

## THIRD DIVISION

[ G.R. No. 225590, July 23, 2018 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.  
MICHAEL CABUHAY, ACCUSED-APPELLANT.**

### DECISION

**MARTIRES, J.:**

This is an appeal from the 3 July 2015 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR HC No. 06125, which affirmed the 7 March 2013 Decision<sup>[2]</sup> of the Regional Trial Court, Branch 120, Caloocan City (RTC), in Criminal Case No. C-81497, convicting herein defendant-appellant Michael Cabuhay (*Michael*) of the crime of illegal sale of dangerous drugs under Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

### THE FACTS

In two Informations, both dated 21 May 2009, Michael was indicted for violations of Sections 5 and 11, Article II of R.A. No. 9165 for illegal sale and illegal possession of dangerous drugs, respectively. The accusatory portions of the informations read:

Criminal Case No. C-81497 (Violation of Section 5)

That on or about the 19th day of May 2009, in Caloocan City, Metro Manila, and within the jurisdiction of this Honorable Court. the above-named accused, without authority of law, did then and there, willfully, unlawfully and feloniously sell and deliver to PO3 Lauro Dela Cruz, who posed, as buyer, METHYLAMPHETAMINE HYDROCHLORIDE (Shabu) weighing 0.04 gram, a dangerous drug, without the corresponding license or prescription therefor, knowing the same to be such.

CONTRARY TO LAW.<sup>[3]</sup>

Criminal Case No. C-81498 (Violation of Section 11)

That on or about the 19th day of May 2009, in Caloocan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there, willfully, unlawfully and feloniously have in his possession, custody and control One (1) heat-sealed transparent plastic sachet containing METHYLAMPHETAMINE HYDROCHLORIDE (Shabu) weighing 0.04 gram, when subjected for laboratory examination gave positive result to the tests of Methylamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.<sup>[4]</sup>

On 1 July 2009, Michael, with the assistance of counsel, was arraigned and pleaded "not guilty" to the crimes charged.<sup>[5]</sup>

### ***Evidence for the Prosecution***

The prosecution presented four (4) witnesses, namely: PO3 Lauro Dela Cruz (*PO3 Dela Cruz*), the police officer who acted as the poseur-buyer; PO3 Jose Martinez (*PO3 Martinez*), a member of the buy-bust team; Police Chief Inspector Stella Ebuena (*PCI Ebuena*), the forensic chemist; and PO3 Ricardo Montero (*PO3 Montero*), the investigating officer. The defense, however, admitted some of the stipulations offered by the prosecution with respect to the testimonies of PO3 Montero and PCI Ebuena.

PO3 Dela Cruz testified that on 19 May 2009, at around 3:30 p.m., he was at the Caloocan City Police Station at Samson Road, Caloocan City, when their chief, Police Chief Inspector Christopher Prangan (*PCI Prangan*) tasked him, together with SPO1 Julio Lobrin (*SPO1 Lobrin*), PO3 Montero, PO3 Martinez, and PO3 George Ardedon, to plan for a possible buy-bust operation. Apparently, PCI Prangan received a telephone call from a confidential informant telling him about an ongoing sale of *shabu* at the BMBA Compound, Barangay 118, Caloocan City, by a certain alias "*Kongkong*" who was later identified as defendant-appellant Michael Cabuhay.<sup>[6]</sup>

During the planning, PO3 Dela Cruz was designated as the poseur buyer. For this purpose, he prepared two (2) one hundred-peso bills on which he placed the markings "LP" on each upper left portion.<sup>[7]</sup> Thereafter, the team proceeded to the target area.<sup>[8]</sup>

The buy-bust team met with the informant at the target area<sup>[9]</sup> and thereafter proceeded to the BMBA Compound with PO3 Dela Cruz, followed by the other members of the buy-bust team. When he saw Michael, PO3 Dela Cruz and the informant approached him. The informant introduced PO3 Dela Cruz to Michael as the buyer of *shabu*. Michael then asked him how much *shabu* he wanted to buy. PO3 Dela Cruz did not verbally respond; instead, he handed the marked money to Michael who accepted it and put it inside his pocket.<sup>[10]</sup> Michael then took out one (1) plastic sachet from his right pocket and gave it to PO3 Dela Cruz. Upon receiving the sachet, PO3 Dela Cruz scratched his head, the pre-arranged signal for his team to approach. At this point, PO3 Dela Cruz introduced himself as a policeman and arrested Michael. Meanwhile, the other members of the buy-bust team arrived and assisted PO3 Dela Cruz in apprehending Michael.<sup>[11]</sup>

After Michael's arrest, PO3 Dela Cruz and SPO1 Lobrin appraised him of his constitutional rights. Thereafter, PO3 Dela Cruz looked on as SPO1 Lobrin frisked Michael and recovered another plastic sachet containing white crystalline granules from the latter's right pocket. SPO1 Lobrin also recovered the buy-bust money from Michael.<sup>[12]</sup>

Meanwhile, in the same place of arrest, PO3 Dela Cruz placed the markings "MCV/LD BUY BUST" on the subject plastic sachet. PO3 Dela Cruz explained that "MCV" stood for Michael's initials, while the "LD" were his. He further stated that he wrote "05/19/09" on the subject sachet.<sup>[13]</sup> PO3 Del a Cruz likewise claimed that he saw SPO1 Lobrin mark the sachet recovered from Michael's right pocket with "MCV/JL 05-19-09," the initials of SPO1 Lobrin and Michael.<sup>[14]</sup> Thereafter, Michael, as well as the pieces of evidence seized from him, were brought to their office where they were turned over to the investigator.<sup>[15]</sup>

PO3 Dela Cruz identified the accused and the two (2) sachets of illegal drugs before the RTC.<sup>[16]</sup>

PO3 Martinez corroborated the testimony of PO3 Dela Cruz as regards Michael's arrest.<sup>[17]</sup>

As previously stated, the parties entered into stipulations with respect to the testimonies of PO3 Montero and PCI Ebuena. Specifically, as regards PO3 Montero, the parties agreed on the following stipulations:

- (1) That as investigator in these cases, the person of the accused and the pieces of evidence subject matter of the cases were turned over to him;
- (2) That he prepared a Letter Request (Exhibit "A") addressed to the crime laboratory for the examination of the specimen (Exhibit "B") attached thereto;
- (3) That the said specimen has been examined by the Forensic Chemist of the crime laboratory, the result of which was reduced into writing under Physical Science Report No. D-157-09 (Exhibit "C"), yielding positive result to the test for the presence of Methylamphetamine Hydrochloride;
- (4) That he prepared the *Pinagsamang Sinumpaang Salaysay* of the arresting officers, the Booking Sheet and Arrest Report, the Referral Slip, the Pre-Operation Report, the Coordination Sheet, the Evidence Acknowledgment Receipt, and the Affidavit of Attestation;
- (5) That he caused the photocopying of the money used as buy-bust money and that he can identify the same.<sup>[18]</sup>

On cross-examination, PO3 Montero admitted that he did not place his own markings on each of the sachets of illegal drugs. He explained, however, that he placed his markings on another plastic bag wherein he placed all of the pieces of evidence.<sup>[19]</sup>

With respect to the testimony of PCI Ebuena, the parties stipulated on the following

facts, to wit:

- (1) That the witness is an expert witness;
- (2) That on May 19, 2009, she is in receipt of (Exhibit "A") Request for Laboratory Examination of one (1) unsealed plastic sachet with SAID-SOTG EVIDENCE dated 05-19-09 markings containing two (2) pieces of small heat-sealed transparent plastic sachet containing a white crystalline substance believed to be *shabu* with markings MCV/LD (Buy-bust) and MCV/JL, both dated 05-19-09; Exhibit "B," Brown envelope with markings D-15709 "A-1" SGE 5119/09; Exhibit "B-1," plastic sachet; Exhibit "B-2-a," white crystalline substance;
- (3) That she conducted a laboratory examination on the specimen submitted to their office, the result of which she reduced in writing as evidenced by Physical Science Report No. D-157-09 (Exhibit "C"); the findings as (Exhibit "C-1") and the signatures as (Exhibit "C-2").<sup>[20]</sup>

