

ELEVENTH DIVISION

[CA-G.R. CR-HC NO. 06776, October 13, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO ILLORDE Y YAMANOHA, ACCUSED-APPELLANT.**

DECISION

CORALES, J.:

This is an appeal^[1] from the April 24, 2014 Judgment^[2] of the Regional Trial Court (RTC), Branch 204, Muntinlupa City in Crim. Case Nos. 09-279 and 09-280 finding accused-appellant Rolando Illorde y Yamanoha (Illorde) guilty beyond reasonable doubt of illegal sale and possession of *shabu* as respectively defined and punished under Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The Antecedents

In Crim. Case No. 09-279, Illorde was charged with illegal sale of *shabu* under an Information^[3] which reads:

That on or about *the 18th day of May 2009*, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully and unlawfully sell, trade, deliver and give away to another, Methamphetamine Hydrochloride, a dangerous drug weighing more or less 0.01 gram, contained in one (1) heat sealed transparent plastic sachet in violation of the above-cited law.

Contrary to law. (Italics appears in the original text of the Information)

In Crim. Case No. 09-280, he was charged with illegal possession of *shabu* under the following Information,^[4] viz.:

That on or about *the 18th day of May, 2009*, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously have in his possession, custody and control of Methamphetamine Hydrochloride, a dangerous drug weighing more or less 0.02 gram contained in one (1) heat seal transparent sachet, in violation of the above-cited law.

Contrary to law. (Italics appears in the original text of the Information)

When arraigned, Illorde pleaded not guilty to both offenses.^[5]

During pre-trial, the prosecution and the defense stipulated^[6] on the following: P/S Insp. Abraham Verde Tecson (P/S Insp. Tecson), the forensic chemist in Philippine National Police Crime Laboratory, Southern Police District (SPD), Makati City conducted the laboratory examination on two (2) heat-sealed transparent plastic sachets each containing white crystalline substance with the following markings and recorded net weights: a) RI- 0.01 gram and b) RI-1- 0.02 gram; based on the qualitative examination, the specimen tested positive for *methamphetamine hydrochloride*; and the existence and due execution of the Request for Laboratory Examination^[7] and of the Physical Science Report No. D-256-09S.^[8]

In the ensuing joint trial, PO3 Norman Villareal (PO3 Villareal), the poseur buyer, and PO3 Dennis Bornilla (PO3 Bornilla), the backup officer, testified for the prosecution. Only Illorde testified in his defense.

The Version of the Prosecution

The Office of the Solicitor General (OSG) summarized the testimonies of the prosecution's witnesses in this wise:^[9]

On May 18, 2009, a confidential informant (CI) arrived at the Station Anti-Illegal Drugs-Special Operation Task Group of the Muntinlupa City Police Station to report about the rampant selling of shabu made by a certain alias Olan in Purok 1, Barangay Sucat, Muntinlupa City. Upon receipt of the said information, the group of PO3 Villareal immediately informed their chief, Police Senior Superintendent Elmer M. Jamias (COP/TG Commander, SAID-SOTG) about the said information. P/Sr. Supt. Jamias then instructed his men to validate the said information, to which instruction his men complied. Subsequently, PO3 Villareal's group was able to confirm that indeed alias Olan was engaged in the illegal activity reported to them by the confidential informant.

Once the information was validated, P/Sr. Supt. Jamias conducted a briefing with his men in their office. During the said briefing, PO3 Villareal was designated as the poseur-buyer in the planned buy-bust operation, while PO3 Bornilla was tasked to act as the back-up officer of PO3 Villareal. Two (2) One Hundred Peso (P100.00) bills were given to PO3 Villareal to be used as marked money or buy-bust money. PO3 Villareal then placed markings on the said buy-bust money, by writing his initials "NV" on the collar of the person appearing on the One Hundred Peso (P100.00) bills. Thereafter, his group photocopied the buy-bust money. x x x

In the same briefing, the police officers agreed on the pre-arranged signal to signify the consummation of the drug sale transaction. Thus, it was agreed during the briefing that the signal indicating that the drug sale transaction was already consummated was for PO3 Villareal to make a missed call to the cellular phone of PO3 Bornilla. Subsequently, they recorded the planned operation in their blotter. They also coordinated with the Philippine Drug Enforcement Agency concerning the planned buy-bust operation.

