

THIRD DIVISION

[G.R. No. 176735, June 26, 2008]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JERRY SANTOS Y MACOL AND RAMON CATOC Y PICAYO,
ACCUSED-APPELLANTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

Assailed before Us is the Decision^[1] of the Court of Appeals dated 29 November 2006 in CA-G.R. C.R.-HC No. 01291 which affirmed the Decision^[2] of the Regional Trial Court (RTC) of Pasig City, Branch 70, in Criminal Cases No. 12193-D and No. 12194-D, finding accused-appellants Jerry Santos y Macol and Ramon Catoc y Picayo guilty of illegal sale of methamphetamine hydrochloride, more popularly known as *shabu*, and finding accused-appellant Ramon Catoc y Picayo guilty of illegal possession of the said prohibited drug, respectively.

On 10 March 2003, two Informations were filed against appellants Jerry Santos y Macol and Ramon Catoc y Picayo before the RTC of Pasig City, for violating the provisions of Republic Act No. 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

In Criminal Case No. 12193-D, appellants Santos and Catoc allegedly violated Section 5, Article II of Republic Act No. 9165^[3] in the following manner:

On or about March 8, 2003, in Pasig City and within the jurisdiction of this Honorable Court, the accused, **conspiring and confederating together and both of them mutually helping and aiding one another**, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously **sell, deliver and give away to PO3 Carlo Luna, a police poseur buyer, one (1) heat-sealed transparent plastic sachet containing three (3) centigrams (0.03 gram) of white crystalline substance, which was found positive to the test for methylamphethamine hydrochloride**, a dangerous drug, in violation of the said law.^[4] (Emphasis ours).

On the other hand, in Criminal Case No. 12194-D, appellant Catoc was additionally charged with violation of Section 11, Article II of the same law,^[5] committed as follows:

On or about March 8 2003, in Pasig City and within the jurisdiction of this Honorable Court, the accused, **not being lawfully authorized to possess any dangerous drug**, did then and there willfully, unlawfully and feloniously **have in his possession and under his custody and control one (1) heat-sealed transparent plastic sachet containing**

three (3) centigrams (0.03 gram) of white crystalline substance, which was found positive to the test for methylamphethamine hydrochloride, a dangerous drug, in violation of the said law.^[6] (Emphasis ours).

During their arraignment on 19 May 2003, appellants Santos and Catoc pleaded not guilty to the above-mentioned charges.^[7]

On 3 June 2003, the Pre-Trial Conference of the cases was terminated without the prosecution and the defense agreeing to any stipulation of facts.^[8]

On 5 August 2003, the parties, however, agreed to re-open the Pre-Trial Conference and they entered into a stipulation of facts as to the testimony to be given by the first prosecution witness, Forensic Chemist Police Inspector (P/Insp.) Lourdeliza Cejes.^[9] As contained in the Pre-Trial Order dated 5 August 2003, the parties stipulated on: (1) the due execution and genuineness of the Request for Laboratory Examination dated 8 March 2003, and the stamp showing receipt thereof by the Philippine National Police (PNP) Crime Laboratory; (2) the due execution, genuineness and truth of the contents of Physical Science Report No. D-405-03E issued by Forensic Chemist P/Insp. Lourdeliza Cejes, the finding or conclusion appearing on the report, and the signature of the forensic chemist over her typewritten name appearing therein; and (3) the existence of the plastic sachets, but not their source or origin, contained in a brown envelope, the contents of which were the subject of the Request for Laboratory Examination.^[10]

Thereafter, the cases were consolidated and tried jointly.^[11]

The prosecution presented two witnesses: (1) Police Officer (PO)3 Carlo Luna^[12] and (2) Senior Police Officer (SPO)3 Leneal Matias,^[13] both members of the Station Drug Enforcement Unit (SDEU)^[14] of the Pasig City Police Station.

The defense, on the other hand, presented (1) appellant Jerry Santos y Macol^[15]; (2) appellant Ramon Catoc y Picayo^[16]; (3) Maria Violeta Catoc,^[17] sister of appellant Catoc; and (4) Eric Santos,^[18] brother of appellant Santos.

