

## THIRD DIVISION

[ G.R. No. 209338, June 29, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
BIENVENIDO MIRANDA Y FELICIANO, ACCUSED-APPELLANT.**

### DECISION

**VILLARAMA, JR., J.:**

Before this Court is an appeal from the May 16, 2013 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR HC No. 04547, which affirmed the May 13, 2010 Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Angeles City, Branch 57, finding accused-appellant Bienvenido Miranda y Feliciano (appellant) guilty beyond reasonable doubt of violation of Sections 5<sup>[3]</sup> and 11,<sup>[4]</sup> Article II of Republic Act (R.A.) No. 9165.<sup>[5]</sup>

The case stemmed from two Informations both dated July 14, 2003, charging appellant with the crimes of violation of Sections 5 and 11, Article II, of R.A. No. 9165 for illegal sale and possession of methylamphetamine hydrochloride or *shabu*, the accusatory portions of which read as follows:

#### **Criminal Case No. DC-03-316**

That on or about the 11<sup>th</sup> day of July, 2003, in the municipality of Mabalacat, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not having [been] lawfully authorized and/or permitted, did then and there [willfully], unlawfully and feloniously have in his possession, control and custody Seven Hundred Fifty Nine Ten Thousandth (0.0759) of a gram of methylamphetamine hydrochloride, (*shabu*), a dangerous drug.

Contrary to law.<sup>[6]</sup>

#### **Criminal Case No. DC-03-317**

That on or about the 11<sup>th</sup> day of July, 2003, in the municipality of Mabalacat, province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, BIENVENIDO MIRANDA y FELICIANO not having been lawfully authorized and/or permitted for and in consideration of the sum of Two Hundred (P200.00) Pesos, Philippine Currency, did then and there [willfully], unlawfully and feloniously sell and deliver to a poseur buyer Three Hundred Sixty Three Ten Thousandth (0.0363) of a gram of methylamphetamine hydrochloride (*shabu*), a dangerous drug.

Contrary to law.<sup>[7]</sup>

Upon arraignment, appellant pleaded not guilty to both charges.

At the pre-trial, stipulations were made: (1) as to the identity of the appellant; (2) that the appellant was also known as Dawie; (3) that the substance was given to the Philippine National Police (PNP) Crime Laboratory for examination pursuant to the letter request coming from the Philippine Drug Enforcement Agency (PDEA), Region III Office; (4) that the PNP Crime Laboratory issued a Chemistry Report with regard to the examination; and (5) that as per the Chemistry Report,<sup>[8]</sup> the substance examined turned out to be positive for methylamphetamine hydrochloride or *shabu*.<sup>[9]</sup>

Trial on the merits ensued.

The prosecution, through the testimonies of witnesses Police Chief Inspector Manuel Chica (P/CI Chica) of PDEA-Region 3 and Barangay Chairman Marcelino Cruz (Chairman Cruz) of San Francisco, Mabalacat, Pampanga, established the following:

Based on a tip from a confidential informant that a certain alias "Dawie" who would later on be identified as the herein appellant is actively engaged in the selling of *shabu* in Purok Roxas, Dau, Mabalacat, Pampanga, P/CI Chica immediately formed a team composed of Chairman Cruz and Police Officer 2 Richard Lambino (PO2 Lambino) to conduct a buy-bust operation on July 11, 2003. P/CI Chica himself was designated as the poseur-buyer. He prepared the buy-bust money consisting of two (2) one hundred peso bills<sup>[10]</sup> which he marked by placing a dot on the forehead of the picture of the late President Manuel A. Roxas printed on the said bills.<sup>[11]</sup>

At around 4:30 p.m. of the same date, the team proceeded to the target area.<sup>[12]</sup> The members of the team strategically positioned themselves around the area as P/CI Chica and the informant approached appellant. The informant introduced P/CI Chica to appellant as the buyer of *shabu*. Appellant readily handed to P/CI Chica a plastic sachet containing suspected *shabu* and in return, P/CI Chica paid appellant the marked money. When P/CI Chica made the pre-arranged signal, the other members of the team rushed to the scene. He then introduced himself as a police officer to appellant. Appellant tried to flee, but Chairman Cruz was able to grab him by his left hand and recover another plastic sachet of suspected *shabu*. Then the police officers asked appellant to empty his pockets and they recovered the marked money from him. Thereafter, they immediately brought appellant together with the seized drugs to the PDEA office for investigation.<sup>[13]</sup>

