

FIRST DIVISION

[G.R. No. 188345, December 10, 2012]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLE, VS.
CATALINO DULAY Y CADIENTE, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is an appeal of the Decision^[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 02342 dated April 18, 2008, which affirmed the Decision^[2] of the Regional Trial Court (RTC) of Makati finding accused-appellant Catalino Dulay y Cadiente guilty beyond reasonable doubt of violation of Sections 5 and 15, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Two Informations were filed against accused-appellant, charging him with violations of Section 5 (Criminal Case No. 03-3799) and Section 15 (Criminal Case No. 03-4000), respectively, of Article II of Republic Act No. 9165. The Information charging accused-appellant of violation of Section 5 states:

That on or about the 23rd day of September, 2003, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without the necessary license or prescription and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away P100.00 worth of Methylamphetamine Hydrochloride (Shabu) weighing zero point zero two (0.02) gram and zero point zero two (0.02) gram, a dangerous drug.^[3]

On arraignment, accused-appellant pleaded not guilty to the charge in Criminal Case No. 03-3799, but pleaded guilty to the charge of drug use in Criminal Case No. 03-4000.

As stated in the Pre-Trial Order, the parties stipulated:

1. That these cases were investigated by PO3 Conrado Mapili;
2. That after the investigation by PO3 Conrado Mapili, he prepared the Final Investigation Report;
3. That the Drug Enforcement Unit [DEU] through SPO4 Arsenio Mangulabnan made a Request for Laboratory Examination;

4. That the PNP Crime Laboratory through Police Inspector Karen Palacios conducted an examination on the specimen submitted;
5. That [the] Physical Science Report was issued by the PNP Crime Laboratory Office detailing the findings of the Forensic Chemist; and
6. The qualification of the Forensic Chemist.^[4]

The prosecution presented three witnesses: (1) Police Officer (PO) 1 Dominador Robles, who was the team leader of the buy-bust operation; (2) PO1 Jose Guadamor of the Makati Anti-Drug Abuse Council (MADAC), who was the poseur-buyer; and (3) PO1 Francisco Barbosa, also from the MADAC, who was a back-up. Culled from their testimonies, the trial court summarized the facts into the following narrative:

A buy-bust operation was conducted against accused Catalino Dulay on September 23, 2003 at around 5:45 pm due to a report given by an informant to Bgy. Capt. Del Prado at the office of MADAC Cluster 3. The report was about the illegal drug-selling activity of the accused Catalino Dulay at Mabini Street, Barangay Poblacion Makati City. After receiving said report, Brgy. Capt. Del Prado coordinated with the Makati Drug Enforcement Unit (DEU). The DEU sent PO1 Dominador Robles to the Barangay Hall of Barangay Sta. Cruz. PO1 Robles conducted a briefing of the buy-bust team. Jose Guadamor was designated as the poseur buyer. PO1 Robles as team leader, provided Guadamor with the two hundred pesos buy bust money. PO1 Robles coordinated the operation with the PDEA. After the briefing the buy-bust team accompanied by the informant proceeded to the place of operation after the briefing. The poseur buyer and the informant saw alias "Lino" standing along Mabini Street, Brgy. Poblacion, Makati City. The poseur buyer and the informant approached the accused. The informant introduced the poseur buyer to alias "Lino", "Ito si Jojo, nangangailangan ng shabu." (TSN dated 3/3/05, p. 4). The accused asked the poseur buyer how much is he going to buy. The poseur buyer replied, "Tapatan mo itong dos ko." (TSN dated 3/3/05, p. 14). The poseur buyer handed to the accused the two hundred pesos buy bust money and the accused drew from his right pocket, two plastic sachets and handed it to the poseur buyer. The poseur buyer took the two plastic sachets and gave the pre-arranged signal by lighting a cigarette. PO1 Robles and Barbosa rushed to the place of the transaction[.] [T]hey introduced themselves as narcotic operatives. They arrested alias "Lino" (TSN dated 3/3/05, pp. 16-17). It was PO1 Robles who informed the accused of his constitutional rights. Jose Guadamor, the poseur buyer marked the sachets of shabu with "CDC" the initials of the accused at the place of operation (TSN dated 3/3/05, p. 18). After the arrest, the accused was brought to [the] DEU where a complaint was filed against him. Thereafter, the accused was brought to Fort Bonifacio, Taguig for drug test of the accused and laboratory examination of the subject of sale."^[5]

Karen Palacios, the Philippine National Police (PNP) forensic analyst who examined the specimens, showed that the seized specimens tested positive for methylamphetamine hydrochloride.

