

## SECOND DIVISION

[ G.R. No. 184174, April 07, 2009 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
REYNALDO CAPALAD Y ESTO, ACCUSED-APPELLANT.**

### DECISION

**VELASCO JR., J.:**

This is an appeal from the September 27, 2007 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02108 entitled *People of the Philippines v. Reynaldo Capalad* which affirmed the March 16, 2006 Decision in Criminal Case Nos. C-69458-59 of the Regional Trial Court (RTC), Branch 127 in Caloocan City. The RTC convicted accused-appellant Reynaldo Capalad of violations of Sections 5 and 11 of Article II, Republic Act No. (RA) 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

#### **The Facts**

Accused-appellant was charged under the following Informations:

**Criminal Case No. C-69458  
(Violation of Sec. 5 [Sale] of Art. II, RA 9165)**

That on or about the 29<sup>th</sup> day of October 2003, in Caloocan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously sell and deliver to PO1 JEFFRED PACIS one (1) small sealed transparent plastic sachet of 'Shabu' Methamphetamine Hydrochloride, with a weight of 0.04 [gram] x x x, a dangerous drug, without being authorized by law in violation of said cited law.

Contrary to law.

**Criminal Case No. C-69459  
(Violation of Sec. 11 [Possession] of Art. II, RA 9165)**

That on or about the 29<sup>th</sup> of October 2003, in Caloocan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control three (3) heat-sealed transparent plastic sachets containing 0.04, 0.05 and 0.05 [gram], with the total 0.14 [gram] of white crystalline substance Methamphetamine Hydrochloride known as 'SHABU,' a dangerous drug and knowing the same to be such.

Contrary to law.<sup>[1]</sup>

On January 15, 2004, accused-appellant entered a plea of "not guilty" to both charges against him.

At the trial, the prosecution presented PO3 Fernando Moran, PO1 Jeffred Pacis, and PO1 Victor Manansala as witnesses. The defense witnesses consisted of accused-appellant and his son, Reymel Capalad.

According to the prosecution, an informant arrived at the SAID-SOU Office on October 29, 2003 and relayed to the desk officer that one "Buddha" was selling *shabu* along Bulusan Street. The desk officer then passed on the report to PO3 Rangel, who informed Police Inspector Cesar Gonzales Cruz of it. A buy-bust team was formed shortly thereafter and was composed of PO3 Rangel, PO2 Caragdag, PO2 Tayag, PO1 Perillo, PO1 Paras, PO1 Manansala, and PO1 Pacis, with the latter as poseur-buyer and PO1 Manansala as his back-up. The others formed the perimeter security. Inspector Cruz then sent a Request for Detection of Ultra Violet Powder addressed to the NPD PNP Crime Laboratory Office for the dusting of a PhP 100 bill with Serial Number BB945809. The bill was to be used by PO1 Pacis as buy-bust money.<sup>[2]</sup>

The buy-bust team was dispatched to the target area at midnight. They arrived at around 1:00 a.m. and instructed their informant to look for "Buddha." When the informant spotted "Buddha," a fat man with a bulging stomach, PO1 Pacis and the informant proceeded to where he was while the rest of the team hid in strategic places. PO1 Pacis approached "Buddha" and told him, "*Pare, pakuha ng piso panggamit lang.*"<sup>[3]</sup> He then handed the powder-dusted hundred peso bill. "Buddha" reached for the garter of his underwear and gave him a plastic sachet upon receiving the money. He remarked to PO1 Pacis, "*Ayan, maganda yan.*" When PO1 Pacis got hold of the plastic sachet he gave the pre-arranged signal by scratching his head. He introduced himself as a police officer and held on to "Buddha's" arm. PO1 Manansala joined the two men and assisted in holding on to "Buddha," who turned out to be accused-appellant. PO1 Pacis recovered the dusted hundred peso bill from accused-appellant while PO1 Manansala retrieved three (3) pieces of plastic sachets from the garter of accused-appellant's underwear.<sup>[4]</sup>

Accused-appellant was later brought to PO3 Moran along with the seized items. PO3 Moran then marked the seized items "RCE-1" to "RCE-3," the letters standing for accused-appellant's initials. The items were referred for chemical analysis to the PNP Crime Laboratory per request of Inspector Cruz. Forensic Chemical Officer Jesse Abadilla Dela Rosa subsequently conducted an examination. He documented the results in Physical Sciences Report No. D-1384-03, which showed the following entries:

**SPECIMEN SUBMITTED:**

Four (4) heat-sealed transparent plastic sachets each containing white crystalline substance with the following markings and recorded net weights:

A (JP/RCE-BUY-BUST 10-29-03) = 0.04 gram

B (JP/RCE-1 10-29-03) = 0.04 gram

C (JP/RCE-2 10-29-03) = 0.05 gram

D (JP/RCE-3 10-29-03) = 0.05 gram

x x x x

#### PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of dangerous drugs. x x x

#### FINDINGS:

Qualitative examination conducted on the above-stated specimen gave POSITIVE result to the tests for Methylamphetamine hydrochloride, a dangerous drug.

