

## **TWENTIETH DIVISION**

**[ CA-G.R. CEB-CR HC NO. 01114, September 04,  
2014 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SPART  
MARTINEZ MONSANTO AND ARCHIE CASILAC, ACCUSED-  
APPELLANTS.**

### **DECISION**

**HERNANDO, J.:**

This is an appeal filed by accused-appellants Spart Martinez Monsanto and Archie Casilac seeking review of the June 15, 2009 Decision<sup>[1]</sup> of the Regional Trial Court, Branch 58, of Cebu City, finding them guilty beyond reasonable doubt for Violation of Sections 5 and 11, Article II, of Republic Act (R.A.) No. 9165, in Criminal Case Nos. CBU-79937, CBU-79938 and CBU-79939, respectively.

#### **The Antecedents:**

On May 3, 2007, an Information was filed charging accused-appellants for violation of Section 5, Article II of R.A. No. 9165, allegedly committed as follows:<sup>[2]</sup>

#### **INFORMATION (CBU-79937)**

That on or about the 1<sup>st</sup> day of May 2007, at about 11:30 o'clock in the morning, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together with a certain Jennifer Mercader who will be prosecuted separately as soon as procedural requirements are complied with, and mutually helping each other, without authority of law, with deliberate intent, did then and there sell, deliver or give away to a poseur buyer two (2) heat sealed plastic packs containing a total weight of 8.71 grams of white crystalline substance locally known as "SHABU", containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.

Moreover, in a separate Information, accused-appellant Spart Martinez Monsanto was charged with violation of Section 11, Article II of R.A. No. 9165, committed as follows:<sup>[3]</sup>

INFORMATION  
(CBU-79938)

That on or about the 1<sup>st</sup> day of May, 2007, at about 11:30 o'clock in the morning, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, and without being authorized by law, did then and there have in his possession and under his control the following:

four (4) heat-sealed plastic packets of white crystalline substance with a total weight of 0.32 gram

locally known as "shabu", containing methamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.

Likewise, in another Information, accused-appellant Archie Casilac was charged with violation of Section 11, Article II of R.A. No. 9165, committed as follows:<sup>[4]</sup>

INFORMATION  
(CBU-79939)

That on or about the 1<sup>st</sup> day of May 2007, at about 11:30 A.M., in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent and without being authorized by law, did then and there have in his possession and under his control two (2) heat-sealed plastic packet of 0.14 gram of white crystalline substance, locally known as "SHABU", containing methamphetamine hydrochloride, a dangerous drug

CONTRARY TO LAW.

In an Order<sup>[5]</sup> dated May 15, 2007, the three cases were consolidated pursuant to Section 22, Rule 119 of the Rules of Court. On June 22, 2007, the accused-appellants were arraigned. They registered negative pleas of guilt at said arraignment.

The facts of the case according to the prosecution are summarized as follows:

Pursuant to the information relayed by Atty. Jennifer Rosales of the Philippine Drug Enforcement Agency (PDEA) 7 that a certain Jennifer Mercader was engaged in the sale and distribution of illegal drugs in Cebu City, PO3 Victor Ayuman and PO3 Jose Dumaguit conducted surveillance on her.<sup>[6]</sup> During the surveillance, the police officers negotiated for the purchase of two packs of *shabu* from Mercader and the

accused-appellants. PO3 Ayuman was told that they would contact him once the *shabu* is available. PO3 Ayuman then gave Mercader his cellphone number.

At eight o'clock in the morning of May 1, 2007, Mercader called PO3 Ayuman informing him that the *shabu* has arrived. PO3 Ayuman told Mercader that he will meet her at the Lucky 7 Supermarket along Magllanes St. around 11:30 since he still needed to withdraw money. Thereafter, PO3 Ayuman reported this to SPO2 Ramil Villaluz who directed SPO1 Cecilio Gomez to organize a buy-bust team. In their briefing, PO3 Ayuman was designated as the poseur buyer while PO3 Dumaguit was assigned as his backup. PO3 Ayuman was then given a 500-peso bill (with serial No. KU063377)<sup>[7]</sup>, which was placed on top of wads of paper, as marked money for the buy-bust operation. The team agreed that the pre-arranged signal for the confirmation of the sale would be a "missed call" from PO3 Ayuman. After the briefing, a Pre-Operation Report<sup>[8]</sup> was prepared. Thereafter, the buy-bust team proceeded to the designated meeting place where PO3 Ayuman saw Mercader and the accused-appellants sitting on a bamboo bench. When the accused-appellants saw PO3 Ayuman, they approached him. Accused Monsanto then told PO3 Ayuman that Mercader cannot sell him the *shabu*. However, after PO3 Ayuman offered to buy two *bultos* of *shabu*, accused Casilac directed his co-accused to get the *shabu* from Mercader. After getting the packs of *shabu* from Mercader, accused Monsanto gave it to Casilac, who in turn handed it to PO3 Ayuman. After examining the *shabu*, PO3 Ayuman gave the marked money as payment. Thereafter, PO3 Ayuman performed the pre-arranged signal and announced himself as a PDEA agent. PO3 Ayuman held accused Casilac while PO3 Dumaguit rushed towards accused Monsanto and detained him. The rest of the team went after Mercader but she was able to evade capture. Accused-appellants were then formally arrested, informed of their Constitutional rights and frisked. PO3 Ayuman recovered the marked money from accused Casilac and two additional packs of *shabu*. Similarly, PO3 Dumaguit recovered several packs of *shabu* from accused Monsanto. They were later brought to the police station where the plastic packs of *shabu* were marked. An inventory<sup>[9]</sup> of the confiscated drugs was then prepared and photographs were taken<sup>[10]</sup>.

Subsequently, the evidence was brought to the PNP Crime Laboratory for examination. After examining the contents of the plastic packs, Mutchit Salinas, the Forensic Chemical Officer who conducted the tests, reduced into writing his findings in Chemistry Report Nos. D-507-2007, D-506-2007 and D-505-2007. He concluded that the qualitative examination of the specimens gave positive results for the presence of methamphetamine hydrochloride, a dangerous drug.

On the other hand, accused-appellants interposed denial as their defense. They denied knowledge of the existence of the *shabu* recovered from them and insinuated they were the victims of a frame-up. They alleged that the police officers approached them and conducted a body search. Accused-appellants asserted that nothing was recovered from their person. They were then asked the whereabouts of Jennifer Mercader. However, they collectively denied knowing such person. They were then told to board the police officers' service vehicle. At the police headquarters, accused-appellants claimed that another body search was conducted where nothing was again recovered from them.

After trial, the court *a quo* found accused-appellants guilty beyond reasonable doubt because the defense espoused by them utterly failed to convince the court. It

ratiocinated that the defense of denial and frame-up adduced by them was inherently weak and cannot stand against the positive testimonies of the police officers who had no ill motive on their part in testifying against the accused-appellants. Consequently, the trial court ruled that the regularity in the performance of official duties by the arresting officers was not overcome. Moreover, it observed that the requisites under Section 21 of R.A. No. 9165 were complied with and that the chain of custody of the illegal drugs was satisfactorily established.

Hence, the current appeal before Us.

### **The Issue:**

The main issue here is whether or not the trial court gravely erred in convicting the accused-appellants of the crime charged despite the failure of the prosecution to prove their guilt beyond reasonable doubt.

### **The Court's Ruling**

*The appeal is bereft of merit.*

Like alibi, frame-up is a defense that has been invariably viewed with disfavor as it can be easily concocted and is commonly used as a standard line of defense in most prosecutions arising from violations of the Dangerous Drugs Act.<sup>[11]</sup> Consequently, if unsubstantiated by clear and convincing evidence, this defense becomes negative and self-serving, as to deserve no weight in law, and thus cannot prevail over the testimonies of credible witnesses who testify on affirmative matters.<sup>[12]</sup> Hence, to be believed, these inherently weak defenses must be buttressed by strong evidence of non-culpability. In this case, the appellants' testimonies, which were corroborated by Antonio Monsanto, fail to impress Us. The testimony of Antonio, brother of appellant Spart Martinez Monsanto, does not deserve much weight in probative value considering that blood relatives tend to be naturally protective of each other and are not above giving false testimonies in favor of one another.<sup>[13]</sup> Thus, their testimonies alone, which are essentially self-serving, fail to stand against the positive, consistent and categorical prosecution evidence pointing to their guilt for the crimes charged.

Concomitantly, it bears stressing that credence is given to the narrations of the incident by prosecution witnesses, who are police officers, for they are presumed to have performed their duties in a regular manner.<sup>[14]</sup> Unfortunately, the presumption of regularity in the performance of official duties of the police officers who effected the arrest and seized the evidence against appellants was not overcome in the instant case. Moreover, no evidence was presented to show that the police officers had any motive to charge falsely the appellants. It has long been settled that without evidence to show that the prosecution witnesses were actuated by an improper motive, their testimonies deserve full faith and credit.<sup>[15]</sup> Thus, appellants' contention that they were victims of a frame-up deserves scant consideration. While they assailed the existence of the buy-bust operation since there is no showing that the police officers submitted the pre-operation report to the PDEA prior to its conduct, this line of reasoning is however clearly flawed. The fact that no pre-