The defense presented the accused-appellant as its lone witness. The Court of Appeals condensed his testimony in this wise:

In defense, accused Catalino Dulay denied having sold *shabu* when he was arrested. He claimed that on September 23, 2003, at about 4:30 to 5:30 [p.m.], he was sleeping when his wife woke him up because someone was knocking at the door. He then went to the door and asked those knocking who they were and what was their purpose. Two of the three men asked the accused if he was Allan, but receiving a negative answer, the men immediately held his hands, dragged him out of the house and boarded him into a Toyota Revo. Accused was brought first to the barangay headquarters where he was asked from whom he was getting shabu, and then to Drug Enforcement Unit where he was investigated and shown two (2) plastic sachets. Accused also claimed that his money amounting to P200.00 in two one-peso bills was taken from his wallet and these same two-peso bills were the ones marked as "C-3" at the barangay headquarters. He further claimed that he was framed-up by MADAC operatives Rogelio Milan and Kuntil Domingo, an asset of the MADAC, with whom he quarreled three days before his arrest.^[7]

On June 16, 2006, the Regional Trial Court of Makati City rendered its Decision on the two charges as follows:

WHEREFORE, in view of the foregoing[,] judgment is rendered as follows:

1. In Criminal Case No. 03-3799 the accused CATALINO DULAY y CADIENTE alias "Lino" is found guilty beyond reasonable doubt of the crime of violation of Section 5, Art. II, RA 9165 and sentenced to suffer the penalty of life imprisonment and to pay a fine of P500,000.00. The period during which the accused was detained shall be considered in his favor pursuant to existing rules.

2. In Criminal Case No. 03-4000, the accused having pleaded guilty to the charge of violation of Section 15, Art. II, RA 9165, is sentenced to undergo rehabilitation for at least six (6) months in a government rehabilitation center under the auspices of the Bureau of Correction subject to the provisions of Article VIII of RA 9165.

The Branch Clerk of Court is directed to transmit to the Philippine Drug Enforcement Agency (PDEA) the two pieces of plastic sachets of shabu with a combined weight of 0.04 gram subject matter of Criminal Case No. 03-3799 for said agency's appropriate disposition.^[8]

Accused-appellant elevated the case to the Court of Appeals via a Notice of Appeal.

[9] On April 18, 2008, the Court of Appeals rendered the assailed Decision affirming the convictions.

Accused-appellant instituted the present recourse through a Notice of Appeal.^[10] Both plaintiff-appellee, through the Office of the Solicitor General,^[11] and the accused-appellant^[12] manifested that they were dispensing with the filing of a Supplemental Brief, as they had exhaustively argued the issues in their respective briefs before the Court of Appeals.

In the above-mentioned brief of the accused-appellant, he submitted a lone assignment of error:

THE COURT *A QUO* GRAVELY ERRED IN FINDING THE ACCUSED GUILTY OF THE CRIME CHARGED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.^[13]

Accused-appellant claims that the prosecution failed to prove his guilt beyond reasonable doubt on account of the failure of PO1 Barbosa to identify him at the trial, and the unreliability of the testimonies of PO1 Robles and PO1 Barbosa on account of their distance of ten to fifteen meters from the place where the alleged transaction took place. Accused-appellant likewise point out the failure of the prosecution to present the informant to corroborate the testimonies of the police officers.

Accused-appellant, however, did not have much to say about the testimony of the poseur-buyer himself, PO1 Guadamor, who was able to give a complete account of the transaction, from his introduction as a buyer to the accused-appellant by the informant, his handing to the accused-appellant of the payment for the two plastic sachets containing white crystalline substance, which the latter drew from his pocket and handed to him, and up to the eventual arrest of the accused-appellant and the marking of the confiscated items.^[14]

It is significant to reiterate at this point that it is the trial court which is deemed to be in a better position to decide the question of credibility of PO1 Guadamor, as well as those of the other witnesses, since it had the opportunity to observe the witnesses' manner of testifying, their furtive glances, calmness, sighs and the scant or full realization of their oath.^[15] The trial court found PO1 Guadamor to be credible, and our examination of his testimony does not give us any reason to find otherwise. As we have often repeated, the trial court's evaluation of the credibility of the witnesses is entitled to the highest respect absent a showing that it overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would affect the result of the case.^[16]

Whatever defect that may have been caused by the failure of PO1 Barbosa to identify the accused-appellant in court was cured by the testimony of accused-appellant himself that PO1 Barbosa was part of the arresting team: