

FIRST DIVISION

[G.R. No. 206229, February 04, 2015]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AMY DASIGAN Y OLIVA, ACCUSED-APPELLANT.

D E C I S I O N

PEREZ, J.:

Before the Court is a notice of appeal assailing the Decision dated 23 July 2012 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04845,^[1] which affirmed the Decision dated 7 January 2011 of the Regional Trial Court (RTC), La Trinidad, Benguet, Branch 8 in Criminal Case Nos. 07^[2]-CR-6702 and 07^[3]-CR-6703,^[4] finding accused-appellant Amy Dasigan y Oliva (accused-appellant) guilty beyond reasonable doubt of illegal possession and illegal sale of *shabu* under Sections 11 (3) and 5, Article II of Republic Act No. 9165 (R.A. No. 9165) or the *Comprehensive Dangerous Drugs Act of 2002*.

In Criminal Case No. 07-CR-6702, the accused-appellant was charged with violation of Sec. 11 (3), Art. II of R.A. No. 9165, as follows:

That on or about the 9th day of December 2006, at Bayabas, Municipality of La Trinidad, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and knowingly have in her possession, control and custody a total of 0.28 grams (sic) of Methamphetamine Hydrochloride also known as "shabu", a dangerous drug, in violation of the said law. ^[5]

In Criminal Case No. 07-CR-6703, on the other hand, the accused-appellant was charged with violation of Sec. 5, Art. II of R.A. No. 9165, to wit:

That on or about the 9th day of December, 2006, at Barangay Bayabyas, Municipality of La Trinidad, Province of Benguet, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without any authority by law, did then and there willfully, unlawfully and knowingly deliver and sell to PO2 ARIELTINO G. CORPUZ, a member of the Philippine Drug Enforcement Agency who acted as a poseur-buyer, 0.15 grams (sic) of Methamphetamine Hydrochloride also known as "shabu", a dangerous drug, in violation of the said law. ^[6]

Upon arraignment, accused-appellant, assisted by counsel, pleaded not guilty to

both of the charges.^[7] Trial on the merits followed, and the two cases were heard jointly.

As comprehensively summarized by the RTC, the version of the prosecution is as follows:

On December 5, 2006, at the Philippine Drug Enforcement Agency (PDEA) office, Melvin Jones Grandstand, Harrison Road, Baguio City, a male confidential informant reported to Police Chief Inspector Luisito Meris that a certain alias "Amy" is engaged in delivering Methamphetamine Hydrochloride, also known as "Shabu" within the vicinity of the La Trinidad Trading Post at Km. 5, La Trinidad, Benguet. Those present at the office were PO2 Arieltino Corpuz, SPO2 Cabily Agbayani and SPO1 Bernardo Ventura and they all heard this piece of information. PCI Meris relayed the information to the PDEA Regional Director, Col. Inmodias and the latter formed a team tasked to conduct the operation against alias "Amy" and cause her eventual arrest. PCI Meris was designated Team Leader and PO2 Corpuz, SPO2 Agbayani and SPO1 Ventura were tasked as arresting officers.

The team leader, PCI Meris then directed PO2 Corpuz and the confidential informant to conduct surveillance within the vicinity of the La Trinidad Trading Post at Km. 5, La Trinidad, Benguet and look in to the activities of alias "Amy".

Thus, the following day, December 6, 2006, PO2 Corpuz and the confidential informant met at 4:00 o'clock in the morning within the premises of the Benguet General Hospital as the informant stated that the activities of alias "Amy" were always done in the morning. PO2 Corpuz and the confidential informant walked to the La [Trinidad] Trading Post and the former told the latter that if alias "Amy" would come, he (informant) should go near her so he (PO2 Corpuz) could meet her. Indeed at around 4:30 o'clock in the morning, a woman named "Amy" arrived and the confidential informant met and talked to her before he called PO2 Corpuz. PO2 Corpuz was introduced to "Amy" as the buyer of "shabu". "Amy" said she had something else to do and so she just gave PO2 Corpuz her cell phone number. PO2 Corpuz then went back to their office leaving the confidential informant at the La Trinidad Trading Post.

On December 8, 2006, PO2 Corpuz called "Amy" and asked her regarding their transaction as he was willing to buy "shabu" worth two thousand pesos (PHP 2,000.00). "Amy" said she will deliver the shabu the following day, December 9, 2006 at 6:00 o'clock in the morning at the vicinity of the La Trinidad Trading Post.

