

THIRD DIVISION

[G.R. No. 179036, July 28, 2008]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARLITO MATEO Y PATAWID ACCUSED-APPELLANT.**

D E C I S I O N

CHICO-NAZARIO, J.:

Before Us is the Decision^[1] of the Court of Appeals in CA-G.R. H.C. CR No. 00709 dated 31 October 2006 which affirmed the Decision of the Regional Trial Court (RTC) of Makati City, Branch 64, in Criminal Case Nos. 03-2337 and 03-2338, finding accused-appellant Carlito Mateo y Patawid guilty of violation of Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as Comprehensive Dangerous Drugs Act of 2002.

On 30 June 2003, two informations were filed against accused-appellant before the RTC of Makati for violating the provisions of Republic Act No. 9165.

In Criminal Case No. 03-2337, accused-appellant violated Section 5,^[2] Article II in the following manner:

That on or about the 28th day of June 2003, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, give away, distribute and deliver to another zero point ten (0.10) grams, of Methylamphetamine Hydrochloride which is a dangerous drug, in exchange of the amount of Two Hundred Pesos (P200.00).^[3]

On the other hand, in Criminal Case No. 03-2338, accused-appellant Patawid was additionally charged with violation of Section 11, Article II of the same law,^[4] committed as follows:

That on or about the 28th day of June 2003, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously have in his possession, direct custody and control a total of zero point two (0.2) gram of Methylamphetamine Hydrochloride which is a dangerous drug.^[5]

Accused-appellant pleaded not guilty to both charges when arraigned on 31 July 2003.^[6]

During the pre-trial, the prosecution and the defense stipulated on the following: (1) the issuance of Police Investigation Report after the accused was arrested; (2) the qualification of Forensic Chemist Engr. Richard Allan Mangalip; and (3) the Physical Science Report prepared by the Forensic Chemist. By virtue of said stipulations, the testimony of the Forensic Chemist was dispensed with.

Thereafter, the cases were consolidated and tried jointly.

During the trial, the prosecution presented the following witnesses: (a) Makati Anti-Drug Abuse Council (MADAC) Operative Geraldo Fariñas, a member of the Philippine National Police (PNP) and the designated poseur-buyer; (b) Police Officer 2 (PO2) Rodrigo Igno; and (c) MADAC Operative Oscar Gutierrez, as back-up or members of the operation team.

The defense, on the other hand, presented the lone testimony of the accused.

The prosecution's version of the case is as follows:

On 28 June 2003, Captain Rodolfo Doromal of the Office of MADAC received a report from a confidential informant that an alias Ato was selling illegal drugs along Kalayaan Avenue, Makati City. Acting on said information, they immediately coordinated with the Drug Enforcement Unit (DEU). Thereupon, PO2 Rodrigo Igno and PO2 Barrameda were dispatched to the MADAC Cluster 4 Office where a briefing was immediately held. MADAC Operative Geraldo Fariñas was designated as poseur-buyer with MADAC Operative Oscar Gutierrez, PO2 Igno and PO2 Barrameda as back-up team. Two P100.00 bills were used as buy-bust money. After the briefing, the team, together with the confidential informant, proceeded to Barangay Pitogo, Makati City, for the execution of the buy-bust operation.

At around 8:45 in the evening of 28 June 2003, accused-appellant was found standing along Kalayaan Avenue, Makati City. Upon seeing the accused, the informant and MADAC Operative Fariñas approached him, while the back-up team followed from a distance and positioned themselves. The informant told accused-appellant that MADAC Operative Fariñas was interested in buying *shabu*. Accused-appellant then asked the informant if the latter was okay,^[7] and he replied in the affirmative. MADAC Operative Fariñas handed over the buy-bust money to the accused-appellant. Thereafter, the latter took out from his pocket a plastic sachet and handed the same to MADAC Operative Fariñas. After taking the plastic sachet believed to contain *shabu*, MADAC Operative Fariñas gave the pre-arranged signal by removing his face towel, which was placed on his right shoulder, to signify that the sale was consummated.

Upon seeing the pre-arranged signal, MADAC Operative Gutierrez, PO2 Igno and PO2 Barrameda came over and asked the accused to empty his pocket. They introduced themselves as MADAC Operatives and Police Officers, and thereafter arrested him. MADAC Operative Gutierrez recovered from the accused the buy-bust money and one black coin purse containing 7 plastic sachets of suspected *shabu*.^[8] PO2 Barrameda informed the accused of the latter's constitutional rights,^[9] while PO2 Igno asked for the full name of the accused.^[10] MADAC Operative Fariñas marked the pieces of evidence recovered from the accused by placing therein the initials of the accused.^[11] The Custodian Officer prepared the list of items taken

from the accused and turned over the list to the DEU.^[12] Thereafter, the accused was taken to the DEU and afterwards to the PNP Crime Laboratory for drug testing. The dangerous drugs were brought to the PNP Crime Laboratory for examination,^[13] which later confirmed the presence of Methamphetamine hydrochloride.^[14]

Expectedly, accused-appellant presented a disparate narration of the incident:

