

## SECOND DIVISION

[ G.R. No. 188841, March 06, 2013 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAIME FERNANDEZ Y HERTEZ A.K.A. "DEBON", ACCUSED-APPELLANT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

For this Court's review is the May 29, 2009 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03321 which affirmed with modification the Joint Decision<sup>[2]</sup> dated February 18, 2008 of the Regional Trial Court (RTC) Branch 32, Pili, Camarines Sur finding appellant Jaime Fernandez y Hertez a.k.a. "Debon"<sup>[3]</sup> (appellant) guilty beyond reasonable doubt of illegal possession of methamphetamine hydrochloride also known as *shabu* and illegal possession of marijuana both defined and penalized under Republic Act (RA) No. 6425, otherwise known as The Dangerous Drugs Act of 1972, as amended.

#### ***Factual Antecedents***

At about 10:00 p.m. of July 21, 2001, combined elements of the Bula Police and the Camarines Sur Provincial Intelligence Forces implemented a search warrant<sup>[4]</sup> at the residence of appellant in Sagrada Familia, Bula, Camarines Sur. Police operatives found inside the house of appellant four transparent plastic sachets suspected to contain *shabu*, one tin can containing dried marijuana leaves, 49 pieces of rolled suspected dried marijuana leaves, one roll aluminum foil and cash money amounting to P3,840.00. After seizing these items, an inventory was conducted in the presence of Barangay Chairman Cesar Dolfo and *Barangay Kagawad* Pedro Ballebar.<sup>[5]</sup> Pictures of the seized items were also taken by the police photographer<sup>[6]</sup> while SPO1 Nilo Pornillos<sup>[7]</sup> (SPO1 Pornillos) marked and brought the seized items to their office.<sup>[8]</sup> The suspected marijuana leaves were later brought by SPO1 Pornillos and the suspected *shabu* by PO3 Jamie S. Villano (PO3 Villano) to the Camarines Sur Crime Laboratory. The items were both received by P/S Insp. Ma. Cristina Nobleza (PSI Nobleza) who, in turn, transmitted them to the Regional Office. After receiving the same, Forensic Chemist P/Insp. Josephine M. Clemen (PI Clemen) conducted chemical examination of the specimens and per her Chemistry Report Nos. D-120-01<sup>[9]</sup> and D-128-01,<sup>[10]</sup> they yielded positive results for the presence of marijuana and methamphetamine hydrochloride or *shabu*, respectively.

On the basis thereof, Informations for illegal possession of methamphetamine hydrochloride (Criminal Case No. P-3163) and for illegal possession of marijuana (Criminal Case No. P-3178) were filed against appellant and his son Erick Fernandez (Erick). To wit:

In Criminal Case No. P-3163

The undersigned 4<sup>th</sup> Assistant Provincial Prosecutor of Camarines Sur accuses, JAIME FERNANDEZ Y HERTEZ a.k.a. "Debon" and ERICK FERNANDEZ Y ALGURA all of Sagrada Familia, Bula, Camarines Sur for violation of Section 8, of Republic Act No. 6425 as amended by Republic Act No. 7659, committed as follows:

That on or about the 21<sup>st</sup> day of July, 2001 at around 10:00 in the evening, in Sagrada Familia, Bula, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating with each other, without authority from law, did then and there willfully, unlawfully and feloniously, have in their possession and control Ten (10) pcs. of transparent plastic sachets containing methamphetamine hydrochloride or locally known as "shabu", with the total weight of 2.85 grams, a regulated [drug].

ACTS CONTRARY TO LAW.<sup>[11]</sup>

In Criminal Case No. P-3178

The undersigned Assistant Provincial Prosecutor of Camarines Sur, accuses JAIME FERNANDEZ alias "DEVON" and ERICK FERNANDEZ, residents of Sagrada Familia, Bula, Camarines Sur, of the crime of VIOLATION OF SEC. 8, ART. II, IN RELATION TO SEC. 20, ART. IV, OF RA 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED BY RA 7659, [c]ommitted as follows:

That on July 21, 2001, at about 10:00 [o]'clock in the evening, at Brgy. Sagrada, Municipality of Bula, Province of Camarines Sur, Philippines, and within the Jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, without authority from law, did then and there willfully, unlawfully, and criminally possess and control prohibited drugs, as follows: a) several paper cylindrical tubes containing dried Marijuana leaves, having a total net weight of 1,009-5 grams, and b) one rusty tin can labeled "Croley Foods" also containing dried Marijuana leaves, weighing 179.2 grams, for an over all total of 1,188.7 grams of dried Marijuana leaves, to the extreme damage and prejudice of the People of the Philippines.

ACTS CONTRARY TO LAW.<sup>[12]</sup>

Appellant and Erick pleaded not guilty to both charges when arraigned. They interposed denial and frame-up as their defenses.

***Ruling of the Regional Trial Court***

By Joint Decision dated February 18, 2008, the RTC acquitted Erick but found appellant guilty of the charges, viz:

WHEREFORE, judgment is hereby rendered[,]

1. acquitting Erick Fernandez y Algura, in both cases, and directing the BJMP Warden, Del Rosario, Naga City, to release him from his custody, unless he is being held for some lawful cause;
2. finding Jaime Fernandez y Hertez, GUILTY, beyond reasonable doubt, in
  - 2.1. Crim. Case No. P-3163, as charged, and hereby sentences him to suffer the penalty of 6 months of arresto mayor, as minimum, to 4 years and 2 months of prision correccional, as maximum, and to pay a fine of P100,000.00;
  - 2.2. Crim. Case No. P-3178, as charged, and hereby sentences him to suffer the penalty of reclusion perpetua, and a fine of P500,000.00;
3. directing policemen Villano, Amador and Pa-ac, to return the sum of P3,840.00 to Jaime Fernandez.

The accused Jaime Fernandez is credited in full for his preventive detention had he agreed in writing to abide with the rules for convicted prisoners, otherwise, for 4/5 of the same.

SO ORDERED.<sup>[13]</sup>

### ***Ruling of the Court of Appeals***

On appeal, the CA affirmed appellant's conviction. Like the RTC, the appellate court gave full faith and credit on the evidence for the prosecution over that of the defense. Hence,

**WHEREFORE**, the assailed 18 February 2008 Decision of the Regional Trial Court of Pili, Camarines Sur, Branch 32, in Criminal Cases Nos. P-3163 and P-3178, finding appellant Jaime Fernandez y Hertez guilty as charged, is **AFFIRMED** with the **MODIFICATION** that the fine of One Hundred Thousand Pesos (P100,000.00) imposed in Criminal Case No. P-3163 is **DELETED**.<sup>[14]</sup>

### **Assignment of Errors**

Undaunted, appellant comes to this Court and insists on his innocence by adopting the same errors he raised before the CA, as follows:

## I

THE LOWER COURT GRAVELY ERRED IN RENDERING A VERDICT OF CONVICTION DESPITE THE FACT THAT THE GUILT OF THE ACCUSED-APPELLANT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

## II

THE LOWER COURT GRAVELY ERRED IN GIVING CREDENCE TO THE INCONSISTENT AND INCREDIBLE TESTIMONIES OF THE PROSECUTION WITNESSES.<sup>[15]</sup>

### **Our Ruling**

The present appeal lacks merit.

*This Court accords respect to the findings and conclusions of the RTC with regard to the credibility of the witnesses and the sufficiency of evidence of the prosecution.*

Indeed, as intimated by the appellant, prosecutions involving illegal drugs largely depend on the credibility of police officers serving as prosecution witnesses.<sup>[16]</sup> When a case involves violation of the Dangerous Drugs Act, "credence should be given to the narration of the incident by the prosecution witnesses especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there be evidence to the contrary."<sup>[17]</sup> In this regard and as this Court held in *People v. Dela Cruz*,<sup>[18]</sup> "the rule is that the findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded respect, if not conclusive effect. This is more true if such findings were affirmed by the appellate court[, because in such a case,] said findings are generally binding upon this Court."

In this case, the RTC found the witnesses for the prosecution credible. There is no showing that the members of the search team were actuated by any ill motive or that they planted the seized items. Hence, the RTC gave full faith and credit to the prosecution witnesses' version of the events that transpired on July 21, 2001.<sup>[19]</sup> Moreover, the evidence of the prosecution sufficiently established that (1) by virtue of a lawful search, PO3 Villano, PO2 Bienvenido C. Amador, Jr. (PO2 Amador) and Inspector Cristino Pa-ac were able to seize from appellant's house suspected *shabu* and marijuana, among others; and, (2) when these specimens were qualitatively examined, they yielded positive results for the said prohibited drugs. The appellate court sustained these findings and conclusions of the RTC after satisfying itself that there was no clear misapprehension of facts. In view of the CA's affirmance of the said findings of the RTC, and there being no material facts that were overlooked by the lower courts, this Court finds no reason to disturb their findings and conclusions