x x x x

#### CONCLUSION:

Specimen A through D contain Methylamphetamine hydrochloride, a dangerous drug.<sup>[5]</sup> x x x

In his defense, accused-appellant adamantly denied he was arrested following a buy-bust operation. He testified that he was suddenly arrested between 8:00 and 9:00 in the evening of October 29, 2003 and not past midnight as the police stated. He was then with his son, who had been playing video games with him. While he was being taken into custody, he was handcuffed and was told, "*Sumama ka sa amin dahil may nagrereklamo patungkol sa iyo.*" Accused-appellant asked, "*Bakit ninyo ako hinuhuli?*" and inquired on the charges against him. The police officers, however, just told him not to answer and to provide his defense at the precinct.<sup>[6]</sup>

Upon reaching the police headquarters he was led to a detention cell where he was asked if he knew a certain "Taba," to which he replied in the affirmative. PO3 Rangel then told him, "*Hindi pala ikaw yung Arnel Taba.*" He then proposed to accused-appellant, "*Sige ganito na lang meron ka bang isandaang libo?*" Accused-appellant responded with "*Saan ako kukuha ng ganyang kalaking pera samantalang nagkarpintero lang ako.*" Negotiating with accused-appellant, PO3 Rangel retorted, "*O sige singkwenta na lang.*" When accused-appellant answered that he did not have such a big amount of money, PO3 Rangel warned him, "*Hindi mo ba alam na kakasuhan ka ng pagtutulak at pagbebenta ng droga?*" Accused-appellant then asked how he can be charged with any offense when he was only playing a video game with his son in front of his brother's house. To this, PO3 Rangel replied, "*Sige para matapos na tayo magbigay ka na lang ng kinse tatanggalin ko na lang yung tulak.*" Finally, accused-appellant told him, "Sir, I don't have that big an amount, if you want to incarcerate me I can do nothing."<sup>[7]</sup>

After the interrogation, PO1 Pacis took from his pocket PhP 100 and told accused-appellant, "*Bro mag-softdrinks muna tayo*" and handed over to him the money to be given to his companions. After accused-appellant held the money, PO1 Pacis

retrieved it and told him, "*Ay teka muna ipasok muna natin si Buda doon tayo mag-softdrinks sa canteen.*"<sup>[8]</sup>

The other defense witness, nine-year old Reymel, testified that accused-appellant was God-fearing and knew right from wrong. He recalled that accused-appellant, his father, was arrested around 8:00 in the evening since he was beside him playing a video game and he happened to look at the time. After finishing a game, accused-appellant dropped a coin so that they could play again. Before they could continue, however, police officers arrived and handcuffed accused-appellant. They alleged having a warrant for accused-appellant's arrest. Reymel ran after accused-appellant while he was being boarded in a stainless steel jeep but his mother stopped him and sent him home. From then on accused-appellant was unable to go back to their house as he was detained at the Caloocan City Jail.<sup>[9]</sup>

On cross-examination, Reymel admitted that he had twice heard the words "warrant of arrest" only on television. The video game he was playing with his father at the time the latter was arrested was "Top Gear," a car racing challenge which could be played at one peso per game and lasts five minutes. After their game ended, his father dropped a few more coins so they could play again. They were playing in a room adjacent to his uncle Lito's house. After his father was boarded in a vehicle, his mother, who had been cleaning, ran towards the house of his uncle Lito. After his father was detained, he heard nothing about the circumstances of the arrest being discussed in their house. He visited his father in jail and asked him when he would be coming home and the latter simply said "*Balang araw.*"<sup>[10]</sup>

After trial, the RTC convicted accused-appellant of both charges. The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, and the prosecution having established to a moral certainty the guilt of Accused REYNALDO CAPALAD y ESTO, this Court hereby renders judgment as follows:

1. In Criminal Case No. C-69458 for Violation of Section 5, Art. II of RA 9165, this Court in the absence of any aggravating circumstance hereby sentences said Accused to LIFE IMPRISONMENT, and to pay the fine of Five Hundred Thousand Pesos (P500,000.00) with subsidiary imprisonment in case of insolvency; and
2. In Criminal Case No. C-69459 for Violation of Section 11, Art. II of the same Act, this Court in the absence of any aggravating circumstance hereby sentences said Accused to a prison term of twelve (12) years, eight (8) months and one (1) day to seventeen (17) years and eight (8) months and to pay the fine of Three Hundred Thousand Pesos (P300,000.00), with subsidiary imprisonment in case of insolvency.

It is noteworthy to state that this Court considers the penalty of LIFE IMPRISONMENT meted upon the Accused in Criminal Case No. C-69458 for selling 0.04 [gram] of Methylamphetamine hydrochloride to be too stiff but that is the penalty imposable under R.A. 9165. Thus, this Court has no option but to apply the same. DURA LEX SED LEX.