



Republic of the Philippines
Supreme Court
 Manila

BY:
 TIM

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
 Appellee,

G.R. No. 191753

Present:

CARPIO, J.,
Chairperson,
 BRION,
 DEL CASTILLO,
 PEREZ, and
 PERLAS-BERNABE, JJ.

- versus -

RONALD DE JESUS y APACIBLE and
 AMELITO DELA CRUZ y PUA,
 Appellants.

Promulgated:

SEP 17 2012

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DECISION

BRION, J.:

This is an appeal¹ of the decision² dated August 12, 2009 and the resolution³ dated January 25, 2010 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03185. The appealed decision affirmed the joint decision⁴ dated February 1, 2008 of the Regional Trial Court (RTC)⁵ (Branch 103, Quezon City) that convicted appellants Ronald de Jesus y Apacible and Amelito dela Cruz y Pua of the charges of violating Section 5, Article II of Republic Act

¹ Pursuant to Section 13(c) of Rule 124, as amended by A.M. No. 00-5-03-SC.

² Penned by Associate Justice Fernanda Lampas Peralta, and concurred in by Presiding Justice Andres B. Reyes, Jr. and Associate Justice Apolinario D. Bruselas, Jr.; *rollo*, pp. 2-21.

³ CA *rollo*, p. 286.

⁴ *Id.* at 26-35.

⁵ Docketed as Criminal Case Nos. Q-05-136278 and Q-05-136279. The Joint Decision was penned by Judge Jaime N. Salazar, Jr.

(RA) No. 9165 (against appellants De Jesus and Dela Cruz)⁶ and Section 11, Article II of the same law (against appellant Dela Cruz).

The Facts

The records show that the District Anti-Illegal Drugs Special Task Force (*DAID*, stationed at Camp Karingal) received a tip from its asset about the illegal drug activities of a certain Amel on Cartier St., Villa Carina Subdivision, Barangay Pasong Tamo, Quezon City. Acting on the tip, the *DAID* chief formed a team to conduct a buy-bust operation, and designated Police Officer 1 (PO) Abdulrahman Hamdani to act as *poseur-buyer*. PO Hamdani was given a ₱1,000.00 bill to be used in the operation, which bill he marked with his initials “AH.” After coordinating with the Philippine Drug Enforcement Agency (*PDEA*), the buy-bust team and the asset proceeded to Cartier St. where they saw the appellants.

The asset introduced the appellants to PO Hamdani who expressed his intention to buy *shabu*, but no sale took place as the appellants had no stock of *shabu* at that time. At the instructions of De Jesus, the asset and PO Hamdani (together with the other members of the buy-bust team) returned the next day.

On their return, the asset and PO Hamdani again approached the appellants. De Jesus told them that he already had the “stuff.” PO Hamdani handed the marked money to De Jesus, and Dela Cruz handed the *shabu* to PO Hamdani. After the exchange, PO Hamdani made the pre-arranged signal; the buy-bust team then immediately converged for the operation. PO Hamdani arrested De Jesus while PO2 Edmond Paculdar arrested Dela Cruz who was found in possession of two plastic sachets of suspected *shabu* and

⁶ The Comprehensive Dangerous Drugs Act of 2002.

of the marked money. PO Hamdani and PO Paculdar placed their initials “AH,” “EP” and “EP-1” on the plastic sachets of suspected *shabu* they seized.

The appellants and the items were brought to the DAID’s office at Camp Karingal for booking and investigation. The confiscated materials were inventoried and photographed, and thereafter taken to the Philippine National Police (*PNP*) Crime Laboratory for chemical examination. Chemistry Report No. D-662-2005, dated August 14, 2005, showed that all the three specimens, weighing 0.31 grams (for buy-bust sale) and 0.06 grams and 0.11 grams (for possession) all tested positive for *shabu*.

The appellants denied the charges and, in their defense, claimed that no buy-bust operation ever took place.