The People's version of the facts shows that on 8 March 2003, the SDEU operatives of the Pasig City Police conducted a buy-bust operation in a residential area along Dr. Sixto Antonio Avenue, Brgy. Rosario, Pasig City, on the basis of reports that a certain alias Monching Labo was selling illegal drugs in the said locality.^[19] Accompanied by a confidential informant, the police team composed of PO3 Carlo Luna, SPO3 Leneal Matias, PO1 Michael Espares and PO1 Michael Familara, proceeded to the target area at around 1:15 to 1:20 a.m. on the above-mentioned date. PO3 Carlo Luna was to act as the poseur-buyer, whereas the other members of the team were to serve as his backup.^[20]

Upon reaching the designated place, PO3 Luna and the informant alighted from their vehicle, while the rest of the team were left inside.^[21] The informant then pointed to two persons standing along the target area, one of whom was Monching Labo, later identified as appellant Ramon Catoc y Picayo.^[22] After approaching, the

informant introduced PO3 Luna as a *shabu* customer to one of the persons, later identified as appellant Jerry Santos y Macol. Appellant Santos then asked PO3 Luna how much worth of *shabu* he was buying and asked for the money. PO3 Luna gave appellant Santos the buy-bust money consisting of a pre-marked P100.00 bill.^[23] Appellant Santos handed this money to appellant Catoc, who took out from his pocket a sealed transparent plastic sachet containing a white crystalline substance,^[24] which he handed back to appellant Santos. When appellant Santos gave the plastic sachet to PO3 Luna, the latter nabbed the former and introduced himself as a policeman.^[25]

At that point, the other members of the team arrived and likewise held and arrested appellant Catoc. SPO3 Matias then ordered appellant Catoc to empty the contents of his pockets. After having done so, another plastic sachet containing a similar crystalline substance^[26] was recovered from appellant Catoc, together with the marked P100.00 buy-bust money.^[27] Immediately thereafter, the policemen marked the two plastic sachets.^[28] The sachet handed by appellant Santos to PO3 Luna was marked with the latter's initials "CEL," his signature, and appellant Santos's initials "JMS."^[29] On the other hand, the sachet recovered from appellant Catoc by SPO3 Matias was marked with the latter's initials "LTM," his signature and appellant Catoc's initials "RPC."^[30] The policemen then informed the appellants of their violations and apprised them of their constitutional rights.^[31] Afterwards, appellants Santos and Catoc were brought to the Pasig City Police Station at Pariancillo Park, Pasig City, for proper investigation.

PO3 Luna submitted the two plastic sachets containing the white crystalline substance to the PNP Crime Laboratory Service, Eastern Police District in Mandaluyong City for an examination of the contents thereof.^[32] The laboratory test results as contained in Chemistry Report No. D-405-03E^[33] stated the following:

SPECIMEN SUBMITTED:

Two (2) heat-sealed transparent plastic sachets with markings "CEL/JMS 030803 and RPC/LTM 030803" containing 0.03 gram of white crystalline substance and marked as A and B respectively.

x x x x

FINDINGS:

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

CONCLUSION:

Specimens A and B contains (sic) Methylamphetamine hydrochloride, a dangerous drug.

As expected, the appellants offered a version of the facts that was diametrically opposed to that of the prosecution. According to them, there was no buy-bust operation to speak of and that prior to their arrests, they were literally strangers to each other.

Appellant Jerry Santos y Macol testified that on 8 March 2003, at around 12:00 midnight to 1:00 a.m., while he was watching television at their house at 151 Dr. Sixto Antonio Avenue, Barangay (Brgy.) Rosario, Pasig City, and was about to sleep, five male persons in civilian clothing suddenly entered and handcuffed him.^[34] Santos claimed that he voluntarily went with the men when they tried to arrest him because his ailing mother, who was then awakened, was already becoming nervous.^[35] Santos was brought outside and placed in a tricycle, and the entire group left for the police station. There, Santos was detained and questioned about the marked money, which he said he knew nothing about. Santos was then charged with the offense of selling illegal drugs in violation of Section 5, Article II of Republic Act No. 9165.^[36] It was also at that time in the police station where he first met appellant Catoc.^[37]