Accused-appellant claimed that at around 9:00 o'clock in the evening of 28 June 2003, while he was walking along Kalayaan Avenue, Makati City, on his way to his live-in partner's house in Bohol Street, Barangay Pitogo, two men suddenly approached and grabbed him claiming they wanted to ask him something. They made him board a blue Toyota Revo and brought him to the barangay hall. The two men asked him if he knew a certain "Eboy" and to point him out to them. The accused told them that he could not point out Eboy because he did not know him and that he was not living in that place. Besides, he said he was in that place because he fetched his live-in partner. When he did not heed their demands, he was brought to a room where they took his picture. He saw plastic sachets of *shabu* inside the room.^[15]

After trial, the court *a quo* found accused-appellant guilty as charged. The dispositive portion of the trial court's decision reads:

WHEREFORE, in view of the foregoing, judgment is rendered against the accused CARLITO MATEO y PATAWID, ALIAS "ATO" as follows:

1. Finding him, GUILTY beyond reasonable doubt of the crime of Violation of Section 5 of R.A. No. 9165 (Crim. Case No. 03-2337) and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00;
2. Finding him, GUILTY beyond reasonable doubt of the crime of Violation of Section II of R.A. No. 9165 (Crim. Case No. 03-2338) and considering that the combined weight of the subject *shabu* is only 0.2 gram sentencing him to suffer the penalty of twelve (12) years and one (1) day of imprisonment, and a fine of P300,000.00

The Branch Clerk of Court is directed to transmit to the Philippines Drug Enforcement Agency (PDEA) the one plastic sachet of *shabu* (0.10) gram subject matter of Criminal Case No. 03-2337 and the seven plastic sachets of *shabu* with combined weight of 0.20 gram subject of Criminal Case No. 03-2338 for said agency's appropriate disposition.^[16]

On 31 October 2006, the Court of Appeals affirmed the findings and conclusion of the RTC, the *fallo* of which reads:

WHEREFORE, premises considered, the appeal is DENIED for lack of merit. The Decision dated February 10, 2005 rendered by the Regional Trial Court of Makati City, Branch 64, in Criminal Cases Nos. 03-2337 and 03-2338 finding the accused appellant guilty beyond reasonable doubt of violating Sections 5 and 11 of Article II of Republic Act No. 9165 is affirmed *in toto*.^[17]

Accused-appellant filed a Notice of Appeal on 20 November 2006. The Court of Appeals forwarded the records of the case to us for further review.

In Our Resolution^[18] dated 8 October 2007, the parties were notified that they may file their respective supplemental briefs, if they so desired, within 30 days from notice. Both accused-appellant^[19] and the People^[20] opted not to file supplemental briefs on the ground that they had exhaustively argued all the relevant issues in their respective briefs and that the filing thereof would only entail a repetition of the arguments already discussed.

Accused-appellant raised the following errors^[21]:

I

THE COURT A *QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT; and

II

THE COURT A *QUO* GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCONSISTENT AND INCREDIBLE TESTIMONIES OF THE PROSECUTION WITNESSES.

Accused-appellant contends that the trial court erred in convicting him as his guilt was not proved beyond reasonable doubt. Further, he alleges that the police officers dispensed with the surveillance and immediately conducted the buy-bust operation. He also maintains that there was no basis for the trial court's conviction due to the apparent inconsistencies in the testimonies of the prosecution witnesses.

For the successful prosecution of offenses involving the illegal sale of drugs under Section 5, Article II of Republic Act No. 9165, the following elements must be proven: (1) the identities of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment therefor.^[22] What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.^[23]

In the present case, all the elements of the crime have been sufficiently established. Prosecution witnesses MADAC Operative Fariñas, PO2 Igno and MADAC Operative Gutierrez consistently testified that a buy-bust operation did indeed take place. The *shabu* subject of the sale was presented and duly identified in open court. MADAC Operative Fariñas, being the poseur-buyer, positively identified accused-appellant Mateo as the person who sold the sachet containing a white crystalline substance,^[24] which was later confirmed by a chemical analysis to be *shabu*.^[25] The white crystalline substance was placed in a sachet by MADAC Operative Fariñas who marked the same with the initial "CMP" representing the name of accused Carlito Mateo y Patawid. Incidentally, MADAC Operative Fariñas also identified the six (6) sachets of *shabu* which were placed in the other six sachets and which he, likewise, marked with the initial "CMP." He, together with team members PO2 Igno and MADAC Operative Gutierrez, then brought the sachets

with *shabu* to the PNP Crime Laboratory for examination after securing a letter-request for examination from the DEU Office.

Relevant portions of MADAC Operative Fariñas's testimony that detailed the events leading to the arrest of accused-appellant are as follows:

PROS. BAGAOISAN

Who among you walked in going to Kalayaan?

WITNESS

The informant, PO2 Barrameda, PO2 Igno and Oscar Gutierrez, sir.

PROS. BAGAOISAN

What time did you arrive at Kalayaan St?

WITNESS:

At about 8:45 pm., sir.

PROS. BAGAOISAN

And, what happened after you arrived at Kalayaan St.?

WITNESS

I was introduced by the informant to Alias Ato, sir.

PROS. BAGAOISAN

When you first saw this Alias Ato, what was he doing?

WITNESS

He was standing along Kalayaan Avenue, sir.

PROS. BAGAOISAN

How were you introduced to Alias Ato?

WITNESS

That I was in need and I was going to buy *shabu*, sir.

PROS. BAGAOISAN

What happened after you were introduced to Alias Ato?

WITNESS

I immediately handed over to him the 200-peso bills, sir.