

THIRD DIVISION

[G.R. No. 187503, September 11, 2009]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
TECSON LIM Y CHUA AND MAXIMO FLORES Y VITERBO,
ACCUSED-APPELLANTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

For review is the Decision^[1] dated 18 November 2008 of the Court of Appeals in CA-G.R. CR HC No. 01871, which affirmed *in toto* the Decision^[2] dated 12 February 2003 of the Regional Trial Court (RTC) of Parañaque City, Branch 258, in Criminal Case No. 00-0100, finding herein appellants Tecson Lim y Chua (Lim) and Maximo Flores y Viterbo (Flores) guilty beyond reasonable doubt of violation of Section 15,^[3] Article III of Republic Act No. 6425,^[4] as amended by Republic Act No. 7659,^[5] sentencing each of them to suffer the penalty of *reclusion perpetua* and ordering each to pay a fine of P2,000,000.00.

Appellants Lim and Flores were charged with violation of Section 15, Article III in relation to Section 21(b),^[6] Article IV of Republic Act No. 6425, as amended, in an Information^[7] which reads:

That on or about [3 December 1999], in Parañaque City, Philippines, and within the jurisdiction of the Honorable Court, the above-named [appellants], conspiring and confederating together and mutually aiding and abetting one another, did then and there willfully, unlawfully, and feloniously deliver and/or sell to a poseur-buyer methamphetamine hydrochloride, a regulated drug which is commonly known as *shabu* and with an approximate weight of nine hundred seventy five point four (975.4) grams, without any authority whatsoever.^[8]

During arraignment, the appellants, assisted by their counsel *de parte*, refused to enter a plea after the Information was read to them; thus, the court *a quo* ordered that a plea of NOT GUILTY be entered into the records for both appellants. Thereafter, trial on the merits ensued.

The prosecution presented the testimony of the following witnesses: Police Officer (PO) 1 Mangontawar Amerol (PO1 Amerol), member of the Philippine National Police (PNP) Narcotics Group, Camp Crame, Quezon City, who acted as the poseur-buyer in the buy-bust operation on 3 December 1999; Annalee R. Forro, Forensic Chemical Officer of the PNP Crime Laboratory, Camp Crame, Quezon City; and Police Senior Inspector Eleazar Mata (P/Sr. Insp. Mata), member of the PNP Narcotics Group, Camp Crame, Quezon City, who conducted a briefing of his team members on the

conduct of their buy-bust operation on 3 December 1999.

The prosecution's version of the facts of this case based on the testimony of the aforesaid witnesses is as follows:

In the early afternoon of 3 December 1999, the PNP Narcotics Group, Camp Crame, Quezon City, received information from their reliable informant that appellant Lim is engaged in illegal drug activities. Immediately, a buy-bust operation team, composed of PO1 Amerol, Senior Police Officer 1 Salvador M. Sorreda (SPO1 Sorreda), PO1 Fabo, PO1 Musni, PO1 Fabian, P/Sr. Insp. Mata, as the team leader, and others was organized to conduct a buy-bust operation at the designated place, which was at McDonald's along Dr. A. Santos Avenue, Sucat, Parañaque City. P/Sr. Insp. Mata, as the team leader, called for a briefing of his team regarding the conduct of their buy-bust operation and designated PO1 Amerol as the poseur-buyer.^[9] During the said briefing, the team was apprised that the methamphetamine hydrochloride (*shabu*) involved in their buy-bust operation weighed almost one kilo and was valued at P700,000.00.^[10] In preparation therefor, the team prepared seven bundles of boodle money^[11] and two genuine P1,000.00 bills bearing Serial No. AG 150525 and No. AR 252979 with the markings "SMS," written by PO1 Amerol, as marked money.^[12] The said two genuine P1,000.00 bills were placed on top of the two bundles of boodle money.^[13]

At around 2:00 p.m., the buy-bust team proceeded to the designated place on board three vehicles. PO1 Amerol and their informant rode together in a white Toyota Corolla car. At around 3:30 p.m., PO1 Amerol and their informant arrived at the parking lot of McDonald's along Dr. A. Santos Avenue, Sucat, Parañaque City, while the rest of the buy-bust team positioned themselves strategically within its premises. Then, PO1 Amerol and their informant waited for appellant Lim to arrive. At around 4:30 p.m., appellant Lim, together with appellant Flores, arrived on board a red Daihatsu Charade car with Plate No. TEN 576. Subsequently, appellant Lim went out of the car and talked to their informant.^[14] During the time that the two were talking to each other, PO1 Amerol was about nine meters away from them, while P/Sr. Insp. Mata, who was standing beside the road as if waiting for a ride, was about 10 meters away from appellant Lim and their informant.^[15]