De Jesus asserted that he was on his way home after playing a basketball game when he was accosted and handcuffed by four (4) armed men in civilian attire. De Jesus claimed that the men forced him to board a Toyota Revo. The vehicle later stopped in front of the house of his *kumpare*, Dela Cruz, who was also accosted, handcuffed and forced to board the Toyota Revo. Inside the vehicle, the men introduced themselves as police officers and took them to the office of the DAID at Camp Karingal. The police informed him (De Jesus) and Dela Cruz that they were under arrest for selling drugs. The police did not inform them of their rights to remain silent and to counsel, nor were they allowed to make any phone call. De Jesus claimed that he and Dela Cruz only saw the *shabu* when it was photographed and underwent physical inventory. De Jesus also claimed that they signed the inventory receipt because of the physical threat the police made against them.

To corroborate his testimony, De Jesus presented John Michael Perez who confirmed that he and De Jesus played basketball prior to the incident. May Tagle, a *kagawad* from De Jesus' *barangay*, took the stand and presented a Certification issued by the *barangay* captain attesting to the good moral character of De Jesus.

Dela Cruz denied the charge of selling drugs. He claimed that he was then inside his house waiting for his family. When he opened the gate for his wife and kids, armed men suddenly grabbed him and forced him to board a Toyota Revo. He saw De Jesus already on-board the vehicle.

To corroborate his story, Dela Cruz presented Claire dela Cruz (his wife), Dr. Evelyn Braganza (a neighbor), and Julius Valdez (a tricycle driver). The three (3) testified that armed men (who turned out to be policemen) accosted Dela Cruz and forced him into a Toyota van. Claire further narrated that PO Hamdani informed her at the police station that her husband had been involved in drugs. She was told to produce ₱200,000.00 to settle the case. Claire informed PO Hamdani that she only had ₱5,000.00 which she gave to him. Claire denied her husband's involvement in drug activities.

In its decision, the RTC convicted both appellants of violating Section 5, Article II of RA No. 9165 for selling *shabu*, and Dela Cruz of violating Section 11, Article II of RA No. 9165 for possessing *shabu*. The decretal portion of the RTC's joint decision reads:

ACCORDINGLY, judgment is rendered as follows:

1. In Q-136278 both accused Ronald de Jesus y Apacible and Amelito dela Cruz y Pua are found GUILTY beyond reasonable doubt of the crime of violation of Sec. 5 of R.A. 9165 as charged and they are both hereby sentenced to a

jail term of LIFE IMPRISONMENT and ordered to pay a fine of ₱500,000.00 each;

2. In Q-136279 accused Amelito dela Cruz y Pua is hereby sentenced to a jail term of twelve (12) years and one (1) day, as minimum to thirteen (13) years as maximum and ordered to pay a fine of ₱300,000.00.⁷

The RTC found the prosecution's evidence more credible than those of the defense; the court disbelieved the defense's inconsistent testimonial evidence and story of abduction at a residential subdivision in broad daylight and in the presence of witnesses. The RTC held that the close relationship of Claire and Dr. Braganza with Dela Cruz puts their credibility into question.

The RTC also rejected the allegation of police extortion for being contrary to human experience; police officers would not commit the serious crimes of abduction and extortion knowing that they would risk their liberty and employment to arrest the ablest appellants. The RTC also noted that the alleged extortion came only after the case had already been submitted by the police officers for proper disposition.

The appellants filed separate appeals to the CA, both claiming reversible errors in the RTC's appreciation of the evidence.

The CA's Ruling

In the presently assailed decision, the CA sustained the appellants' convictions and ruled that the prosecution's evidence duly established the crimes of sale and possession of *shabu*. Contrary to the appellants' assertions, the CA found that the identity and integrity of the *corpus delicti* had been duly preserved in light of evidence duly recording the movements

of the seized drugs and the identities of the custodians of these drugs, from the time of their seizure until their presentation in court.