After the briefing, the buy-bust team proceeded to the place of operation in Purok 1, Barangay Cupang, Sucat, Muntinlupa City. In particular, they

went to the house of alias Olan. The confidential informant led PO3 Villareal towards the house of alias Olan. Meanwhile, PO3 Bornilla was just near them. It was around 9:20 in the evening when they reached the house of alias Olan (appellant). Upon reaching the house of alias Olan, the confidential informant knocked at the door of the said house. At that time, PO3 Villareal was sitting on a wooden bench in front of the house of alias Olan, and about one meter away from the confidential informant. After about one to two minutes of knocking at the door, an old man (alias Olan) peeped at his house's window and subsequently immediately opened its door. Alias Olan (appellant) then asked the confidential informant (CI) who his companion (PO3 Villareal) was. The CI then introduced PO3 Villareal as his friend, who was a taxi driver on a night shift. Thereafter, the CI told alias Olan that they wanted to buy shabu from him (alias Olan). Subsequently, alias Olan asked PO3 Villareal how much worth of shabu he would be buying, to which PO3 Villareal replied that he wanted to buy shabu worth Two Hundred Pesos (P200.00), saying: *"two hundred lang pare bago pa lang ako papasada eh la pa kita."* Olan replied that he had enough at that time saying: *"tamang-tama may 2 pang kasa dito, bilihin mo na itong isa para panggamit ko na itong isa."* At that juncture, PO3 Villareal gave to alias Olan the buy-bust money, which alias Olan received. After receiving the buy-bust money, alias Olan took out from his right pocket a small plastic sachet - the contents of which were later on confirmed as shabu, after a laboratory examination of the same was conducted - and gave it to PO3 Villareal. Meanwhile, alias Olan placed back in his pocket the other plastic sachet of shabu - which he referred to earlier as for his own use, - as well as the buy-bust money. Upon receipt of the plastic sachet of shabu, PO3 Villareal examined it, and thereafter, secretly executed a pre-arranged signal that the drug sale transaction had been consummated - which is making a missed call to PO3 Bornilla's cellphone. After the exchange of the money and the shabu between poseur-buyer PO3 Villareal and alias Olan, PO3 Villareal arrested alias Olan as the latter was about to enter his house. He informed alias Olan of his constitutional rights and introduced himself as a police officer. Meanwhile, PO3 Bornilla, who was about ten (10) meters away from the place of the transaction, rushed to the scene and also introduced himself as a police officer. At the place of arrest, PO3 Villareal bodily searched alias Olan, and he was able to recover the other sachet of shabu which alias Olan placed back in his pocket. Also recovered by PO3 Villareal from alias Olan were the two One Hundred Peso (P100.00) bills used as marked money during the buy-bust operation. When PO3 Bornilla arrived at the scene, PO3 Villareal showed him the items he recovered from alias Olan - the plastic sachets of shabu and the buy-bust money. Thereafter, they brought the evidence recovered, as well as alias Olan to their office. According to PO3 Villareal, he was the one in possession of the recovered evidence - the plastic sachets of shabu and the buy-bust money - from the time they arrested alias Olan up to the time they reached their office.

At their office, PO3 Villareal and PO3 Bornilla learned that the real name of alias Olan is Rolando Illorde y Yamanoha. Meanwhile, both police officers also conducted an inventory of the seized items at their office, in the presence of appellant, the investigator, their team leader, and a

DAPCO representative. During the inventory, PO3 Villareal took photographs of appellant, as well as the seized evidence - the buy-bust money and the plastic sachets of shabu - and placed markings on the plastic sachets of shabu. The shabu seized during the buy-bust operation was marked by PO3 Villareal as "R1" (**Exhibit M**), while the shabu recovered from appellant during the body search was marked by PO3 Villareal as "RI-1" (**Exhibit M-1**). x x x

After conducting the inventory, PO3 Villareal and PO3 Bornilla brought the seized plastic sachets of shabu to the Southern Police District (SPD) Crime Laboratory in Makati City for laboratory examination. They brought with them a Request for Laboratory Examination (**Exhibit G**), signed by P/Sr. Supr. Jamias, and dated May 18, 2009. According to PO3 Villareal, he had custody of the items subject of the laboratory examination from their office, until they reached the crime laboratory, where he turned-over the said items. As shown on the stamp mark on **Exhibit G** (Request for Laboratory Examination), the two plastic sachets of shabu were received at the SPD Crime Laboratory at around 12:30 in the morning of May 19, 2009. It was delivered by Police Officer Villareal.

At around 2:50 in the morning of May 19, 2009, the qualitative examination of the specimens (A/RI and B/RI-1) submitted by PO3 Villareal to the SPD Crime Laboratory was completed. In Physical Science Report No. D-256-09S, Police Chief Inspector Abraham Verde Tecson, who conducted the qualitative examination, concluded that both Specimens A and B submitted to the crime laboratory contained methamphetamine hydrochloride, a dangerous drug. x x x (Emphasis and italics appear in the original text of the Brief for the Plaintiff-Appellee)

The Version of the Defense

Illorde denied the charges against him. Allegedly, at around 7:00 in the evening of May 18, 2009, he was home watching television when he heard knocks on the door. When he opened it, one (1) of the four (4) armed men informed him that they were looking for a person who entered in that area. They asked him if he noticed the person they were looking for, to which he replied in the negative. Suddenly, one (1) of the armed men grabbed, handcuffed, and frisked him. This armed man took the money from Illorde's pocket while the rest of them searched the house but found nothing. Illorde was then brought to the police station and one (1) of the armed men showed him a small plastic sachet of *shabu*, saying that it was taken from him. After being forced to sign some documents, Illorde was eventually detained.^[10]

The Ruling of the RTC

In its April 24, 2014 Judgment,^[11] the RTC found Illorde guilty beyond reasonable doubt of illegal sale and possession of *shabu*. It gave full faith and credence to the direct and unwavering testimonies of the police officers who are accorded the presumption of regularity in the performance of their duties, there being no evidence of ill motive on their part. It further held that the police operatives have taken the appropriate measure to insure that the *corpus delicti* had not been tampered with. It then disposed the case in this wise:

WHEREFORE, premises considered and finding the accused **GUILTY** beyond reasonable doubt of the crimes herein charged, **ROLANDO ILLORDE y YAMANOHA** is sentenced to **LIFE IMPRISONMENT** in Criminal Case No. 09-279 and to pay a **FINE** of Five Hundred Thousand Pesos (Php 500,000.00).

In Criminal Case No. 09-280, accused ROLANDO ILLORDE (*sic*) is sentenced to Twelve (12) years and one (1) day of imprisonment to Fourteen (14) years as maximum and to pay a FINE of Php 300,000.00.

The drug evidence is ordered transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.

Insisting on his innocence, Illorde interposed the present appeal with the following assignment of errors:^[12]

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL CREDENCE TO THE PROSECUTION'S VERSION DESPITE THE PATENT IRREGULARITIES IN THE CONDUCT OF THE BUY-BUST OPERATION.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH THE IDENTITY AND INTEGRITY OF THE ALLEGED CONFISCATED DRUGS CONSTITUTING THE *CORPUS DELICTI* OF THE CRIME.

III

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES CHARGED.

In essence, Illorde alleges that the prosecution failed to prove the material details of a buy-bust operation and PO3 Villareal deliberately targeted and arrested him, ignoring the other two (2) suspects identified in the Pre-Operational Report.^[13] His appeal also capitalizes on the procedural lapses of the police officers, particularly in failing to photograph and inventory the confiscated items at the place of arrest and in the presence of a representative from the media, the Department of Justice, or an elected official as required under Section 21, Article II of R.A. No. 9165.^[14]

The OSG counters that the testimonies of PO3 Villareal and PO3 Bornilla gave a categorical and complete detail on how the buybust operation against Illorde was planned and executed. Their testimonies were properly accorded faith and credence considering Illorde's failure to overturn the presumption that the police officers regularly perform their duties. The OSG further contends that the police officers substantially complied with the requirements of Section 21 of R.A. No. 9165 and had established the continuous chain of custody over the seized evidence.^[15]

This Court's Ruling