

## THIRD DIVISION

[ G.R. No. 186387, August 31, 2011 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
JUAN MENDOZA Y VICENTE, ACCUSED-APPELLANT.**

### DECISION

#### **MENDOZA, J.:**

This is an appeal assailing the June 5, 2008 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. HC-No. 02734 which affirmed with modification the February 6, 2007 Decision<sup>[2]</sup> of the Regional Trial Court, Baguio City, Branch 61 (RTC). The RTC found accused Juan Mendoza y Vicente guilty of having violated Section 5 and Section 11, Article II of Republic Act (R.A.) No. 9165 or the Dangerous Drugs Act of 2002.

#### **Version of the Prosecution**

The evidence for the prosecution shows that Senior Police Officer 4 Edelfonso Sison (*SPO4 Sison*) received information from a long-serving unidentified informant of the Baguio City Police Office's (BCPO) Drug Enforcement Section (*DES*) that the accused contacted him and offered to sell *shabu* worth P1,000.00 to any interested buyer. The accused then suggested that they meet at the stairs of the Cresencia Barangay Hall along Bokawkan Road.

After interviewing the informant, Police Senior Inspector Myles Pascual (*PSI Pascual*) decided to conduct a buy-bust operation to entrap the accused. PSI Pascual made arrangements for the informant, the accused, and the poseur buyer officer to meet on April 14, 2005 around 2:30 o'clock in the afternoon at the stairs below the Cresencia Barangay Hall along Bokawkan Road. He planned for an entrapment operation and put together a team, with SPO4 Sison, as team leader; Police Officer 3 Ricky Calamiong (*PO3 Calamiong*) and PO3 Roy Mateo (*PO3 Mateo*), as back-up officers; and Police Officer 2 Edgar Antolin (*PO2 Antolin*), as the poseur buyer.

In coordination with the Philippine Drug Enforcement Agency (*PDEA*), the entrapment team proceeded to the area at 2:00 o'clock in the afternoon, half an hour before the scheduled time. The team parked their vehicle 20 to 30 meters away from the designated transaction area. PO2 Antolin and the informant alighted and proceeded to the stairway to wait for the accused.

Twenty minutes later, the accused arrived and approached the informant. The latter introduced PO2 Antolin as the buyer. After the accused asked if the buyer had the money, PO2 Antolin handed over P1,000.00. The accused then gave him two (2) sachets containing white crystalline substance. PO2 Antolin raised his right hand, the pre-arranged signal, signifying to the other team members that the transaction had been consummated. The team rushed to assist PO2 Antolin, who arrested the accused and recovered the buy-bust-money. PO2 Antolin frisked the accused and

recovered five (5) more small transparent sachets with white crystalline substance from the pants pocket of the accused. He turned over the same to the team leader, SPO4 Sison.

SPO4 Sison informed the accused in Tagalog the reason why he was being arrested and apprised him of his constitutional rights. The accused merely nodded but otherwise kept silent.<sup>[3]</sup> The buy-bust team then took the accused to the BCPO, where PO2 Antolin identified him as Juan Mendoza, alias "*Ampi*."

In a preliminary test, the white crystalline substance recovered from the accused tested positive for the presence of Methamphetamine Hydrochloride or *shabu*, a dangerous drug.<sup>[4]</sup> The case records state that after the conduct of such preliminary test, the items confiscated from the accused were turned over to the Philippine National Police (*PNP*) Crime Laboratory Service at Camp Bado Dangwa, La Trinidad, Benguet for further analysis and disposition.<sup>[5]</sup>

A confirmatory test conducted on the same day by Police Inspector and Forensic Chemical Officer Cecile Akiangan Bullong yielded the same result.<sup>[6]</sup>

### **Version of the Accused**

The accused alleges that in the afternoon of April 14, 2005, he was walking down Sepic Road, Baguio City, on his way home from his brother's house in Guisad, where he had just finished washing diapers and clothes. A vehicle stopped beside him and SPO4 Sison alighted. The accused knew SPO4 Sison because the latter arrested him for a drug offense way back in 1997, for which he was convicted and incarcerated in Camp Sampaguita for five years.

SPO4 Sison showed him a photograph and demanded information about the person in the photo. When he insisted that he did not know who it was, SPO4 Sison invited him to the BCPO-DES. As he could not decline, he went along with him.

At the DES, the police again asked him if he knew the person in the photo and a certain Gary Chua, but he replied in the negative. He was also questioned whether he knew someone who was selling drugs, and he again replied in the negative. He told the police that since his release from prison, he no longer dabbled in the drug trade, as he already had a family. When he told SPO4 Sison that he did not know anyone who was selling drugs, SPO4 Sison got angry.

