

SPECIAL THIRD DIVISION

[CA-G.R. CR-HC No. 05844, May 23, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RYAN DE CASTRO Y APILLANES, ACCUSED-APPELLANT.

D E C I S I O N

GARCIA, R. R. J.:

Before Us is an appeal from the Decision^[1] dated October 2, 2012 of the Regional Trial Court (RTC), Branch 27, San Fernando City, La Union finding herein accused-appellant Ryan De Castro y Apillanes guilty beyond reasonable doubt of violation of Section 5 of Article II, R.A. No. 9165, otherwise known as "*The Comprehensive Dangerous Drugs Act of 2002*", the dispositive portion of which reads:

WHEREFORE, having proven beyond reasonable doubt the guilt of the accused, he is hereby sentenced to:

1. Life Imprisonment
2. Pay a fine of P500,000.00
3. And is hereby disqualified to exercise his civil rights and political rights.

The drugs i[s] hereby ordered confiscated and to be disposed of in accordance with Law.

SO ORDERED.^[2]

THE FACTS

In an Information^[3] dated February 17, 2010, appellant Ryan De Castro y Apillanes was charged with the crime of illegal sale of dangerous drugs defined and penalized under Section 5 of Article II, RA No. 9165, committed as follows:

That on or about the 17th day of February, 2010 in the City of San Fernando, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court the above-named accused, without authority of law and without first securing the necessary permit, license or prescription from the proper government agency, did then and there willfully, unlawfully and feloniously sell, dispense and deliver one (1) heat-sealed transparent plastic sachet containing methamphetamine hydrochloride otherwise known as "Shabu", a dangerous drug, weighing ZERO POINT ZERO ONE HUNDRED FIFTY THREE (0.0153) gram to PO1 PHILIP FONTANILLA, who posed as a poseur buyer thereof using marked money two (2) pieces of One Hundred peso bill bearing serial numbers CC013870 and AA613848.

CONTRARY TO LAW.

On March 10, 2010, appellant, with assistance of counsel *de officio*, pleaded *not guilty*^[4].

Trial on the merits ensued thereafter.

On March 3, 2011, the parties stipulated^[5] on the following:

- 1) That there was a request for the PNP for laboratory examination on specimen delivered to the Crime Laboratory which was received by PO2 Kidayan;
- 2) That the specimen received by PO2 Kidayan was handed to P/Insp. Anamelisa Bacani;
- 3) That P/Insp. Bacani conducted a laboratory examination on the specimen submitted which is described as one (1) heat sealed plastic sachet containing 0.0153 gram containing white crystalline substance;
- 4) That the specimen was found out to be positive of methamphetamine hydrochloride;
- 5) That the laboratory findings of P/Insp. Bacani was reduced into writing captioned Chemistry Report No. D-015-10.

The prosecution presented poseur-buyer PO2^[6] Philip Fontanilla and back-up operative PO2 Mark Anthony Camat as its witnesses.

The version of the prosecution may be summarized as follows:

On February 10, 2010, PO2 Fontanilla, a member of the Anti-Illegal Drugs Task Group assigned at San Fernando Police Station, received an information regarding the illegal drug activities of appellant at Brgy. III, San Fernando City, La Union. Their office conducted verification and intelligence monitoring which confirmed the said illegal trade. Hence, on February 17, 2010, a buy-bust team was formed consisting of P/Sr. Insp. Jaime Quesada as the team leader, PO2 Tadina and PO2 Mark Anthony Camat as the immediate back-up and PO2 Fontanilla as the poseur-buyer. They prepared a Pre-Operation Report^[7] and Coordination Report^[8] which were both submitted to the Philippine Drug Enforcement Agency (PDEA). PO2 Fontanilla was given two (2) marked One Hundred Peso bill with Serial Nos. CC013870^[9] and AA613848^[10] to be used as the buy-bust money. The team, together with the civilian informant, proceeded to the target area.

Upon arrival at the Brgy. III, San Fernando City, La Union, the buy-bust team coordinated with the barangay officials and then went to the area with their informant. Their asset pointed at appellant who was along Ortega St. corner P. Burgos St. The poseur-buyer thus approached appellant while back-up operative PO2 Camat strategically positioned himself nearby to clearly see the transaction. The poseur-buyer asked appellant if he is Ryan de Castro, to which the latter replied in the affirmative. He then said that he wanted to buy *shabu* and appellant answered that he has the said item for sale. The poseur-buyer handed appellant the marked money. After receiving it, appellant gave him a plastic sachet containing

white crystalline substance suspected to be *shabu*. When the poseur-buyer got hold of the sachet, he inspected it and immediately scratched his ear which was the pre-arranged signal to his teammates that the sale has already been consummated.

PO2 Fontanilla and PO2 Camat arrested appellant and informed him of his constitutional rights. PO2 Camat made a body search on appellant and asked him to bring out the contents of his pocket. Appellant then brought out a scissor and lighter. They were also able to recover the two (2) marked One Hundred Pesos Bills from appellant. At the same area, the team took photographs^[11] and made an Inventory^[12] of the seized items. PO2 Fontanilla marked the plastic sachet bought from appellant as "RCA"^[13] which represented the latter's initials. Appellant was then brought to the San Fernando City Police Station for further investigation.