After a while, appellant Lim and their informant approached him, and the latter introduced him to appellant Lim as Mike Amerol, a Muslim who wanted to buy *shabu*. Appellant Lim asked PO1 Amerol if he had with him the money. Upon being shown the marked money placed inside a brown envelope, together with the seven bundles of boodle money, appellant Lim went back to the car. Thereafter, appellant Flores alighted from the car carrying a black bag. Both appellants approached PO1 Amerol. Appellant Flores opened the black bag and showed him its contents. PO1 Amerol saw therein a tape-sealed transparent plastic bag containing *shabu* weighing about one kilo. Appellant Lim then asked for the agreed amount of P700,000.00 in payment thereof.^[16] PO1 Amerol handed the money to appellant Lim, and appellant Flores gave him the black bag with a tape-sealed transparent plastic bag containing *shabu*.^[17]

After the sale was consummated, PO1 Amerol executed their pre-arranged signal by lighting his cigarette.^[18] P/Sr. Insp. Mata and SPO1 Sorreda immediately responded

and arrested both appellants. The buy-bust money was recovered from appellant Lim. PO1 Amerol then placed the markings "12/3/99" and "SMS," which stood for Salam Mangontawar Saud, on both sides of the surface of a tape-sealed transparent plastic bag containing *shabu*. Afterwards, both appellants were brought to the office of the PNP Narcotics Group, Camp Crame, Quezon City, where they were booked, and where the joint affidavit of their arrest and the arrest reports were prepared.^[19]

Requests for the examination of the specimen^[20] and for the physical and medical examination of the appellants^[21] both dated 3 December 1999 were likewise made. The specimen was submitted to the PNP Crime Laboratory for examination. Forensic Chemist Forro of the PNP Crime Laboratory examined the specimen, which is a white crystalline substance placed in a tape-sealed transparent bag, by first weighing it. She stated that the substance weighed 975.4 grams. She then proceeded with the chemical examination of the said specimen, and the same yielded a positive result for methamphetamine hydrochloride. Her examination was reduced into writing,^[22] as evidenced by Physical Sciences Report No. D-5933-99^[23] dated 4 December 1999. The physical and medical examination of appellants, on the other hand, yielded negative results, meaning, there was no showing that they were physically harmed.^[24]

For its part, the defense presented the testimonies of the following witnesses: appellant Lim, a Chinese national; appellant Flores; Bienvenido Olan (Olan); and SPO1 Sorreda, as adverse witness.

Appellant Lim testified that he is engaged in buy-and-sell business in Baclaran and Divisoria. On 3 December 1999, he was in Baclaran to collect money from some of his customers therein. Between 10:00 a.m. and 10:30 a.m., he met Bienvenido Olan,^[25] a dealer of pants and garments,^[26] whom he called Ben Olan. Olan then invited him to visit the former's *kumpare*, who lived in Quezon City near SM North EDSA, as the latter would be returning to Olan some goods that appellant Lim might be interested in selling to his customers. Then, appellant Lim and Olan went to the house of the latter's *kumpare*, who turned out to be appellant Flores, on board a taxi. They arrived therein at around 11:30 a.m. or 12:00 noon.^[27]

Thereafter, appellants Lim and Flores and Olan proceeded to the house of Olan's customer in Parañaque on board appellant Flores' Daihatsu car, because the goods that would be shown to appellant Lim were actually in Parañaque. They arrived at the house of Olan's customer in Parañaque between 2:00 p.m. and 2:30 p.m. Suddenly, while they were inside the house, some men barged in and immediately handcuffed and boarded them to a car, where appellant Lim was blindfolded and beaten up on the way to the PNP Narcotics Group's office in Quezon City. He was also asked to identify something, which he failed to do because he could not see it, as he has a blindfold. When they arrived at the PNP Narcotics Group Office in Quezon City, the handcuffs were removed, but his hands were tied to the chair he was sitting on. The police authorities who arrested him never gave him any chance to talk because, whenever he would try to do so, they would hit him on his mouth. Then, his blindfold was removed and his hand was placed on something while his picture was taken. He was also made to undergo some fingerprinting.^[28]

Appellant Lim further testified that he wanted to call up his family or relatives, but

he was not able to do so, as he was confined in a cell the whole night. The next day or on 4 December 1999, he was brought to the Department of Justice (DOJ); and when he was brought back to the PNP Narcotics Group Office in Quezon City, he was charged with possession of one kilogram of *shabu*.^[29]

Appellant Flores, on the other hand, testified that on the morning of 3 December 1999, while he was at home in Pag-asa, Quezon City, Olan, his *kumpare*, called him up and insisted on borrowing his car. He then asked Olan to come to his house to talk about the matter. While appellant Flores was having lunch with his family, Olan, together with his companion, arrived at his house. Olan reiterated to appellant Flores the former's intention of borrowing the latter's car. Since his car was not available, appellant Flores borrowed the car of his daughter. As he would not be doing anything else that day, he went with Olan and the latter's companion to Mon-el Subdivision in Parañaque to meet a certain Boyet Samoy (Samoy), Olan's other *kumpare*, whose house was near McDonald's, Sucat, Parañaque City. When they arrived at the house of Samoy between 2:00 p.m. and 2:30 p.m., the latter was not there. It was only an old man who entertained them and even asked them to go inside the house. Suddenly, around 10 armed men barged in while shouting, "*Nasaan, nasaan?*" Then, he and appellant Lim were handcuffed, and they were dragged into a vehicle. While inside the vehicle, they were blindfolded until they reached Camp Crame, where they were interrogated.^[30] Appellant Flores later found out that Olan was not apprehended.^[31]

Appellant Flores stated that during the interrogation, he was tortured with a plastic bag put on his head to make him admit to the crime. Also, he was never informed of his rights. After the interrogation, he and appellant Lim were transferred to the room of a certain Major Suan. Major Suan then took out from his drawer a plastic bag containing crystalline substance which was handed to both appellants while their pictures were taken. Thereafter, they were brought back to their detention cell, where appellant Flores was asked to sign an arrest booking sheet even in the absence of a lawyer.^[32]

The defense's next witness was Olan, who stated that on 3 December 1999, he was in Baclaran to look for some ready-to-wear (RTW) merchandise when he met appellant Lim. He then invited appellant Lim to go with him to the house of his *kumpare*, appellant Flores, in Quezon City, to which appellant Lim agreed. When they arrived at the house of appellant Flores, they ate lunch and thereafter, Olan, appellants Lim and Flores proceeded to Parañaque City on board the car of appellant Flores' daughter. Their reason for going to Parañaque City was for appellant Lim to see the pants that he might want to buy. Upon reaching Parañaque City, they went to Samoy's house but it was a certain *Mang Jr.* whom they saw there. *Mang Jr.* told them to just go to his house in Mon-el Subdivision, Parañaque City, because the pair of pants they wanted to see was already at his house. They arrived at Mon-el Subdivision, which was near McDonald's, Sucat, Parañaque City, at around 1:30 p.m. to 2:00 p.m., and proceeded to *Mang Jr.*'s house to get the pants. While inside the house of *Mang Jr.*, the police authorities arrived. They were then arrested, and boarded in separate cars, and brought to Camp Crame where Olan was asked to keep silent. Appellants Lim and Flores were separated from him. At night, Major Suan arrived and ordered his release.^[33]

The defense also presented SPO1 Sorreda as an adverse witness, who stated before

the court *a quo* that the initials "SMS" appearing on the plastic bag containing *shabu* is also his initials. However, he stated that PO1 Amerol used the same initials "SMS," and that it was the latter who made an inscription of these initials on a tape-sealed transparent plastic bag containing *shabu*, which was marked as Exhibit "F."^[34]

After trial, a Decision was rendered by the court *a quo* on 12 February 2003, finding both appellants guilty beyond reasonable doubt of the crime charged. The dispositive portion reads:

WHEREFORE, premises considered, judgment is hereby rendered, finding [appellants], TECSON LIM y CHUA and MAXIMO FLORES y VITERBO, GUILTY beyond reasonable doubt of the offense of violation of Section 15, Article III of R.A. [No.] 6425, as amended by R.A. [No.] 7659 in relation to Number 3,^[35] Section 20 thereof, and [appellants] TECSON LIM y CHUA and MAXIMO FLORES y VITERBO are hereby sentenced to each suffer the penalty [of] *RECLUSION PERPETUA* and for both [appellants] to pay a fine of TWO MILLION PESOS (P2,000,000.00) each.

The methamphetamine hydrochloride or *shabu* confiscated from both the [appellants] is hereby ordered confiscated in favor of the government and the Sheriff of this Court is directed to immediately turn over the same to the Dangerous Drugs Board and for the said office to acknowledge receipt thereof.

No pronouncement as to costs.^[36]

The records of this case were originally transmitted to this Court on appeal. Pursuant to *People v. Mateo*,^[37] the records were transferred to the Court of Appeals for appropriate action and disposition.

In their brief, the appellants' lone assignment of error was: *the court a quo gravely erred in finding the [appellants] guilty beyond reasonable doubt of the crime charged.*^[38]

On 18 November 2008, the Court of Appeals rendered a Decision affirming *in toto* the 12 February 2003 Decision of the trial court.

Appellants appealed to this Court, contending that the trial court erred in relying heavily on the testimonies of PO1 Amerol and P/Sr. Insp. Mata. Appellants claimed that PO1 Amerol was silent on the instructions given during the briefing as to what the rest of the buy-bust team would do upon arrival at the target area, while he was transacting with appellants. They insisted that if there was really a briefing, the buy-bust team should have discussed and identified the areas where they would conceal themselves to boost the confidence of PO1 Amerol as the poseur-buyer. In the absence of such briefing, it cannot be presumed that the other members of the buy-bust team concealed themselves.

Moreover, P/Sr. Insp. Mata, the officer-in-charge in the buy-bust operation, failed to perform his regular duty to conduct a test-buy before the buy-bust operation. For