Likewise, the CA found no reason to disturb the RTC's evaluation of the testimonies of the prosecution witnesses – PO Hamdani and PO Paculdar – whose testimonies were strengthened by the documentary evidence showing the details of the buy-bust operation and the physical evidence of the confiscated *shabu*. The CA also observed that the appellants failed to adduce evidence proving police extortion or any ill-motive against them by the police.

In the present appeal, the appellants question their conviction based on the same arguments they raised before the CA.

The Issues

The appellants ultimately question the sufficiency of the prosecution's evidence. The appellants argue that the CA erred in its conclusions when it failed to consider the following matters: (1) the inconsistencies in the testimonies of the prosecution witnesses relating to the sale of *shabu*; (2) the proper worth of Dela Cruz' testimony which was corroborated by other testimonial evidence; and (3) the absence of the *corpus delicti* for both the sale and possession of *shabu* as these were not proven with reasonable certainty.

The appellants subsequently submitted a Supplemental Brief, maintaining their innocence of the crimes charged. The appellants contend that the identities of the prohibited drugs were not proven, given the lapses in the safekeeping of the confiscated *shabu*, which lapses the CA simply

brushed aside. The appellants also contend that the integrity and evidentiary value of the confiscated *shabu* were not preserved for lack of compliance with the requirements of Section 21, paragraph 1, Article II of RA No. 9165 and the chain of custody rule.

The Court's Ruling

We dismiss the appeal for lack of merit.

The settled rule is that factual findings of the trial court and its evaluation of the credibility of witnesses and their testimonies are entitled to great respect and will not be disturbed on appeal, unless the trial court is shown to have overlooked, misapprehended, or misapplied any fact or circumstance of weight and substance.⁸ A careful study of the records in this regard shows no compelling reason to overturn the lower courts' factual findings and their evaluation of the presented evidence.

First, the matter of assigning values to the testimonies of witnesses is best and most competently performed by the trial judge who, unlike the appellate courts, has the direct opportunity to observe and assess the conduct and demeanor of witnesses.⁹ Under the circumstances, we find that the RTC judge committed no reversible error when he accorded greater evidentiary weight to the prosecution's version of the events. Buy-bust operations are recognized methods of trapping and capturing lawbreakers in drug-related crimes. These are the time-tested operations that have yielded positive results for the police. On the part of the defense, the theories raised are not also unusual. Upon proof and establishment of a *prima facie* case based on the buy-bust evidence, the burden of evidence shifts to the defense to

⁸ *People v. Jubail*, G.R. No. 143718, May 19, 2004, 428 SCRA 478, 495.

⁹ *People v. Bautista*, G.R. No. 191266, June 6, 2011, 650 SCRA 689, 700.

support its denial or to show that irregularities attended the buy-bust story that the prosecution presented. The parties' positions both ran along these lines, with the defense relying mainly on denial.

Upon due consideration of these drug cases realities, we find that the testimonies of PO Hamdani and PO Paculdar on the buy-bust operation were clear, positive and unequivocal. PO Hamdani testified that he bought *shabu* from the appellants, while PO Paculdar testified that he found *shabu* in Dela Cruz's possession when he was frisked. The testimonies of PO Hamdani and PO Paculdar were corroborated by both the documentary evidence and the physical evidence which outlined the detailed steps in the pre-operation, on-operation and post-operation activities of the police operations.

The records show the preparation by the police of a Pre-Operation Report/Coordination Sheet (dated August 13, 2005) which was sent to the PDEA before the buy-bust operation. The police also prepared a ₱1,000.00 bill (whose photocopy was submitted as evidence) that was used in the operation as buy-bust money, marked by PO Hamdani with his initials "AH." The records further show the Arrest and Booking Sheet of the appellants who were caught red-handed in selling and in possessing *shabu* during the buy-bust operation.

