

## SECOND DIVISION

[ G.R. No. 201111, August 06, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ALFREDO CERDON Y SANCHEZ, ACCUSED-APPELLANT.**

### DECISION

**PEREZ, J.:**

On appeal is the Decision<sup>[1]</sup> of the Court of Appeals promulgated on 10 November 2011, affirming the conviction by the Regional Trial Court<sup>[2]</sup> (RTC) of Angeles City, Pampanga, Branch 57, of appellant Alfredo Cerdon y Sanchez for violation of Section 5, Article II of Republic Act No. 9165 and the corresponding penalty of life imprisonment and fine of P500,000.00.

Appellant was charged with the violation following a “buy-bust” operation.

The accusatory portion of the Information against appellant reads:

That on or about the 12<sup>th</sup> day of July 2003, at Brg. Dau, [M]unicipality of Mabalacat, [P]rovince of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused ALFREDO CERDON Y SANCHEZ, being a person not authorized by law to sell and deliver, did then and there willfully, unlawfully and feloniously sell and deliver to a *poseur*-buyer one (1) heat-sealed transparent plastic sachet containing methylamphetamine hydrochloride (*shabu*), weighing FIVE HUNDRED THIRTY EIGHT TENTH THOUSANDTH (0.0538) of a gram, a dangerous drug.<sup>[3]</sup>

When arraigned, appellant pleaded not guilty. During the pre-trial, the parties stipulated on the following points:

1. The identity [o]f the accused;
2. That the accused is also known by the name of Fred;
3. That there was no surveillance conducted prior to the arrest of the accused on July 13, 2003;
4. That there was no photographs taken on the seized confiscated items in the presence of the accused;
5. That in the confiscation receipt, there was no signature from any public elected officials, a representative from the media and representative of the DO[J].<sup>[4]</sup>

Trial ensued.

The prosecution presented as witnesses, PO1 Michael Yusi (PO1 Yusi), who acted as *poseur-buyer*, and PO3 Henry Laxamana (PO3 Laxamana), a back-up operative who assisted PO1 Yusi. Their testimonies sought to establish the following facts:

Acting on a tip from an asset that a certain "Fred" was selling *shabu* in his residence at Roxas Street, Mabalacat, Pampanga, the Chief of Police of Mabalacat Police Station formed a buy-bust team on 12 July 2003 composed of PO1 Yusi as *poseur-buyer*, SPO4 Israel Gutierrez as team leader, PO3 Rodolfo Agustin, Jr. (PO3 Agustin), PO3 Laxamana, and a certain PO1 Basangan. PO1 Yusi was then given two (2) One Hundred Peso bills to be used as buy-bust money. He marked his initials "MVY" on the bills.<sup>[5]</sup> A pre-operational coordination sheet was prepared. At about 5:00 p.m. of the same day, the team proceeded to the target place. PO1 Yusi was introduced by the asset to a certain Fred, who later was identified as appellant. Appellant asked from PO1 Yusi how much *shabu* the latter would buy. Appellant then went inside the house and came out a few minutes later handing one plastic sachet of *shabu* to PO1 Yusi in exchange for P200.00. After the exchange, PO1 Yusi made the pre-arranged signal of scratching his head. PO3 Laxamana and PO3 Agustin rushed to the scene while PO1 Yusi introduced himself as a police officer. PO3 Laxamana confiscated the marked money from appellant. He also noticed that appellant had a Caliber 22 magnum with eight rounds of ammunition tucked on his waist. PO3 Laxamana confiscated the same. Appellant was then brought to the *barangay* hall where the confiscation receipt was prepared. PO1 Yusi likewise placed his markings on the confiscated *shabu*. Thereafter, appellant was brought to the police station. At 10:00 p.m. on the same day, PO1 Yusi and PO3 Laxamana brought the confiscated evidence to the crime laboratory.<sup>[6]</sup>

In his defense, appellant denied the charge against him. He narrated that at around 4:00 p.m. on 12 July 2003, he was having snack with his live-in partner Yvette Jose when three male persons entered his house. He recognized them as PO1 Yusi, PO3 Laxamana and PO3 Agustin. These three police officers poked their guns on appellant while PO1 Yusi searched his room. While he was held at the kitchen, appellant heard PO1 Yusi utter the word "*bingo*." PO1 Yusi emerged carrying a gun allegedly confiscated from appellant. Appellant was immediately arrested but he resisted. A commotion ensued before the *barangay* chairman arrived. The *barangay* chairman asked appellant to go with the police officers to the *barangay* hall. Afterwards, appellant was brought to the police station.<sup>[7]</sup>

On 31 March 2010, the RTC rendered a Decision finding appellant guilty of violation of Section 5, Article II of Republic Act No. 9165 and sentencing him to suffer the penalty of life imprisonment and to pay a P500,000.00 fine. The trial court gave credence to the prosecution's evidence.<sup>[8]</sup>

After receiving a copy of the trial court's Decision, petitioner seasonably filed a Notice of Appeal before the Court of Appeals. On 10 November 2011, the appellate court affirmed the judgment of the RTC. The appellate court held that the prosecution was able to prove beyond reasonable doubt the identity of the appellant as the one who sold the *shabu* to the *poseur-buyer*; that the sale that actually took place; and the payment of P200.00. The appellate court ruled that the prosecution

was able to sufficiently establish an unbroken chain of custody of the confiscated illegal drug.