After an hour, he was informed that he would be subjected to a drug test. Again, unable to refuse, he was subjected to a drug test at the BCPO Station 7 laboratory, in front of the DES. He was then brought to the Baguio General Hospital (*BGH*) for a medical examination, and later back to the police station.

During the interrogation at the police office, he did not have a counsel present.<sup>[7]</sup> SPO4 Sison did not inform him that he was being arrested for the possession of the 5 heat-sealed plastic sachets containing *shabu*.<sup>[8]</sup>

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

In its Decision dated February 6, 2007, the RTC found the accused guilty beyond

reasonable doubt in both Criminal Case No. 24384-R and Criminal Case No. 24385-R. The dispositive portion thereof reads:

**WHEREFORE**, in Criminal Case No. 24384-R, judgment is rendered finding the accused **GUILTY** beyond any reasonable doubt and he is hereby sentenced to suffer Life Imprisonment and to pay a fine of ? 500,000.00 and in Criminal Case No. 24385-R, judgment is rendered finding the accused **GUILTY** beyond any reasonable doubt and he is hereby sentenced to suffer an indeterminate sentence of Twelve (12) Years and One (1) Day to Fourteen (14) Years, and to pay the costs.

**SO ORDERED.**<sup>[9]</sup>

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

In its Decision<sup>[10]</sup> dated June 5, 2008, the CA affirmed with modification the RTC decision. The dispositive portion of the RTC decision reads:

**WHEREFORE**, premises considered, the appeal is **DENIED** for lack of merit. The Decision dated 06 February 2007 of the Regional Trial Court of Baguio City, Branch 61 finding the accused-appellant JUAN MENDOZA Y VICENTE guilty beyond reasonable doubt for violations of Sections 5 and 11, Article II of Republic Act No. 9165 in Criminal Case Nos. 24384-R and 24385-R and sentencing him to suffer the penalty of life imprisonment and to pay a fine of ?500,00<sup>[0]</sup>.00, and the indeterminate penalty of twelve (12) years and one (1) day to fourteen (14) years, respectively, is **AFFIRMED with MODIFICATION** in that said accused-appellant is hereby ordered to pay a fine of ?300,000.00 in Criminal Case No. 24385-R.

**SO ORDERED.**<sup>[11]</sup>

### **ASSIGNMENT OF ERRORS**

In his *Supplemental Brief for the Accused-Appellant*,<sup>[12]</sup> the accused submits that the court a quo erred:

**In not finding that the procedures for the custody and disposition of confiscated dangerous drugs in Section 21 of R.A. No. 9165 were not complied with, rendering the evidence compromised.**

**In convicting the accused-appellant notwithstanding the fact that his guilt was not established beyond reasonable doubt.**<sup>[13]</sup>

### **Ruling of the Court**

The Court finds the arguments of the accused bereft of merit.

In crimes involving the sale of illegal drugs, two essential elements must be satisfied: (1) identities of the buyer, the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment for it.<sup>[14]</sup>

In the prosecution for illegal possession of dangerous drugs, on the other hand, it must be shown that: (1) the accused is in possession of an item or an object identified to be a prohibited or a regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.<sup>[15]</sup> In this case, all these elements were satisfactorily proven by the prosecution beyond reasonable doubt through testimonial, documentary and object evidence presented during the trial. PO2 Antolin, the designated poseur-buyer, testified as to the circumstances surrounding the apprehension of the accused, and the seizure and marking of the illegal drugs recovered from the accused. <sup>[16]</sup> Then, SPO4 Sison corroborated PO2 Antolin's testimony and confirmed that all the confiscated items recovered from the accused were turned over to him as team leader.<sup>[17]</sup>

The accused also argues that the procedure in the custody and disposition of the dangerous drugs was not observed. The Court finds, however, that the compliance with the chain of custody rule was sufficiently established in this case.

In the chain of custody in a buy-bust situation, the following links must be established: *first*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>[18]</sup>

Regarding the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination, the parties admitted the following facts during pre-trial:

1. **The fact that the forensic chemist examined the drugs and prepared the report thereon** but qualified that it did not come from the accused;
2. Medico-legal Report;
3. **The witnesses to the inventory witnessed the inventory taking, signed the inventory** but they have no knowledge that the drugs came from the accused.
4. Order of detention, booking sheet and preliminary test;
5. Existence of the pre-operation report and the request for drug test.

<sup>[19]</sup> [Emphases supplied]

The prosecution also presented several documents that traced how the evidence changed hands.