Moreover, the testimonies of PO Hamdani and PO Paculdar were corroborated by the Inventory Receipt (dated August 14, 2005) signed by the appellants which listed the items seized during the buy-bust operation. The prosecution likewise presented a photocopy of pictures showing the appellants together with the items seized and the Joint Affidavit of Arrest dated August 16, 2005, executed by PO Hamdani and PO Paculdar. In addition to these documents, the testimonies of PO Hamdani and PO

Paculdar were supported by the presentation in court of the plastic sachets of *shabu* confiscated from the appellants during the buy-bust operation.

In stark contrast with the prosecution's evidence, the defense could only present testimonial evidence that cannot prevail over the documentary and physical evidence arrayed against the accused.¹⁰ A consideration, too, of the defense's testimonial evidence was not persuasive for the following reasons: first, the appellants' testimonies were largely self-serving; second, the defenses of denial and police extortion cannot prevail over the positive and categorical assertions of the police officers who were strangers to the appellants and against whom no ill-motive was established; third, the testimonies of the other defense witnesses did not negate the appellants' culpability for they did not discount or render impossible the participation of the appellants in the buy-bust operation; and fourth, the testimonies of the defense witnesses cannot but be viewed with caution because of the close relationship and friendship of some of these witnesses with the appellants.

Thus, the totality of the prosecution's evidence, showing the actual occurrence of a buy-bust operation leading to the appellants' arrest for sale and possession of prohibited drugs, simply must prevail over the defense's evidence and theory of denial and frame-up.

Second, the inconsistencies¹¹ pointed out by the appellants in the sworn statement, the Joint-Affidavit and the testimonies of PO Hamdani and PO Paculdar refer to trivial matters relating to the crimes charged which have no direct bearing on the actual sale of *shabu* between PO Hamdani and the appellants. In this light, we cannot consider the cited inconsistencies

¹⁰ *Romago Electric Co., Inc. v. Court of Appeals*, G.R. No. 125947, June 8, 2000, 333 SCRA 291, 302; and *People v. Aguinaldo*, 375 Phil. 295, 313 (1999).

¹¹ With respect to: (1) the time when the exchange of *shabu* was made; (2) the amount of the buy-bust money used; and (3) the type of vehicle used in the buy-bust operation.

fatal to the prosecution's case as they all the more bolstered up, rather than disproved, the sale of *shabu* between PO Hamdani and the appellants. In *People of the Philippines v. Ricky Unisa y Islan*,¹² we ruled that the sale of prohibited drugs is consummated upon delivery of the drugs to the buyer:

For a successful prosecution of the offense of illegal sale of dangerous drugs, like *shabu*, the following elements must first be established: (1) the identity of the buyer and the seller, the object and consideration of the sale; and (2) the delivery of the thing sold and the payment therefor. **What is material is proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.** Clearly, the commission of the offense of illegal sale of dangerous drugs, like *shabu*, **merely requires the consummation of the selling transaction, which happens the moment the buyer receives the drug from the seller.** As long as the police officer went through the operation as a buyer, whose offer was accepted by appellant, followed by the delivery of the dangerous drugs to the former, the crime is already consummated. In this case, the prosecution has amply proven all the elements of the drugs sale beyond moral certainty. [italics and emphases supplied]

As borne by the records, all the above elements constituting the sale of *shabu* by the appellants were clearly testified to by PO Hamdani who averred that he received ₱1,000.00 worth of *shabu* from Dela Cruz after the latter gave the buy-bust money to De Jesus.¹³

Under the same standards, we also find that Dela Cruz' possession of prohibited drugs was duly proven by the prosecution's evidence. All the essential elements of illegal possession of prohibited drugs, namely, that – (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug.¹⁴ All these were directly testified to by PO Paculdar who identified Dela Cruz as the person who had on his person two plastic sachets of *shabu* when he was arrested.

¹² G.R. No. 185721, September 28, 2011.