On December 9, 2006 at about 4:00 o'clock in the morning, the team already designated by the Regional Director proceeded first to the La Trinidad Police Station which was just in front of the La Trinidad Trading Post at Km. 5, La Trinidad, Benguet to coordinate with the local police before going to the rendezvous area. On instruction of Team Leader PCI Meris, PO2 Corpuz called "Amy" and told her he was already at the La

Trinidad Trading Post. However, "Amy" said that she could not make it as she was doing something and asked him to see her at 4:00 o'clock that afternoon. He agreed to her plan and so the team went back to their office.

At around 4:00 o'clock in the afternoon of the same day, the team went back to the La Trinidad Trading Post and again PO2 Corpuz called "Amy" through her cell phone. "Amy" answered and directed PO2 Corpuz to go to the road leading to Bayabas, La Trinidad, Benguet and she would deliver the "shabu" there. The team proceeded as directed and PO2 Corpuz as the poseur-buyer with PHP 2,000.00 in his possession positioned himself at the entrance of the road leading to Bayabas while the rest of the team stayed at a place where they could see the transaction going on. PCI Meris stationed himself at the alley beside a store and from his vantage point, he could see the arresting officers, SPO2 Agbayani and SPO1 Ventura but he could not actually see PO2 Corpuz.

Thirty minutes later, "Amy" arrived. She brought what appeared to be small transparent plastic sachets containing white crystalline substance, picked out two sachets (*Exhibits "C" and "C-1"*) and gave it to PO2 Corpuz. He asked whether the items were of good quality to which "Amy" answered that those were "first class". He pressed the white crystals and right away it crumbled into powdery substance and he suspected that the substance was "shabu". "Amy" then demanded the payment of Two Thousand Pesos. He was ready with the amount but he was instructed that once the "shabu" was given to him, he need not hand the money any longer. Thus, PO2 Corpuz placed the two sachets in his pant[s] pocket and held Amy's right hand and announced "Pulis ako!" This was the pre-arranged signal and so the rest of the team rushed to the scene and SPO1 Ventura held "Amy" while SPO2 Agbayani told her her constitutional rights. PCI Meris then told "Amy" to empty her pockets. "Amy" complied and PCI Meris saw her actually bringing out her cell phone and four sealed sachets (*Exhibits "D", "D-1", "D-2" and "D-3"*) each containing a white substance similar to the ones she handed to PO2 Corpuz. PO2 Corpuz then got the sealed sachets and he turned over all the six sachets, the two sachets sold to him and the four sachets which "Amy" brought out from her pocket, as well as the cell phone to the team leader PCI Meris. PCI Meris then held on to the items as they went to the La Trinidad Police Station.

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"Amy" was then brought to the La Trinidad Police Station purposely for the case to be entered in the police blotter. The team with the accused in tow went back to the PDEA Office at Melvin Jones Grandstand, Harrison Road, Baguio City where she was booked and a Booking Sheet and Arrest Report (*Exhibit "F", page 95, Rollo, Criminal Case No. 6702*) was prepared. She was then identified as Amy Dasigan, the accused in this case. PCI Meris brought out the seized items and directed his team members to put their initials on said items. When asked why the initials were not indicated on the plastic sachets at the time of the arrest, PCI

Meris explained that Bayabas, La Trinidad, Benguet, is a notorious place based on his personal knowledge as he grew up in La Trinidad, Benguet as well as based on statistics of the PNP of La Trinidad, Benguet. Being a notorious place and fearing that the accused may have some back-up, he deemed it best that the marking be done in their office and so they left the place right after the arrest of the accused.

PO2 Corpuz, SPO1 Ventura and SPO2 Agbayani each placed their initials on all the plastic sachets containing suspected "shabu". The initials CJA was for Cabily J. Agbayani; the initials AGC for Arieltino G. Corpuz and the initials BAV for Bernardo A. Ventura. "Amy" was in the office witnessing the men as they placed their initials. After placing their initials on the items seized, PCI Meris turned over the seized items to the Evidence Custodian of PDEA-CAR, SPO3 Romeo L. Abordo, Sr.

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SPO3 Romeo Abordo then prepared the inventory of the seized items (*Exhibits "B" and "B-1", page 94, Rollo, Criminal Case No. 6702*), consisting of two small heat-sealed transparent plastic sachets containing white crystalline substance and bearing the initials CJA, AGC and BAV, four small heat-sealed transparent plastic sachets containing white crystalline substance also bearing the initials CJA, AGC and BAV and one Nokia cell phone with a SIM card. The inventory was done in the presence of Pros. Gondayao of the Benguet Provincial Prosecutor's Office, the accused, and elected official and a member of the media. SPO3 Abordo testified that the cell phone was no longer functioning as although they tried to charge it, it could not be charged.

On December 10, 2006, SPO3 Abordo brought the request for laboratory examination (*Exhibit "G", page 96, Rollo, Criminal Case No. 6702*) together with the confiscated items (*Exhibits "C", "C-1", "D", "D-1", "D-2", "D-3"*) to the PNP Crime Laboratory where it was received by PO1 Joseph Andrew P. Dulnuan.

PO1 Dulnuan of the PNP Crime Laboratory received the items from SPO3 Abordo. He compared the items listed in the request with the items he received and finding it accurate, he placed a control number on the request, Control No. 329-06, logged in the request and accepted the turned-over items (*Exhibit "G-1", page 96, Rollo, Criminal Case No. 6702*). PO1 Dulnuan then turned over these same items to Forensic Chemist PSInsp. Edward Gayados.

PSInsp. Edward Gayados is the forensic chemical officer of the PNP Crime Laboratory at Camp Dangwa, La Trinidad, Benguet. On December 10, 2006, he received from PO1 Dulnuan a request from the PDEA-CAR for the conduct of a laboratory examination on suspected "shabu". The items turned over to him by PO1 Dulnuan were two heat-sealed transparent plastic sachets containing white crystalline substance (*Exhibits "C" and "C-1"*) and four heat-sealed transparent plastic sachets containing white crystalline substance (*Exhibits "D", "D-1", "D-2" and "D-3"*). All the plastic sachets contained the initials CJA, AGC and BAV.

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SPInsp. Gayados then marked each specimen submitted indicating the case number assigned by their office, the date of the examination and his initials. His findings were placed in writing under Chemistry Report No. D-056-06 (Exhibits "I" and "I-1", page 7, Rollo, Criminal Case No. 6703) and his findings and conclusion state "Qualitative examination conducted on the above-stated specimens "A & B" gave POSITIVE result to the tests for the presence of Methamphetamine hydrochloride, a dangerous drug. xxx Specimens "A & B" contain Methamphetamine hydrochloride, a dangerous drug.xxx" (*Exhibit "I-2"*). [8]

The defense's version, on the other hand, is as follows:

On December 8, 2006, she was at home when PDEA agents went to their house at around 10:00 o'clock in the morning. She knew them as PDEA agents as her sister-in-law Norma Domingo accompanied them when somebody was arrested in Bayabas sometime before that day. In fact, the agents even dropped by their house and so they knew where she lived. She identified the agents as Corpuz, Meris and Agbayani. These agents told her that her daughter Ghel was in their office as she was caught in possession of "shabu". She then went with the PDEA agents and she saw her daughter Ghel in the PDEA vehicle but she was not able to talk to her. She was then brought to the PNP Office at Camp Dangwa, La Trinidad, Benguet where she was shown the "shabu" after which she was brought to the PDEA Office at Melvin Jones Grandstand, Harrison Road, Baguio City. She then saw her daughter and the PDEA agents talking after which the PDEA accompanied her daughter to get her sister-in-law Norma Domingo as it was the latter who told the daughter of the accused to deliver the "shabu" to the La Trinidad Trading Post. Later that evening, her daughter came back with Norma Domingo. The accused was not able to talk to her sister-in-law before the latter was transferred to Camp Dangwa as according to the PDEA agents, they could not be together. The accused stated that her sister-in-law had always been arrested for possession of "shabu" but she was always freed. But this time, the PDEA agents told her that she was being arrested as they insisted that the "shabu" came from her. She further insists that she was arrested on December 8, 2006 and not December 9, 2006 as claimed by the PDEA agents and she was eventually brought to jail on December 11, 2006. She denies that she could not have texted PO2 Corpuz as she does not have her own cell phone and she and her husband share just one cell phone. She surmised that the PDEA agents may have sent the text messages to her daughter's cell phone.

Ghel Dasigan, the daughter of the accused is 15 years old. She testified that Norma Dasigan Domingo is her aunt, the latter being the sister of his father. On December 6, 2006, she was with her Aunt Norma at their house in Apugan, Green Valley, Baguio City as she was to go down to Manila with her aunt to buy gifts. At around 9:00 o'clock in the morning