



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated November 18, 2020 which reads as follows:*

**“G.R. No. 250932 (People of the Philippines, Plaintiff-Appellee, v. Arturo Semitara y Carios, Accused-Appellant).** – This appeal<sup>1</sup> seeks the reversal of the Decision<sup>2</sup> dated 15 March 2019 of the Court of Appeals (CA) in CA-G.R. CR HC No. 09497, which affirmed the Consolidated Decision<sup>3</sup> dated 22 May 2017 of Branch 56, Regional Trial Court (RTC) of Libmanan, Camarines Sur in Criminal Case Nos. L-5906 & L-5907, finding accused-appellant Arturo Semitara y Carios (accused-appellant) guilty beyond reasonable doubt of illegal sale and illegal possession of dangerous drugs.<sup>4</sup>

**Antecedents**

Accused-appellant was charged with violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165, in two (2) separate Information, the accusatory portions of which read:

**Criminal Case No. L-5906**

On or about 8:20 in the evening of July 23, 2015 in Barangay Church Site, Libmanan, Camarines Sur and within the jurisdiction of this Honorable Court, the above-named accused, without authority in law, not being authorized to sell any dangerous drug, did then and there willfully, unlawfully and knowingly sell, deliver and give away, to a poseur buyer and for a consideration of P700.00, Philippine currency, one (1) small heat sealed transparent sachet containing methamphetamine

- over – eight (8) pages ...

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<sup>1</sup> *Rollo*, pp. 20-21; see Notice of Appeal dated 02 April 2019.

<sup>2</sup> *Id.* at 3-19; penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Maria Elisa Sempio-Diy and Maria Filomena D. Singh of the Special Sixteenth Division, Court of Appeals, Manila.

<sup>3</sup> *CA rollo*, pp. 67-88; penned by Acting Presiding Judge Manuel G. Salumbides.

<sup>4</sup> Comprehensive Dangerous Drugs Act of 2002.

hydrochloride locally known as 'SHABU', a dangerous drug, with marking and net weight A (GVBN-1) = 0.087 gram, to the damage and prejudice of the Republic of the Philippines.

Acts contrary to law.<sup>5</sup>

#### Criminal Case No. L-5907

On or about 8:20 in the evening of July 23, 2015 in Barangay Church Site, Libmanan, Camarines Sur and within the jurisdiction of this Honorable Court, the above-named accused, without authority in law, did then and there willfully, unlawfully and knowingly have in his possession, control and custody two (2) small heat sealed transparent plastic sachets containing methamphetamine hydrochloride or shabu, with their corresponding recorded net weights: B (GVBN-9) = 0.053 gram; and C (GVBN-10) = 0.016 gram, a dangerous drug, to the damage and prejudice of the Republic of the Philippines.

Acts contrary to law.<sup>6</sup>

Upon arraignment, accused-appellant pleaded not guilty to the charges. After termination of pre-trial, trial on the merits ensued.<sup>7</sup>

#### Version of the Prosecution

On 22 July 2015, Police Officer 1 Glenn Venson V. Nacion (PO1 Nacion), from the Libmanan, Camarines Sur station of the Philippine National Police (PNP), together with a confidential informant (CI), conducted a test-buy from one *alias* Peti, later identified as the accused-appellant. The procured item tested positive for *shabu*. The following day, a team was formed to conduct a buy bust operation against accused-appellant. PO1 Nacion, designated as the poseur buyer, arranged to meet accused-appellant at Brgy. Station Churchsite.

That evening, the team proceeded to the area. Accused-appellant sold Php700.00 worth of *shabu* to PO1 Nacion. After exchanging the money with the drugs, PO1 Nacion arrested accused-appellant. At that instance, *Punong Barangay* David Samaniego, *Barangay Kagawad* Alejandro, and media representative Ed Saliva arrived and witnessed PO1 Nacion conduct a body search on accused-appellant. The search yielded the Php700.00 buy bust money and two (2) plastic sachets with suspected *shabu*. PO1 Nacion immediately

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<sup>5</sup> *Rollo*, p. 4

<sup>6</sup> *Id.* at 4-5.

<sup>7</sup> *Id.* at 5

marked the seized items and conducted inventory, while PO1 Jean Sheryl Cristo took photographs. Afterwards, they proceeded to the police station for documentation purposes. PO1 Nacion then bought the seized items to the crime laboratory. Upon examination, the seized drugs tested positive for *shabu*.<sup>8</sup>

### Version of the Defense

Accused-appellant denied the charges. He claimed that in the evening of 23 July 2015, he received a text message from one of his frequent *habal-habal* passengers, asking to be picked up at Centro, Brgy. Station near the church. Upon reaching the area, his passenger together with a male companion approached him. The male companion asked him if he wanted to buy *shabu*, but he refused. While he was turning his back, his passenger's male companion, which he later came to know as PO1 Nacion, began twisting his arms. Two (2) other police officers came, one (1) of whom placed something inside his pockets while the other pointed a gun on his forehead. Thereafter, PO1 Nacion searched his pocket and allegedly found Php700.00 and three (3) plastic sachets. He denied that these items were his, but he was nonetheless brought to the police station and was detained.<sup>9</sup>

### Ruling of the RTC

On 22 May 2017, the RTC rendered its Consolidated Decision,<sup>10</sup> convicting accused-appellant of the offenses charged:

Wherefore, premises considered, judgment is hereby rendered finding **ARTURO SEMITARA y Carios aka "Peti" GUILTY** beyond reasonable doubt of the offense charged in both Informations. For drug selling, he is hereby sentenced to **Life Imprisonment** and ordered to pay a Fine in the amount of **Five Hundred Thousand (Php500,000.00) Pesos**. For drug possession, he is hereby sentenced to an **indeterminate penalty of twelve (12) years and one (1) day, as minimum, to fourteen (14) years and eight (8) months, as maximum**. He is likewise ordered to pay a **Fine of Three Hundred Thousand (PhP300,000.00) Pesos**.

Let the confiscated drug items be turned-over to the Philippine Drug Enforcement Agency (PDEA) for its appropriate disposition.

SO ORDERED.<sup>11</sup>

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<sup>8</sup> *Id.* at 5-8.

<sup>9</sup> *CA rollo*, pp. 73-74.

<sup>10</sup> *Id.* at 67-88.

<sup>11</sup> *Id.* at 88.

The RTC found that the prosecution duly established the elements of both illegal sale and illegal possession of *shabu*.<sup>12</sup> It gave credence to the testimonies of the police officers and accorded them the presumption of regularity in the performance of their duties.<sup>13</sup> The RTC was also convinced that there was an unbroken chain of custody of the seized items from the time they were seized until they were presented in court, and the integrity of the same has not been compromised.<sup>14</sup>

Aggrieved, accused-appellant appealed to the CA.

### **Ruling of the CA**

In its Decision<sup>15</sup> dated 15 March 2019, the CA affirmed accused-appellant's conviction. The dispositive portion of said decision reads:

**WHEREFORE**, the instant appeal is hereby **DENIED**.  
The Consolidated Decision dated 22 May 2017 issued by the Regional Trial Court of Libmanan, Camarines Sur, Branch 56 in Criminal Case Nos. L-5906 and L-5907, is hereby **AFFIRMED**.

**SO ORDERED.**<sup>16</sup>

The CA held that the prosecution duly established all the elements of the illegal sale and illegal possession of *shabu* by accused-appellant. It likewise held that the prosecution was able to prove an unbroken chain of custody over the seized dangerous drugs, thus preserving its integrity and evidentiary value. The CA disregarded accused-appellant's denial which was unsubstantiated by any credible and convincing evidence.<sup>17</sup>

Hence, this appeal.

### **Issue**

The sole issue in this case is whether the CA correctly affirmed accused-appellant's conviction for illegal sale and illegal possession of dangerous drugs punishable under Sections 5 and 11, Article II of RA No. 9165.

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<sup>12</sup> *Id.* at 75.

<sup>13</sup> *Id.* at 86.

<sup>14</sup> *Id.* at 85-86.

<sup>15</sup> *Rollo*, pp. 3-19.

<sup>16</sup> *Id.* at 18.

<sup>17</sup> *Id.* at 12-13, 16-17.

### Ruling of the Court

The appeal is dismissed.

Verily, the elements of illegal sale of dangerous drugs under Section 5, Art II of RA No. 9165 are: (a) the identity of the buyer and the seller, the object of the sale and the consideration; and (b) the delivery of the thing sold and its payment.<sup>18</sup> The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the illegal sale transaction. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited drug, the *corpus delicti*, as evidence.<sup>19</sup> On the other hand, the elements of illegal possession of dangerous drugs under Section 11, Article II of RA No. 9165 are: (a) the accused was in possession of of an item or object identified as a prohibited drug; (b) such possession was not authorized by law; and (c) the accused freely and consciously possessed the said drug.<sup>20</sup>

The RTC, as affirmed by the CA, found that the prosecution established all the foregoing elements of illegal sale and illegal possession of *shabu*. The Court sees no reason to disturb their common findings. Factual findings of the appellate court, affirming those of the trial court, are binding on this Court, unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable error, which accused-appellant failed to establish in this case.<sup>21</sup>

In Criminal Case No. L-5906, the prosecution proved the guilt of the accused-appellant for illegal sale of *shabu*. Accused-appellant was caught *in flagrante* selling *shabu* to PO1 Nacion during a legitimate buy-bust operation. PO1 Nacion positively identified accused-appellant as the one who sold the *shabu* to him for Php700.00. The sale was consummated after the exchange of buy-bust money and *shabu* between PO1 Nacion and accused-appellant. PO1 Nacion likewise identified the sachet subject of the sale, marked as “GVCBN-1,” as well as the buy-bust money used for the transaction.<sup>22</sup>

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<sup>18</sup> *People v Cuevas*, G.R. No. 238906, 05 November 2018 [per J. Perlas-Bernabe].

