

## FIRST DIVISION

[ G.R. No. 170839, January 18, 2012 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GERON DE LOS SANTOS Y MARISTELA, ACCUSED-APPELLANT.**

### D E C I S I O N

**BERSAMIN, J.:**

The mere denial of knowledge that a substance is a regulated drug is insufficient to exculpate the person found in possession of it, for he must have to satisfactorily explain how the drug came to his possession. Without his satisfactory explanation, he will be presumed to have *animus possidendi*, or the intent to possess. His guilt will then be established beyond reasonable doubt.

An alert security guard halted Geron Delos Santos y Maristela as he was about to bring a gift-wrapped box out of the Somerset Condominium in Leveriza Street, Pasay City. When Delos Santos opened the box for inspection upon demand of the security guard, the box contained plastic bags with 6.2 kilograms of suspected *shabu*. The security guard forthwith apprehended Delos Santos and impounded the box and its contents. The National Bureau of Investigation (NBI) was immediately notified of the incident, and it dispatched its agents to the place.

Subsequently, Delos Santos was charged with a violation of Section 16 of Republic Act No. 6425 (*Dangerous Drugs Act of 1972*), the information averring as follows:

That on or about the 26<sup>th</sup> day of December 2000, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control 6.02 kilograms of Metamphetamine Hydrochloride (*shabu*), a regulated drug, without the corresponding prescription.

CONTRARY TO LAW.<sup>[1]</sup>

Delos Santos pleaded *not guilty* to the crime charged.<sup>[2]</sup>

The State presented Atty. Reynaldo Esmeralda (Esmeralda), then of the NBI Special Task Force. Esmeralda testified that he received on December 26, 2000 a call from a confidential informant telling him that the security guard of Somerset Condominium had apprehended a certain Geron Delos Santos for transporting approximately seven kilograms of suspected *shabu*;<sup>[3]</sup> that he and his fellow NBI agents proceeded to Somerset Condominium in Leveriza Street, Pasay City, where they met with the security officer, the building manager and Delos Santos;<sup>[4]</sup> that the NBI agents took

custody of the carton-box containing seven plastic cellophane bags of alleged *shabu*,<sup>[5]</sup> and forwarded the bags and the contents to the NBI Forensic Chemistry Division for testing purposes;<sup>[6]</sup> that they next proceeded to Unit 706 because of the information from Delos Santos that he had gotten the carton-box of *shabu* from someone in that unit;<sup>[7]</sup> that they let Delos Santos enter Unit 706 through a small window, but once inside Delos Santos refused to come out despite warnings, compelling the NBI agents to summon the maintenance man of the building in order to forcibly open the door of the unit; that Delos Santos was not inside Unit 706, and they eventually found and seized him in the nearby Unit 705 that he had entered through another window;<sup>[8]</sup> and that they recovered approximately 250 kilos of *shabu* inside Unit 706, an inventory of which they duly conducted.<sup>[9]</sup>

Richard Zabat (Zabat), the security supervisor of Somerset Condominium, stated that at around 12:45 in the afternoon of December 26, 2000, the security guard on duty called his attention regarding Delos Santos and the suspicious-looking package Delos Santos was carrying;<sup>[10]</sup> that going to the lobby of the Somerset Condominium he saw Delos Santos and the package containing the suspected *shabu*; that he reported the matter to the general manager of the condominium who in turn informed the NBI;<sup>[11]</sup> that after a while, the NBI agents arrived and looked for the source of the *shabu* in Unit 706 as mentioned by Delos Santos;<sup>[12]</sup> that the NBI agents let Delos Santos enter Unit 706 through a small window in the washing area; that because Delos Santos refused to come out afterwards, the NBI agents summoned the maintenance man to force the door open; that he and the NBI agents then entered Unit 706 along with the manager;<sup>[13]</sup> and that several kilos of suspected *shabu* were recovered inside Unit 706, which the NBI agents forthwith seized.<sup>[14]</sup>

NBI forensic chemist Mary-Ann T. Aranas conducted the laboratory examination of the confiscated substances, and issued Dangerous Drugs Report No. DD-00-1404<sup>[15]</sup> confirming that the substances were positive for the presence of methamphetamine hydrochloride, a regulated drug.

On his part, Delos Santos denied the accusation, claiming that while he was cleaning at the ground floor of the condominium the occupant of Unit 706 called the guard on duty to ask for help in cleaning the unit;<sup>[16]</sup> that he was summoned to do the chore, and while he was waiting outside Unit 706, a non-tenant known to him only as Wilson requested him to bring the gift-wrapped box to someone near the Jollibee Vito Cruz extension branch;<sup>[17]</sup> that when he was already downstairs, the security guard on duty wanted to check the gift-wrapped box; that he voluntarily handed the box for inspection; that the security guard opened the box in his presence and discovered the *shabu*; that he told the security guard on duty that he had no knowledge of the contents of the box and was only instructed by Wilson to deliver it;<sup>[18]</sup> that upon the arrival of the NBI agents, he told them that the box had come from Unit 706; that the NBI agents proceeded to Unit 706 and found more *shabu* contained in four large suitcases, four small suitcases, and small bags;<sup>[19]</sup> and that the NBI agents demanded the keys of the unit from him but he replied that he did not have any key because he was a mere janitor of the building.<sup>[20]</sup>

On June 25, 2004, the Regional Trial Court, Branch 119, in Pasay City (RTC)

convicted Delos Santos as charged, *viz*:

WHEREFORE, finding the accused, Geron Delos Santos y Maristela, guilty beyond reasonable doubt of the crime of violation of Section 16, Article III, Republic Act 6425, as amended by Republic Act 7659, the Court sentences him to suffer a prison term of *reclusion perpetua* and to pay the fine of P500,000.00

SO ORDERED.<sup>[21]</sup>

Delos Santos appealed, contending that:

I.

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE EVIDENCE AGAINST THE ACCUSED-APPELLANT AS HEARSAY;

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE EVIDENT FACT THAT HE DID NOT KNOWINGLY POSSESS THE PROHIBITED DRUGS.

On October 28, 2005, however, the Court of Appeals (CA) affirmed the RTC by finding that Delos Santos' admission of possession of the gift-wrapped box containing the *shabu* was a solid basis for his conviction; that the testimony of the apprehending security guard who had found the gift-wrapped box containing the *shabu* was not necessary for his conviction; that the objection to the testimonies of NBI agent Esmeralda and security supervisor Zabat on the ground of being hearsay was waived and could not be made for the first time on appeal; and that Delos Santos' acts prior to and following his arrest indicated that he had *animus possidendi*.<sup>[22]</sup>

Delos Santos is now before the Court insisting that the CA erred in affirming the decision of the RTC.

### **Ruling**

The appeal lacks merit.

Firstly, Delos Santos objects to the testimonies of NBI agent Esmeralda and building security supervisor Zabat on the discovery of the *shabu* as hearsay. He asserts that the State consequently had no evidence with which to establish his guilt beyond reasonable doubt in view of the failure to present the apprehending security guard as a witness against him.

The objection deserves no consideration. To begin with, Delos Santos waived the objection by not raising it during the trial. Equally significant in this regard is that he expressly admitted during the trial his actual possession of the box containing the