized the factual and procedural antecedents in its assailed decision, as follows:

Accused-appellant Alexis Dindo San Jose was charged with three criminal acts under the following informations:

CRIMINAL CASE NO. 8633-D

The Prosecution, through the undersigned Public Prosecutor, charges **Alexis Dindo y (sic) San Josey Suico a.k.a. 'Dodong Diamong'** (sic) with the crime of Violation of Sec. 15 Art. III of RA 6425, as amended (The Dangerous Drugs Act), committed as follows:

On or about January 26, 2000, in San Juan, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to sell, dispense, transport or distribute any regulated drug, did then and there willfully, unlawfully and feloniously sell, deliver and give away to SPO1 Edwin Anaviso, a police poseur-buyer, two (2) heat-sealed transparent plastic bags containing 196.5 grams and 57.25

grams, respectively, of white crystalline substance, having a total weight of 253.75 grams, which was found positive to the test for methamphetamine hydrochloride (shabu), a regulated drug, in violation of the said law.

Contrary to law.

CRIMINAL CASE NO. 8634-D

The Prosecution, through the undersigned Public Prosecutor, charges *Alexis Dindo y (sic) San Josey Suico a.k.a. 'Dodong Diamond'* with the crime of Violation of Sec. 16 Art. III of RA 6425, as amended (The Dangerous Drugs Act), committed as follows:

On or about January 26, 2000, in San Juan, Metro Manila, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to use or possess any regulated drug, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one self-sealed transparent plastic bag containing 372.3 grams of white crystalline substance, which was found positive to the test for methamphetamine hydrochloride (shabu), a regulated drug, in violation of the said law,

Contrary to law.

CRIMINAL CASE NO. 11700

The Prosecution, through the undersigned Public Prosecutor, charges **Alexis Dindo San Josey Suico a.k.a. 'Dodong Diamond'** with the crime of violation of P.D. 1866, as amended by R.A. 8294 (Illegal Possession of Firearms), committed as follows:

On or about January 26, 2000, in San Juan, Metro Manila and within the jurisdiction of this Honorable Court, the accused, being than a private person, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one (1) caliber .45 pistol marked COLT with serial no. 1811711 and one (1) super .38 caliber pistol marked 'Springfield Armory' with serial no. UJ1152 with magazine land nine (9) pieces of live ammunitions, without first securing the necessary license or permit from the proper authorities.

Contrary to law.

Upon arraignment on 12 April 2002, accused-appellant pleaded not guilty to all charges. After the pre-trial on 16 May 2000, the case was set for hearing. The prosecution presented three (3) witnesses in the persons of SPO4 Wilfredo Yee (SPO4 Yee), SPO1 Edwin Anaviso (SPO1 Anaviso) and Forensic Chemist Mayra M. Madria. The defense, on the other hand, presented accused-appellant himself to testify in his behalf.

According to the prosecution, a confidential informant known as "Bong" reported to the Regional Mobile Group, National Capital Regional Command at Camp Bagong Diwa, Taguig, Metro Manila, that an illicit drug trade was being conducted by two (2) drug pushers known as "Dodong Diamond" (herein accused-appellant), and Evita Ebor, whose trust and confidence (sic) had been gained by said confidential informant. A surveillance team was then formed which conducted surveillance on 21 January 2000 and 22 January 2000.

On 24 January 2000, SPO1 Anaviso accompanied by Bong went inside the condominium unit known as Cluster 3-4 D to purchase shabu from accused-appellant. Then on 26 January 2000, a buy-bust operation was conducted with SPO1 Anaviso as *poseur buyer*. Two (2) small plastic bags, suspected to contain shabu, were sold by accused-appellant to SPO1 Anaviso, immediately after which accused-appellant was arrested.

A forensic examination of the substance seized was conducted by Mayra M. Madria who found that the specimen submitted all contained shabu. The Initial Laboratory Report and Physical Science Report were submitted in evidence. The testimonies of SPO1 Anaviso, SPO4 Yee were summed up by the trial court, thus:

On 21 January 2000, a male confidential informant (a.k.a. 'Bong') reported to the Regional Mobile Group (RMG), National Capital Regional Command stationed at Camp Bagong Diwa, Taguig, Metro Manila, an illicit drug trade of two notorious drug pushers identified as alias 'Dodong Diamond' (accused herein) and Evita Ebor whose trust and confidence had been gained by the informant. Acting upon the information received, P/Supt. Jaime Calungsud, Jr. instructed SPO1 Edwin Anaviso (Anaviso, for brevity) and company to develop the said information. The latter, together with Bong, conducted a two-day surveillance and monitoring activity at Little Baguio Gardens Condominium located in RJ Fernandez St., Kabayanan, San Juan, Metro Manila, from 6:00 p.m. of 22 January 2000 to 9:00 a.m. of the following day. The result of the surveillance confirmed Bong's information that people came in and out with different vehicles at wee hours of the night, heading towards Cluster 3-4 D of the said condominium.

On 24 January 2000, Bong accompanied Anaviso to Cluster 3-4 D and was introduced to 'Dodong Diamond' inside the condominium unit. Accused acceded to their offer to buy two hundred and fifty grams. (250g) of shabu at Php150,000.00, but accused asked them to come back on the 26th of January at 11:00 p.m. for the actual exchange.

At around 6:00 p.m. of 26 January 2000, the buy-bust operation against the accused was hatched at the RMG, NCR, Camp Bagong Diwa, Taguig by the Intelligence Operatives which included SPO1 Anaviso as team leader, SPO4 Wilfredo

Yee, SPO1 Samoy, SPO2 Ricardo Concepcion and their superior officer. Two (2) bundles of buy-bust marked money were prepared and given to Anaviso who was designated as poseur buyer. A Nextel cellphone was likewise provided (to) him for a pre-arranged signal (press of a button) to his team once a sale is consummated. SPO4 Wilfredo Yee together with SPO4 Baby Marcelo and SPO1 Samoy were instructed to give assistance (back up) to Anaviso during the buy-bust operation. The briefing lasted up to 9:00 p.m. of said date.

Two private vehicles composed of the two groups proceeded to RJ Fernandez St., Kabayanan, San Juan, Metro Manila. Once in the area, the RMG operatives conducted a final briefing. Anaviso then went alone to Cluster 3-4 D where he was allowed entry by the accused. Anaviso asked for the shabu from the accused and the latter took from the drawer of his table two (2) transparent plastic bags containing white crystalline substance. He weighed them one by one and said "*hayan, parehas yan.*" Anaviso suddenly noticed two (2) guns placed on top of the table and another plastic bag containing shabu inside the drawer. Accused handed the two aforesaid plastic bags to Anaviso. After inspecting the items, Anaviso pulled out of (sic) his bag and handed to the accused the buy-bust money. Simultaneously, he pressed the button of his Nextel cellphone. He immediately introduced himself as a police officer, drew his 9 mm Baretta gun and pointed the same to the accused, informing him of his arrest and his rights under the law. Accused stood up, surprised. The back up team then arrived.

A super .38 caliber with scope, with serial number SNUJ 2252, one (1) magazine with nine (9) live bullets, and a .45 caliber pistol with serial number 1811711 were seized in addition to another plastic sachet of shabu found inside accused (sic) drawer. Accused could not produce pertinent documents as to the lawful possession of the firearms. In the course of the investigation, it was found out that accused[']s real name was Alexis Dindo San Josey Suico.

The defense, on the other hand, claimed that he was framed up. He claimed that he was in the business of buying and selling used cars and was at Little Baguio only because he was selling a car to one Mr. Ong. He stated that he was arrested with Mr. Ong, who was the original suspect but was later released. His testimony were (sic) summed up by the trial court as follows:

Sometime in January 2000, accused was engaged in the business of buying and selling second hand cars under the business name Elorde San Jose Trading, registered in the name of his wife, Ma. Lorita Elorde. He had been engaged in that business for the past ten years. At the time of the incident, he had six cars displayed at his residence

(compound) in Elorde's Complex, Sucat, Parañaque. He advertised his business at the back of each car, indicating thereon his telephone number.

On 26 January 2000, at about 10:00 a.m., accused was at the guardhouse of Little Baguio Condominium in San Juan, Metro Manila, waiting for a certain Mr. Ben Ong (Mr. Ong for brevity), a prospective buyer of accused['s] Nissan Patrol Car Model '92. Three to four days before said date, Mr. Ong, who was a resident of Little Baguio Condominium, called up the accused upon seeing that the latter's car was for sale. He invited the accused to go to Little Baguio Condominium. Mr. Ong also asked the accused to bring the car to the condominium for a test drive. The first time that accused went to said condominium, he was able to talk to Mr. Ong. However, their sale transaction was not consummated because Mr. Ong had a visitor and told the accused that he would just call again.

Upon accused['s] arrival at the vicinity of the said condominium on the 26th of January (the second time that accused went to Little Baguio Condominium), he parked the Nissan Patrol car along the road and proceeded to the guardhouse. The security guard on duty called up Mr. Ong. The latter, together with his wife and son, came down and talked to the accused regarding the aforesaid car which accused was selling at the price of Php450,000.00. Accused also agreed to Mr. Ong's request for a test drive. Mr. Ong and his son drove away the car, leaving the accused at the condominium guardhouse.

Although it was not his practice to entrust the cars he was selling to interested buyers, accused agreed to allow Mr. Ong to test drive his car unaccompanied, since he (accused) knew that Mr. Ong was a resident of Little Baguio Condominium. The latter's family-his wife and children-also lived in the same condominium unit.

After the lapse of an hour that Mr. Ong had not returned, accused contacted him through cellular phone. Mr. Ong told him that he would be late, and that he was still in the bank to withdraw money purposely to pay the accused after a consummated sale. Accused remained at the guardhouse, talking to three security guards. He was not at all alarmed although Mr. Ong was gone for another three to four hours. Mr. Ong's wife even provided snacks for the accused while he was waiting at the guardhouse.

Also during the same period, police operatives arrived in two vehicles (a Toyota Corolla and a van). They barged into the unit of Mr. Ong, looking for the latter. Thereafter, two of them approached a guard and asked for the whereabouts of Mr. Ong. They introduced themselves as regional mobile group