<sup>19</sup> *See People v. Amaro*, G.R. No. 207517, 01 June 2016 [per J. Peralta].

<sup>20</sup> *Supra* at note 18.

<sup>21</sup> *People v. Bontuyan*, G.R. No. 206912, 10 September 2014, 742 Phil. 788-803 (2014) [per J. Perez].

<sup>22</sup> *Rollo*, p. 12.

Meanwhile, in Criminal Case No. L-5907, the prosecution established the elements of illegal possession with the testimony of PO1 Nacion and the presentation of the *corpus delicti* in court. Apart from the sachet of *shabu* sold by accused-appellant, PO1 Nacion found the Php700.00 buy bust money and two (2) plastic sachets containing 0.053 gram (“GVCN-9”) and 0.016 gram (“GVCN-10”) of *shabu* from accused-appellant's pocket. Accused-appellant freely and consciously possessed the said prohibited drug, without any authority or license to possess the same.<sup>23</sup>

The Court likewise upholds the common findings of the RTC and the CA that there was compliance with chain of custody requirements, as well as those on preservation and disposition of dangerous drugs, as provided by Section 21 of RA 9165 as amended by RA 10640.<sup>24</sup> The amendatory law, the applicable law at the commission of the offense, specifically mandates the presence of an elected public official and a representative of the National Prosecution Service OR the media during the inventory and taking of photographs of the seized drug.

In this case, after arresting accused-appellant and conducting the body search that yielded the buy bust money and additional two (2) sachets containing *shabu*, PO1 Nacion marked the seized evidence. Afterwards, the inventory and taking of photographs ensued. All the required witnesses under RA 10640 were present during the search, marking, inventory and taking of photographs. In fact, not just one, but two elected public officials, *i.e.*, the *Punong Barangay* and *Barangay Kagawad*, witnessed the mandatory procedures, along with the required representative from the media, and accused-appellant himself. Thereafter, PO1 Nacion placed the seized items inside a brown envelope. Later, PO1 Nacion himself brought the same to the crime laboratory, and after examination by the forensic chemist Police Senior Inspector Vina Macaro Zaldua (PSI Zaldua), the sachets were found to be positive for *shabu*. PSI Zaldua marked the seized items and kept the same in the evidence room before presenting it in court.<sup>25</sup>

Accused-appellant claims that the trial court erred in giving weight and credence to the inconsistent statements of prosecution

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<sup>23</sup> *Id.* at 13.

<sup>24</sup> Republic Act No. 10640, (An Act to further strengthen the Anti-Drug Campaign of the Government, Amending for the purpose Section 21 of Republic Act No. 9165, Otherwise known as the “Comprehensive Dangerous Drugs Act of 2002) which was approved on 15 July 2014 and became effective on 7 August 2014 or 15 days after its publication on 23 July 2014.

<sup>25</sup> *Rollo*, pp. 15-16.

witnesses over his denial.<sup>26</sup> It is settled, however, that denial is a weak form of defense, especially when it is not substantiated by clear and convincing evidence, as in this case.<sup>27</sup> Accused-appellant likewise failed to show any ill motive on the part of PO1 Nacion and the rest of the buy-bust team. Hence, credence should be given to the direct account of the police officers who are presumed to have performed their duties in a regular manner.<sup>28</sup>

All the foregoing considered, the Court affirms the conviction of the accused-appellant for the offenses of illegal sale and illegal possession of *shabu*. The Court likewise affirms the penalties imposed by the CA for being in accordance with the law.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated 15 March 2019 of the Court of Appeals in CA-G.R. CR-HC No. 09497, finding accused-appellant **GUILTY** beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. 9165, is **AFFIRMED**.

The letter dated August 6, 2020 of CSInsp. Jeremy L. Argonza, Officer-in-Charge, Superintendent, New Bilibid Prison, East Correctional Facility, Bureau of Corrections, Muntinlupa City, confirming the confinement therein of accused-appellant since September 16, 2017; the accused-appellant's manifestation (in lieu of supplemental brief) dated August 26, 2020, stating that it would no longer be filing a supplemental brief since no new issues material to the case which were not elaborated upon the appellant's brief were discovered; the Office of the Solicitor General's manifestation (in lieu of supplemental brief) dated September 8, 2020, stating that it no longer desires to file a supplement to its Appellee's Brief, considering that issues in their case had already been sufficiently and exhaustively discussed and argued by Plaintiff-appellee in its Appellee's Brief dated December 4, 2018, are all **NOTED**.

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<sup>26</sup> CA rollo, p. 48.

<sup>27</sup> *People v. Dali*, G.R. No. 234163, 06 March 2019.

<sup>28</sup> *See People v. Cabiles*, G.R. No. 220758, 07 June 2017, 810 Phil. 969-978 (2017) [per J. Tijam].

**SO ORDERED.”** *Carandang, J., on official leave.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court 

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 09497)

The Hon. Presiding Judge  
Regional Trial Court, Branch 56  
Libmanan, 4407 Camarines Sur  
(Crim. Case Nos. L-5906 & L-5907)

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