Appellant appealed his conviction before this Court, adopting the same arguments in his Brief before the Court of Appeals.

Appellant essentially maintains that the prosecution failed to prove beyond reasonable doubt the *corpus delicti* of the offense. Appellant also argues that the prosecution failed to establish the crucial links in the chain of custody of the *shabu*.

It is jurisprudential that factual findings of trial courts especially those which revolve on matters of credibility of witnesses deserve to be respected when no glaring errors bordering on a gross misapprehension of the facts, or where no speculative, arbitrary and unsupported conclusions, can be gleaned from such findings.<sup>[9]</sup> The evaluation of the credibility of witnesses and their testimonies are best undertaken by the trial court because of its unique opportunity to observe the witnesses' deportment, demeanor, conduct and attitude under grilling examination.<sup>[10]</sup>

After a painstaking review of the records, we agree with the lower courts' findings that the guilt of the appellant was established beyond reasonable doubt.

In every prosecution for illegal sale of *shabu*, the following elements must be sufficiently proved: (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 therefor.<sup>[11]</sup> Indeed, all these elements were duly established. Appellant was caught in *flagrante delicto* selling *shabu* through a buy-bust operation conducted by members of the Special Operations Group of Mabalacat, Pampanga.

The *poseur*-buyer, PO1 Yusi, positively testified that the sale took place and appellant was the author thereof, thus:

Q: Mr. Witness, in the last hearing of this case, you mentioned that when you reached the house of the target person you were introduced. And you said you were then in front of the house of Alfred. My next question is: how were you introduced?

A: I was introduced by our asset as his "kumpadre", sir.

Q: And after you were introduced as the asset's "kumpadre", what else happened then?

A: Accused Alfredo Cerdon asked me how much will I buy *shabu* from him, sir.

Q: After that, what else happened?

A: Accused Alfredo Cerdon went inside his house and a few minutes later he went back in front of his house and gave me one plastic sachet of *shabu* in exchange for P200.00, sir.

Q: Which came first, the giving of the *shabu* or the giving of P200.00, sir.

A: It was simultaneous, sir.

Q: You gave him P200.00, sir.

A: Yes, sir.

Q: I thought you were buying "aduang pesos"?

A: "Aduang pesos" means P200.00, sir.  
Q: At the time that this accused gave you the *shabu* and you gave him the money, where was the asset then?  
A: We were just beside each other, sir.  
Q: How far were you from his house then?  
A: In front of the house, sir.  
Q: So, you were still outside the house at the time?  
A: Yes, sir.  
Q: And after the giving of the money to him, what else happened?  
A: I executed the pre-arranged signal by scratching my head, sir.  
Q: After executing the pre-arranged signal, what else happened?  
A: I introduced myself as a policeman and then PO3 Laxamana and PO3 Agustin rushed to the scene, sir.  
Q: What was the accused's reaction when you introduced yourself as policeman?  
A: When PO3 Laxamana requested him to shell out the contents of his pocket, he was able to confiscate the marked money from his possession, sir.<sup>[12]</sup>

PO3 Laxamana who acted as one of the back-up arresting officers testified that appellant produced the plastic sachet containing *shabu* and handed it to the *poseur-buyer* in exchange for P200.00. He corroborated PO1 Yusi's attestation in his own testimony before the Court:

Q: Last hearing, Mr. Witness, you testified that your confidential informant introduced PO1 Yusi to a certain Fred in front of his house. Can you please tell us where is this house you are referring to?  
A: At No. 356 Roxas St., Barangay Dau, Mabalacat, Pampanga, sir.  
Q: When Officer Yusi was introduced to this certain Fred, where were you?  
A: We were 10 to 15 meters away from them, sir.  
Q: Who were with you?  
A: PO3 Agustin, sir.  
Q: So, while you were 10 to 15 meters away from Officer Yusi, where is your attention focused?  
A: To PO1 Yusi and the suspect, sir.  
Q: And what did you observe subsequently?  
A: After the confidential informant introduced PO1 Michael Yusi to the suspect, then moments later, the suspect went inside his house and another moments later, he went back and handed something to Yusi, simultaneously, Yusi handed something to the suspect, sir.  
Q: After that exchange, can you please tell us what happened?  
A: Yusi gave the pre-arranged signal to us by scratching his head, sir.  
Q: When was this scratching of head agreed as the pre-arranged signal?  
A: During the briefing in our office, sir.