At the PDEA office, P/CI Chica and Chairman Cruz, among others, prepared the Receipt of Property Seized/Confiscations<sup>[14]</sup> which appellant refused to sign. P/CI Chica marked the sachet bought from appellant with the markings "MCC<sup>[15]</sup> BFM<sup>[16]</sup> Exhibit A" while the sachet recovered by Chairman Cruz from appellant was marked as "MCC BFM B."<sup>[17]</sup> P/CI Chica also prepared a Request for Laboratory Examination<sup>[18]</sup> dated July 11, 2003 indicating that "MCC BFM Exhibit A" weighed at approximately 0.0363 gram while "MCC BFM B" weighed at approximately 0.0759 gram. PO2 Lambino brought the said Request and the two specimens to the PNP

Crime Laboratory.<sup>[19]</sup> The result of the laboratory examination of the submitted two (2) specimens as contained in Chemistry Report No. D-324-2003<sup>[20]</sup> dated July 12, 2003 yielded a positive result to the test for methylamphetamine hydrochloride.

Chairman Cruz also testified that he was deputized by PDEA-Region 3 to assist in anti-drug operations in its area of responsibility. He corroborated P/CI Chica's testimony on the details and circumstances of the aforementioned buy-bust operation.<sup>[21]</sup>

On the other hand, the defense gave a different version of the story.

Appellant denied the offenses charged. He narrated that while he was on his way home from his work at Dau Supermart, Marina Arcade at around 4:00 p.m. of July 11, 2003, he saw the two (2) cars from which the persons who arrested him alighted when he reached the corner of Roxas Street. He recognized one of those who handcuffed him as one Major Chica. He asked Major Chica the reason for his arrest, and the latter replied that the police officers were able to buy *shabu* from him. He posited that it was not possible for him to have sold *shabu* to them because he had just come from work and that he saw them only at the corner of Roxas Street. Appellant stressed that there were several people who witnessed the incident, but they were afraid of narrating the actual events because the police officers poked their guns at them. He added that even the barangay chairman of Roxas, Dau, one Dominador "Doming" Paniza, saw the incident but he, too, was afraid of the police officers. Appellant added that he was subsequently detained at a PDEA safehouse in Barangay San Francisco, Mabalacat, Pampanga and was later charged with violation of Sections 5 and 11, Article II of R.A. No. 9165.<sup>[22]</sup>

On May 13, 2010, the RTC rendered a Decision<sup>[23]</sup> holding that the narration of P/CI Chica as corroborated by Chairman Cruz proved that appellant indeed committed the crimes and that all the elements thereof are present. The RTC opined that the appellant's sole defense of denial cannot prevail over the positive and direct assertions of the prosecution witnesses. The RTC also noted that the appellant failed to show the motive of the police officers when they arrested him. Thus, the RTC disposed of the case in this wise:

WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt, the Court finds accused BIENVENIDO MIRANDA y FELICIANO GUILTY beyond reasonable doubt, and hereby sentences him to suffer the penalty of LIFE IMPRISONMENT in Criminal Case No. DC 03-317 for Violation of Section 5, R.A. 9165 and a fine of Php 500,000.00.

Accused BIENVENIDO MIRANDA y FELICIANO is also sentenced to suffer the penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY, as minimum, to FOURTEEN (14) YEARS, as maximum, of Reclusion Temporal and a fine of Php 300,000.00 for Violation of Section 11, in Criminal Case No. DC 03-316 of R.A. 9165.

SO ORDERED.<sup>[24]</sup>

Appellant through the Public Attorney's Office (PAO) sought recourse from the CA. [25] The PAO averred, among others, that the testimonies of the prosecution witnesses are contradictory and conflicting; that it appears from the testimony of P/CI Chica that the one who determined the propriety of conducting the buy-bust operation was the civilian informant; that the prosecution failed to present any document proving that indeed Chairman Cruz is a duly designated agent of the PDEA; and that appellant's guilt was tainted with reasonable doubt because the prosecution failed to prove that the sachets allegedly confiscated from him were the same ones submitted to the forensic chemist for examination. The PAO also averred that the prosecution failed to establish an unbroken chain of custody over the evidence. The PAO stressed that, other than the marking made by P/CI Chica on the specimens, there was no testimony that the specimens were photographed in the presence of the appellant, a member of the media, a Department of Justice (DOJ) representative, and an elective government official. Likewise, the marking was not done immediately upon seizure as the specimens were marked only upon arrival at the PDEA office. The PAO also highlighted the inability of Chairman Cruz to identify the specimens during his testimony. Lastly, PO2 Lambino who allegedly delivered the specimens to the PNP Crime Laboratory did not testify as to how he handled the items while in his custody. [26]