¹³ *Rollo*, pp. 11-12.

¹⁴ *People v. Unisa*, *supra* note 12.

Third, the *corpus delicti* in both the offenses of sale and of possession of *shabu* were proven with reasonable certainty as the police substantially complied with the prescribed procedure under Section 21(a), Article II of RA No. 9165, its implementing rules, and the chain of custody rule. What assumes primary importance in drug cases is the prosecution's proof, to the point of moral certainty, that the prohibited drug presented in court as evidence against the accused is the same item recovered from his possession.¹⁵ In this case, the prosecution achieved this level of proof through evidence sufficiently establishing the links in the chain of custody of the seized *shabu* from the time of its seizure until it was presented in court.

The records show that the plastic sachet containing *shabu*, subject of the buy-bust sale, was immediately marked by PO Hamdani with his initials "AH" after it was confiscated from Dela Cruz. PO Hamdani had custody of the *shabu* until he turned it over to the desk officer who, in turn, handed it to the investigator. With respect to the *shabu* subject of the possession charge, PO Paculdar marked the two plastic sachets with his initials "EP" and "EP-1," and these were handled in a similar manner.

After the investigation, the confiscated plastic sachets containing *shabu* were brought by PO Paculdar and other officers to the PNP Crime Laboratory for chemical examination. The forensic chemist was no longer presented in court, given the stipulation made by the prosecution and the defense on the correctness of the chemistry findings that the three (3) plastic sachets marked as "AH," "EP," and "EP-1" tested positive for *shabu*. The *shabu* presented in court was also identified by PO Hamdani and PO Paculdar as the same specimens recovered from the appellants.

Parenthetically, we also consider as significant the appellants' failure during the trial to raise and prove any attendant irregularity affecting the integrity and identity of the *shabu* seized and presented in court.¹⁶ We emphasize in this regard that noncompliance with the prescribed procedure does not automatically render the seizure of the dangerous drug void and the evidence inadmissible.¹⁷ The law itself lays down certain exceptions to the general compliance requirement – **“as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team,”** the seizure of and the custody over the dangerous drugs shall not be rendered void and invalid.¹⁸ From the evidence presented, the prosecution proved that the integrity and the evidentiary value of the *shabu* seized from the appellants had been duly preserved under the precautionary handling measures the police undertook after the *shabu* was confiscated.

Finally, we affirm the correctness of the penalties imposed by the CA and the RTC against the appellants as they are fully in accord with Sections 5¹⁹ and 11,²⁰ Article II of RA No. 9165.

¹⁵ *People v. Bautista*, *supra* note 9, at 708.

¹⁶ *People of the Philippines v. Cesar Bautista y Santos*, G.R. No. 177320, February 22, 2012.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

²⁰ Section 11. *Possession of Dangerous Drugs.* – x x x.

x x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (₱300,000.00) to Four hundred thousand pesos (₱400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

WHEREFORE, premises considered, we **DISMISS** the appeal and **AFFIRM** the decision dated August 12, 2009 and the resolution dated January 25, 2010 of the Court of Appeals in CA-G.R. CR-HC No. 03185, finding appellants Ronald de Jesus y Apacible and Amelito dela Cruz y Pua **GUILTY** of violating Section 5, Article II of Republic Act No. 9165, and appellant Amelito dela Cruz y Pua **GUILTY** of violating Section 11, Article II of Republic Act No. 9165.

SO ORDERED.

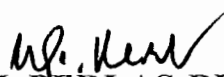

ARTURO D. BRION
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


MARIANO C. DEL CASTILLO
Associate Justice

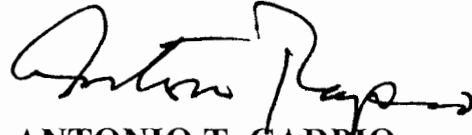

JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu", or other dangerous drugs such as, but not limited to, MDMA or "ecstasy", PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO

Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice