

THIRD DIVISION

[G.R. No. 219582, July 11, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BENITO PALARAS Y LAPU-OS, ACCUSED-APPELLANT.**

DECISION

MARTIRES, J.:

On automatic appeal is the 29 January 2015 Decision^[1] of the Court of Appeals (CA), in CA-G.R. CR HC No. 01758, which affirmed the 14 November 2013 Decision^[2] of the Regional Trial Court (RTC), Branch 69, Silay City, in Criminal Case Nos. 8561-69 and 8562-69. The RTC found accused-appellant Benito Palaras y Lapu-os (*accused-appellant*) guilty beyond reasonable doubt of the charges against him, and sentenced him with life imprisonment and a fine of P500,000.00 for violating Section 5, Article II of Republic Act No. 9165^[3] (*R.A. No. 9165*).

THE FACTS

Two Informations filed on 13 March 2012 charged accused-appellant with violation of Sections 5 and 11, respectively, of Article II of R.A. No. 9165, viz:

CRIMINAL CASE NO. 8561-69

That on February 22, 2012 in Silay City, Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously sell one sachet of *shabu* marked as "BIT1", a prohibited drug, to an asset of the Silay City PNP posing as a poseur buyer in exchange for two One hundred peso bills with serial numbers SQ914777 & ZE353426 and one fifty peso bill with serial number SB019053, all marked with an underline at the last digit of each serial number.

CONTRARY TO LAW.^[4]

CRIMINAL CASE NO. 8562-69

That on February 22, 2012 in Silay City, Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there wilfully, unlawfully and feloniously have in his possession and control four sachets of *shabu* marked as Bit2, Bit3, Bit4, & Bit5, a prohibited drug, without any license or permit to possess the same.

CONTRARY TO LAW.^[5]

Upon arraignment, accused-appellant pleaded not guilty. The two cases were jointly tried.

Version of the Prosecution

The Office of the Solicitor General (OSG) summarized the prosecution's case as follows:

The Intelligence Section of the Philippine National Police of Silay City (*PNP-Silay City*) received reports that a certain Benito Palaras y Lapu-os a.k.a. "Bitoy," a resident of Sitio Matagoy, Barangay Rizal, Silay City, was actively engaged in selling *shabu* in the said area together with his brother, Joemarie Palaras, who had been previously arrested for a similar offense.

Pursuant to the said reports, P/Supt. Rosauro B. Francisco, Jr., the Chief of Police of PNP-Silay City, ordered surveillance, monitoring, and casing operation on accused-appellant. A test-buy operation was then undertaken with the use of a confidential asset, who acted as the poseur-buyer. A sachet of *shabu* was purchased by the poseur-buyer from accused-appellant for the sum of Two Hundred Fifty Pesos (P250.00). The item purchased from the accused-appellant in said test-buy was brought to the PNP Crime Laboratory of the Negros Occidental Provincial Police Office (*NOPPO*) on 14 December 2011. The contents of the said plastic sachet was "positive" for methamphetamine hydrochloride (*shabu*), a dangerous drug, as shown in Chemistry Reprim1No. D-241-2011.

A buy-bust operation was thus set on 22 February 2012, to be conducted by the same police unit on accused-appellant Palaras. Two (2) P1 00-peso bills and a P50-peso bill were marked by underlining the last digit of the serial numbers on each of them. The same were subscribed to before Prosecutor Ma. Lisa Lorraine H. Atotubo as the money to be used in said buy-bust operation. This was entered in the blotter of the PNP-Silay City as Entry No. 024885.

The planned buy-bust operation was coordinated with the Philippine Drug Enforcement Agency (*PDEA*), Regional Office 6. A pre-operation report and coordination form were likewise issued. Details of the operation were planned at a short briefing in the office of the Intelligence Section of the PNP-Silay City. The members of the buy-bust operation team were PO2 Reynaldo Bernil, Jr. (*PO2 Bernil*), PO2 Ian Libo-on (*PO2 Libo-on*), and a number of civilian agents of the police unit, with PO2 Bernil as the lead police officer.

The marked bills were given by PO2 Bernil to the confidential asset, who was to act as the poseur-buyer. The poseur-buyer proceeded to Burgos Street, Barangay Rizal, Silay City, ahead of the other members of the buy bust team, to meet accused-appellant. The poseur-buyer was instructed to immediately call PO2 Bernil the moment he saw accused-appellant at the said place. Shortly after the poseur-buyer made the call that he had already seen accused-appellant in the area, the other members of the buy-bust team proceeded there. They positioned themselves a few meters away from where the poseur-buyer was, such that their presence would not be noticed by accused-appellant but sufficient for them to clearly see him and the poseur-buyer.

The poseur-buyer approached a person seated in a tricycle parked on the street.

Since the farmer was a previous customer of accused-appellant, Palaras did not become suspicious. The poseur-buyer took out from this pocket the marked bills and handed them to accused-appellant, who readily received the bills and placed them in his pocket. Accused-appellant, thereafter, took something from his pocket and gave it to the poseur-buyer. As they parted ways, the poseur-buyer gave the pre-arranged signal that the sale had already been consummated by placing his right hand on top of his head. The other members of the buy-bust team, specifically PO2 Bernil, SPO1 Rayjay Rebadomia (*SPO1 Rebadomia*), and PO2 Libo-on, hurriedly proceeded towards accused-appellant who, upon noticing the approaching police officers, attempted to escape but was promptly apprehended.

PO2 Bernil searched the body of accused-appellant and recovered from the left pocket of his pants the marked bills, as well as four (4) small heat-sealed transparent plastic sachets containing white crystalline substances. PO2 Bernil handed these transparent plastic sachets to PO2 Libo-on, who marked them as "BIT2," "BIT3," "BIT4," and "BIT5," respectively.

On the other hand, the poseur-buyer handed to PO2 Bernil a small heat-sealed transparent plastic sachet containing a crystalline substance which the former received from accused-appellant. PO2 Bernil, in turn, handed it to PO2 Libo-on which the latter marked as "BIT1," the buy-bust item.

Accused-appellant and the items recovered from him were then brought to the police station of the PNP-Silay City. An inventory was made of the seized items from accused-appellant which he signed. The said inventory was witnessed by, among others: Councilor Ireneo Celis, media representative Ed Gumban, Kagawad Noel Lacson, and DOJ representative Danilo Tumlos.

Thereafter, the marked plastic sachets were brought to the PNP Crime Laboratory NOPPO at Bacolod City, for laboratory examination.

Chemistry Report No. D-049-2012^[6] was issued by Police Inspector Hernand Gutierrez Donado, a forensic chemist, showed that "BIT1" had a net weight of 0.2 gram, and "BIT2," "BIT3," "BIT4," and "BIT5" had a net weight of 0.01 gram each, with an aggregate weight of 0.06 gram. Said report found that all the aforementioned specimen tested "positive" for methamphetamine hydrochloride (*shabu*), a dangerous drug.^[7]

Version of the Defense

Accused-appellant testified that on 22 February 2012, at around 4:00 P.M., he was inside a private tricycle at Kahilwayan, Brgy. 2, Silay City. While he was conversing with his friends, two armed men in civilian clothes approached him, aimed a gun at him, and handcuffed him. He resisted and asked them why he was being arrested as he had done nothing wrong. No answer was given and he was forcibly held in front of the jeep. To his surprise, one of the police officers inserted his hand on accused-appellant's pocket and eventually made a search. Accused-appellant resisted the body search as his pockets had holes in them; however, the police authorities persisted.

Accused-appellant further testified that during the search, a Tanduay Rum bottle cap

dropped to the ground, but he had no idea where it came from. Subsequently, he was made to board a green multicab and taken to the police station. At the station, he saw a small transparent plastic sachet on the table and was astounded when police authorities told him that the transparent sachet was found inside the bottle cap, evidence that he was in possession of an illegal drug. He further testified that a photographer arrived and took the P250.00 from his pocket and placed it on the table. Photographs were taken and accused-appellant was forced to sign the certificate of inventory being informed by the authorities that another case would be filed against him if he refused to sign the document.