At the police station, PO2 Fontanilla prepared the letter-request for laboratory examination addressed to the PNP Crime Laboratory to determine the presence of any form of dangerous drugs in the one (1) heat-sealed transparent plastic sachet seized from appellant. He likewise personally delivered the letter and the specimen to the PNP Crime Laboratory where it was received on February 17, 2010 by PO2 Kidayan as shown by the rubber stamped delivery receipt^[14] on the letter. The specimen was handed by PO2 Kidayan to Forensic Chemist Anamelisa Sebido Bacani.

In Chemistry Report No. D-015-10^[15] dated February 17, 2010, Forensic Chemist Bacani found that the plastic sachet appellant sold to PO2 Fontanilla, with the markings "RCA" and weighing zero point zero one five three (0.0153) gram, positive for Methamphetamine Hydrochloride or *shabu*.

For the defense, appellant was presented as its lone witness.

Appellant simply raised the defenses of denial and alibi. He alleged that on February 17, 2010, while he and his live-in partner were in a hotel in San Fernando City, La Union for the town *fiesta*, they were accosted by three (3) men – policeman Jessie Quezada and his two (2) assets Jay Jalandoni and a certain Ponga. Appellant was asked if he was "*Brando*", but he replied in the negative. Ponga then poked a gun on his head and appellant was told to bring out what he was selling. Appellant told him he had nothing to sell, which prompted Jalandoni to punch him and threatened him to bring out what he was selling, otherwise he will be tortured. Appellant was frisked and his money was taken. When no drugs was found, Jalandoni surmised it was probably with appellant's partner. She then started screaming and the three (3) men left them. They later returned and Jalandoni, while calling appellant "*Brando*", said that he should give them P15,000.00. Appellant told him he did not have that much money. Jalandoni then searched appellant again, particularly his back pocket and took out a newspaper containing "*tawas*" saying that he now had something positive from appellant. The latter was then arrested. Appellant later learned that the person named "*Brando*" was his cellmate Brando Pimentel.^[16]

In the Decision^[17] dated October 2, 2012, the court *a quo* found appellant guilty beyond reasonable doubt of the crime of illegal sale of dangerous drug. The court *a quo* gave credence to the testimony of prosecution witness PO2 Fontanilla who described how appellant sold to him the sachet of *shabu*. There was also sufficient compliance of Section 21 of R.A. 9165 on the chain of custody of evidence from the time the illegal drug was sold and confiscated from appellant up to its submission for

examination at the PNP crime laboratory. The pertinent portions of the assailed Decision are quoted:

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Based on the testimonies of the prosecution witnesses one can see a clear attempt to comply with the legal requirements of a real buy-bust operation and to show that the procedure in a buy-bust reporting or inventory and preserving the chain of evidence up to the time it is presented in Court.

X X X

From the start of the buy-bust, when the police went to the place of rendezvous, the confidential informant pointed at the accused from inside a car of the police and the poseur-buyer PO2 Fontanilla approached him and asked for his name. When he answered that he is Ryan de Castro, the poseur-buyer told him to buy P200.00 worth of shabu and he readily agreed to sell and the poseur-buyer gave him money after accused gave the drugs.

Why did the accused readily agree to sell shabu to a person he never knew or never introduced by the confidential informant? On cross, when pressed why the accused wanted to sell to an unknown person, he stated that there was an agreement between him and the confidential informant, that somebody will buy shabu from him. He also stated that even if he, as poseur-buyer, was not introduced to accused, we quote his statement: "Perhaps he knew that there will be somebody to buy shabu that precised time, ma'am" x x x. If we agree that police officers are not stupid we will also have to agree that sellers of alleged drugs will not just sell them to any Tom, Dick and Harry. They also have a little intel[ligence] to be careful especially that if arrested, the penalty is quite serious. But, as testified to by the police, that when asked of his name and he said it to be Ryan de Castro, they informed him of their desire to buy shabu. Due to greed or interest in the money, he agreed to sell. By doing so, the transaction was consummated. Aside from the sachet of shabu taken after the sale, when they searched the accused, all they got were scissor and lighter. These definitely are not evidence of committing any crime.

The poseur-buyer stated that they inventoried the items sold and those searched from the accused at the scene of the crime and even took pictures. After the arrest, the accused was allegedly searched and they got scissor and lighter from his pocket, and also the buy-bust money.

From the time the drug was sold and confiscated to the arrest, and submission for the examination by the police and PDEA to the Crime Laboratory, there was sufficient compliance of Sec. 21 of RA 9165 on chain of custody of evidence. The procedure on buy-bust were followed despite some inadvertent error on the time of receipt of the pre-operation report which does not affect the buy-bust or the alleged crime. The chain of custody of evidence was well preserved.

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