For his part, appellant Ramon Catoc y Picayo narrated that on 8 March 2003, between the hours of 11:00 p.m. and 12:00 midnight, he awoke to a loud sound at the door of their house at 125 Dr. Sixto Antonio Avenue, Brgy. Rosario, Pasig City.^[38] When Catoc opened the door, five male persons with guns entered their house.^[39] The men frisked Catoc and searched his house. After being likewise awakened, Catoc's mother asked the men what his son's fault was. They replied that they were looking for the drugs that Catoc was selling.^[40] When their search yielded nothing, the men mauled Catoc. Afterwards, Catoc was placed in a tricycle and the group headed for a gasoline station along J. E. Manalo Street. There, Catoc was transferred to a parked van; inside the vehicle was appellant Jerry Santos y Macol, whom the former saw for the first time.^[41] The men took the appellants to the police station in Pariancillo Park where they were again mauled. The policemen who arrested the appellants produced two plastic sachets of *shabu* and a P100.00 bill and alleged that the same were taken from Catoc's possession. The appellants were then charged with violation of Sections 5 and 11, Article II of Republic Act No. 9165.^[42]

On 4 May 2005, the trial court rendered its decision, the pertinent portion of which states:

The Court is more inclined to give credence to the testimonies of the prosecution witnesses given the presumption of regularity in the performance of official duty accorded to them by law and jurisprudence vis-à-vis the self-serving disclaimers of the herein accused whose version of the incident as narrated above hardly inspires belief.

It has been clearly established from the evidence adduced by the State that at around 1:00 in the morning of March 8, 2003, accused Jerry Santos and Ramon Catoc, in conspiracy with one another, sold or traded and delivered, to PO3 Carlo Luna, in a buy-bust operation, one transparent plastic sachet of *shabu* containing white crystalline substance (Exh. "C-1") in consideration of the amount of PHP 100.00 (Exh. "D"). x x

That there was [a] conspiracy between the two accused as alleged in the information in Criminal Case No. 12193-D, is evident. The transaction was successfully consummated between the poseur buyer PO3 Luna, on the one hand, and the accused Ramon Catoc, together with his co-accused, Jerry Santos, on the other, with accused Santos receiving the marked money from the poseur buyer and thereafter handing the same to his co-accused Catoc who, thereafter, took out from his right pocket a plastic sachet of shabu which he gave to Santos, and which the latter in turn handed to PO3 Luna. There can be no other conclusion that can be drawn from the above concerted actions of both accused, but that they were bound by a common purpose and community of interest, indicative of conspiracy, in committing the offense charged against them.

On the same occasion of the buy-bust operation, the police officers were also able to recover from the possession of accused Ramon Catoc another sachet of shabu weighing 0.03 grams (Exh. "C-2") which is in violation of Section 11 (Possession of Dangerous Drugs), Article II of the same law, subject of Criminal Case No. 12194-D, which penalizes the mere possession of dangerous drugs w/o (sic) being authorized by law.

x x x x

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

In **Criminal Case No. 12193-D**, both accused, **JERRY SANTOS y MACOL** and **RAMON CATOC y PICAYO** are hereby found **GUILTY** beyond reasonable doubt of the offense of Violation of Section 5, Article II, Republic Act [No.] 9165 (illegal sale of shabu) and are hereby sentenced to **LIFE IMPRISONMENT** and to solidarily pay a **Fine of Five Hundred Thousand Pesos (PHP500,000.00)**.

In **Criminal Case No. 12194-D**, accused **RAMON CATOC y PICAYO** is hereby found **GUILTY** beyond reasonable doubt of the offense of Violation of Section 11, Article II, Republic Act [No.] 9165 (illegal possession of shabu) and is hereby sentenced to **Twelve (12) Years and One (1) Day to Twenty (20) Years** and to pay a **Fine of Three Hundred Thousand Pesos (PHP 300,000.00)**.

Considering the penalty imposed by the Court, [t]he immediate commitment of accused Jerry Santos and Ramon Catoc to the National Penitentiary, New Bilibid Prisons, Muntinlupa City is hereby ordered.

Pursuant to Section 20 of Republic Act [No.] 9165, the amount of PHP 100.00 recovered from accused Ramon Catoc representing the proceeds from the illegal sale of the transparent plastic sachet of shabu is hereby ordered forfeited in favor of the government.

Again, pursuant to Section 21 of the same law, representatives from the Philippine Drug Enforcement Agency (PDEA) is (sic) hereby ordered to