For the State, the Office of the Solicitor General (OSG) maintained that the prosecution was able to prove the appellant's guilt beyond reasonable doubt, considering that all the essential elements of the crimes of illegal sale and possession of drugs were duly established in this case. The OSG asserted that the chain of custody was not broken as P/CI Chica positively identified the sachet of *shabu* which he himself bought from the appellant and the additional sachet of *shabu* which was recovered from the latter at the time of his arrest, made the proper markings thereon, prepared an inventory and request for examination and submitted the same to the PNP Crime Laboratory through PO2 Lambino. The OSG pointed out that laboratory results revealed that the specimens were found to be *shabu* and that said specimens were presented and identified by P/CI Chica during trial. [27]

On May 16, 2013, the CA affirmed the RTC's Decision, holding, among others, that the inconsistencies noted by the defense are minor in nature and were not crucial to establish the offenses committed by the appellant. The CA found that all the essential elements of illegal sale and possession of *shabu* are present in this case. Affirming the factual findings of the RTC, the CA opined that P/CI Chica and Chairman Cruz testified in a straightforward and definite manner and that their testimonies jibe with the pieces of physical evidence.

Hence, this appeal. [28]

On June 2, 2014, the Court issued a Resolution [29] requiring the parties to submit their respective supplemental briefs. Both the OSG [30] and the appellant as represented by the PAO [31] manifested that they would just adopt their respective briefs filed before the CA as their supplemental briefs.

Hence, the issues before this Court are the same ones raised before and disposed of by the CA. Essentially, the Court is tasked to resolve the sole issue of whether or not

the appellant's guilt was proven beyond reasonable doubt.

The appeal is bereft of merit.

Conviction is proper in prosecutions involving illegal sale of dangerous drugs if the following elements are present: (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment thereto.<sup>[32]</sup>

We hold that the prosecution sufficiently discharged the burden of establishing the elements of illegal sale of dangerous drugs and in proving the guilt of the appellant beyond reasonable doubt.

In this case, the prosecution duly established the identity of the buyer and the seller, appellant being the seller and P/CI Chica as the poseur-buyer. The object of the transaction was a sachet of methylamphetamine hydrochloride or *shabu* marked as "MCC BFM Exhibit A" weighing approximately 0.0363 gram and the consideration was the P200 marked money. Through the testimonial and documentary evidence presented by the prosecution both the object and consideration have also been sufficiently established. As to the delivery of the thing sold and the payment therefor, P/CI Chica categorically testified that he caught appellant *in flagrante delicto* selling and delivering the *shabu* during a buy-bust operation. He also personally handed to appellant the marked money as payment for the same. Clearly, the aforementioned elements are present in this case.

It bears stressing that the sale of the illegal drugs in this case was brought about by a buy-bust operation – a form of entrapment that is resorted to for trapping and capturing criminals. It is legal and has been proved to be an effective method of apprehending drug peddlers, provided due regard to constitutional and legal safeguards is undertaken. Time and again, this Court has ruled that a buy-bust operation is employed to trap and catch a malefactor *in flagrante delicto*.<sup>[33]</sup>

Parenthetically, in illegal possession of dangerous drugs, such as *shabu*, the elements are: (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.<sup>[34]</sup>

These elements are also present in this case. P/CI Chica testified that after the appellant sold him *shabu*, another plastic sachet containing a white crystalline substance was recovered by Chairman Cruz from appellant at the time of his arrest. This too was marked as "MCC BFM B" weighing at approximately 0.0759 gram and submitted to the crime laboratory for analysis, and was positively found to contain *shabu*.

We note that P/CI Chica identified in court the sachet marked as "MCC BFM Exhibit A" as the very sachet he bought from appellant and the sachet marked as "MCC BFM B" as the sachet recovered by Chairman Cruz from appellant at the time of his arrest. The seized items, proven positive to be *shabu*, were properly identified and presented before the court.

The Court gives full faith and credence to the testimonies of the police officers and