### ***Evidence for the Defense***

On its part, the defense presented Michael himself, his mother Aurora Cabuhay (*Aurora*), and Conrado Bungay (*Conrado*), Michael's stepfather. Their combined testimonies sought to establish Michael's innocence, as follows:

On 18 May 2009, at around four o'clock in the afternoon, Michael was in a drinking session with his two friends in front of his house when five (5) men arrived. Three of the men were SPO1 Lobrin, PO3 Dela Cruz, and a certain Roland Mateo, their neighbor and also a police officer.<sup>[21]</sup> The men inquired about the whereabouts of one Erwin Villar, Michael's uncle. Immediately, one of the men whom Michael identified as SPO1 Lobrin frisked and handcuffed him. He was boarded in a black car and brought to the Sangandaan Police Station where he was detained. Despite his claim that nothing was taken from him, the men insisted that they were able to buy and confiscate an illegal substance from him.<sup>[22]</sup> He only learned the following day that he was being charged for violation of Sections 5 and 11 of R.A. No. 9165.<sup>[23]</sup>

Conrado and Aurora corroborated Michael's claim that he was just drinking in front of his house when he was suddenly apprehended by several policemen.<sup>[24]</sup>

### ***The RTC Ruling***

In its decision, the RTC acquitted Michael of violation of Section 11, R.A. No. 9165 for illegal possession of dangerous drugs (Criminal Case No. C-81498), but found him guilty for violation of Section 5 of R.A. No. 9165 for illegal sale of dangerous drugs (Criminal Case No. C-81497).

As to Michael's acquittal in Criminal Case No. 81498, the trial court opined that the prosecution failed to establish an unbroken chain of custody with respect to the heat-sealed transparent plastic sachet subject of the criminal case for illegal possession of dangerous drugs. The trial court reasoned that without the testimony of SPO1 Lobrin who allegedly frisked Michael and seized from him the plastic sachet,

the identity of the dangerous drug was not established with reasonable certainty and the prosecution's theory on the crime had no leg to stand on.

On the other hand, with respect to Michael's conviction in Criminal Case No. 81497, the trial court was convinced that the prosecution was able to establish all the essential elements of the illegal sale of dangerous drugs. It gave full faith and credence to the version of the prosecution noting that unless there is a clear and convincing proof that the members of the buy-bust team were animated by improper motive or were not properly performing their duty, the testimonies of the witnesses-law enforcers deserve full faith and credit.

The dispositive portion of the RTC decision reads:

Premises considered, this Court finds and so holds that:

(1) In Crim. Case No. C-81497, accused Michael Cabuhay y Villar GUILTY beyond reasonable doubt for violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and imposes upon him the penalty of Life Imprisonment and a fine of Five Hundred Thousand Pesos (P500,000.00).

(2) In Crim. Case No. C-81498, the accused MICHAEL CABUHAY is hereby ACQUITTED.

The drugs subject matter of these cases are hereby confiscated and forfeited in favor of the government to be dealt with in accordance with law.

SO ORDERED. [25]

Aggrieved, Michael elevated an appeal before the CA.

### ***The CA Ruling***

In its assailed decision, the CA dismissed Michael's appeal effectively affirming the RTC decision. The appellate court concurred with the trial court's assessment that the prosecution was able to prove all the elements of the crime of illegal sale of dangerous drugs. It further opined that the prosecution was able to preserve the integrity and evidentiary value of the seized item subject of the illegal sale of dangerous drugs. The dispositive portion of the appealed decision reads:

We DISMISS the appeal.

SO ORDERED. [26]

Hence, this appeal.