Jenny Casiano, accused-appellant's niece, claimed that on 22 February 2012, a neighbor called her while she was at home watching TV. She ran outside and there she saw her uncle, accused-appellant, being held forcefully by the police officers. Accused-appellant asked for her help. Jenny narrated that she was dragged by the police officers away from her uncle.

Jenny also claimed that while her uncle was being handcuffed, a bottle cap was inserted by PO2 Bernil into her uncle's pocket. She observed that the bottle cap contained a small transparent sachet which fell to the floor and which PO2 Bernil picked up. After the body search, the crowd applauded as the seized items were seen to have been purposely placed in accused-appellant's pocket. Jenny did not go with her uncle when the latter was brought to the police station, but she immediately reported the incident to her father.^[8]

The RTC Ruling

The RTC convicted accused-appellant for violation of Section 5 and Section 11, Article II, of R.A. No. 9165.

The dispositive portion reads:

WHEREFORE, PREMISES CONSIDERED:

In Criminal Case No. 8561-69, this Court finds accused, BENITO PALARAS y [LAPU-OS], a.k.a. "BITOY," GUILTY of "Violation of Section 5, Article II of Republic Act No. 9165" (The Comprehensive Dangerous Drugs Act of 2002), as his guilt had been proven by the prosecution beyond reasonable doubt.

Accordingly, this Court sentences accused, BENITO PALARAS y [LAPU-OS] a.k.a. "BITOY," to suffer the penalty of Life Imprisonment, the same to be served by him at the National Penitentiary, Muntinlupa City, Rizal.

Accused, Benito Palaras y [Lapu-os], a.k.a. "Bitoy" is, further, ordered to pay a fine of P500,000.00.

In Criminal Case No. 8562-69, this Court finds accused, BENITO PALARAS y [LAPU-OS], a.k.a. "BITOY," guilty of Violation of Section 11, Article II of Republic Act No. 9165 (The Comprehensive Dangerous Drugs Act of 2002), as the Prosecution had proven his guilt for said crime beyond any reasonable doubt.

Accordingly, and in application of the pertinent provisions of the Indeterminate Sentence Law, this Court sentences accused. BENITO PALARAS y [LAPU-OS], a.k.a. "BITOY," to suffer the penalty of imprisonment for a period of from TWELVE (12) YEARS and ONE (1) DAY as Minimum, to SEVENTEEN (17) YEARS and FOUR (4) Months as maximum, the same to be served by him at the National Penitentiary, Muntinlupa City, Rizal.

Accused named is, further, ordered to pay a line of P400,000.00.

In the service of the sentences imposed by this Court on accused, Benito Palaras y [Lapu-os], a.k.a. "Bitoy," his period of detention pending trial of this case shall be credited in his favor.

Accused, Bentito Palaras y [Lapu-os] a.k.a. "Bitoy" is, in the meantime, remanded to the custody of the Jail Warden of the Bureau of Jail Management and Penology (BJMP), Silay City, Negros Occidental, pending his transfer to the National Bilibid Prisons, where he shall serve the sentence imposed on him by the Court.

The one (1) small heat-sealed transparent plastic sachet containing white crystalline substances in it of methamphetamine hydrochloride ("*Shabu*") subject of the buy-bust operation on the accused and the four (4) small heat-sealed plastic sachets, likewise, containing methamphetamine hydrochloride ("*Shabu*") on them, with a total weight of 0.6 grams, are ordered remitted to the Philippine Drug Enforcement Agency (PDEA), Negros Occidental Police Office, Camp Alfredo Montelibano, Bacolod City, tor proper disposition.

NO COSTS.

SO ORDERED.^[9]

In rendering its judgment of conviction, the RTC ruled that the sale and possession by accused-appellant of the drug were sufficiently established by the prosecution, and the identity and integrity of the drug seized were duly preserved.

Aggrieved, accused-petitioner elevated an appeal to the CA.

The CA Ruling

The CA denied the appeal and affirmed the decision of the RTC, viz:

WHEREFORE, in view of all the foregoing, the appeal is **DENIED**. The Decision of the Regional Trial Court, Branch 69, Silay City dated November 14, 2013 in Criminal Cases Nos. 8561-69 and 8562-69 is hereby **AFFIRMED**.

SO ORDERED.^[10]

Hence, the present appeal.

ISSUE