



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 194721

Present:

CARPIO,
Chairperson,
BRION,
VILLARAMA, JR.*
PEREZ, and
REYES, JJ.

-versus-

JOHN BRIAN AMARILLO y MAPA
a.k.a. JAO MAPA,
Accused-Appellant.

Promulgated:

AUG 15 2012 *W. Calabed Perfecto*

X-----X

DECISION

PEREZ, J.:

Once again, on the strength of the prosecution's evidence, we uphold the state's compliance with the chain of custody rule and sustain the conviction¹ of accused-appellant of the crimes of illegal sale and illegal possession of *shabu*.

* Per S.O. No. 1274 dated 30 July 2012.

¹ CA *rollo*, pp. 91-105. Decision dated 31 May 2010 in CA-G.R. CR-HC No. 03579 penned by Court of Appeals Associate Justice Normandie B. Pizarro, with Associate Justices Amelita G. Tolentino and Ruben C. Ayson concurring.

Records, pp. 108-114. Decision dated 28 July 2008 of the Regional Trial Court, Branch 65, Makati, in Criminal Case Nos. 06-750-751. Penned by Judge Edgardo M. Calдона.

The Facts

Accused-appellant identified himself as “John Brian Amarillo, 25 years old, a resident of Laperal Compound, Guadalupe Viejo, Makati City, single, a washing boy.”² The records do not indicate when, how and upon whose liking the a.k.a. “Jao Mapa” came to be associated with the accused.

“Jao Mapa,” the “washing boy” who was acquitted for violation of Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 in Criminal Case Nos. 03-2044-45,³ in 2004, and whose name appeared in the drugs Watchlist of *Barangay* Guadalupe Viejo, Makati City,⁴ was again charged with illegal sale and illegal possession of *shabu* this time allegedly committed in 2006.

The accusatory portions of the separate Informations both dated 10 April 2006 filed and raffled to the Regional Trial Court, Branch 65, Makati read:

[Criminal Case No. 06-750]

That on or about the 8th day of April 2006, in the City of Makati, Philippines, and within the jurisdiction of this Honorable Court, [JOHN BRIAN AMARILLO y MAPA alias “Jao Mapa/Jao”], without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously sell, give away, distribute and deliver zero point zero three (0.03) gram of Methylamphetamine Hydrochloride (*shabu*), which is a dangerous drug.

CONTRARY TO LAW.⁵

² Records, p. 266, TSN, 7 July 2008.

³ *Id.* at 21. Certification dated 10 April 2006 issued by Alicia Q. Boada, Record Officer I, Makati Anti Drug Abuse Council, Makati City.

⁴ *Id.*

⁵ *Id.* at 2.

[Criminal Case No. 06-751]

That on or about the 8th day of April 2006, in the City of Makati, Philippines, and within the jurisdiction of this Honorable Court, [JOHN BRIAN AMARILLO y MAPA alias “Jao Mapa/Jao”], not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously have in his possession direct custody and control the following items with markings, to wit:

“JAO 1”	-	0.03 gram
“JAO 2”	-	0.02 gram
“JAO 3”	-	0.02 gram
“JAO 4”	-	0.02 gram
“JAO 5”	-	0.02 gram
“JAO 6”	-	0.02 gram
“JAO 7”	-	0.02 gram
“JAO 8”	-	0.01 gram
“JAO 9”	-	0.02 gram
“JAO 10”	-	0.03 gram
“JAO 11”	-	0.02 gram
“JAO 12”	-	0.02 gram
“JAO 13”	-	0.03 gram
“JAO 14”	-	0.02 gram

with a total weight of zero point three three (0.33) gram of Methylamphetamine Hydrochloride (shabu) which is a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.⁶

On 8 May 2006, accused-appellant pleaded not guilty. During pre-trial, the forensic chemist and PO2 Rafael Castillo, the police investigator assigned to the case, appeared in court. The parties stipulated on the following: “qualification of the forensic chemist as an expert witness; existence of the documents relative to the examination conducted by the forensic chemist; substance, subject matter of [the] case; existence of the Final Investigation [R]eport; and Acknowledgement Receipt,”⁷ after which, the court ordered that the testimony of the forensic chemist and the police investigator be dispensed with.⁸

⁶ *Id.* at 4.
⁷ *Id.* at 41. Order dated 27 November 2006 of the Regional Trial Court.
⁸ *Id.* at 43.

On trial, the prosecution presented the following witnesses: PO1 Percival Mendoza⁹ (PO1 Mendoza) and PO3 Julius Lique¹⁰ (PO3 Lique), both of the Station Anti-Illegal Drugs Special Operations Task Force of the Makati Central Police Station; and *Barangay* Captain Angelito Gatchalian¹¹ (Barangay Captain Gatchalian) of *Barangay* Guadalupe Viejo. The defense, on the other hand, presented the accused as its lone witness.¹²

The Court of Appeals summarized the version of the prosecution in the following manner:

x x x x

On April 8, 2006, PO1 Mendoza x x x received a telephone call from an informant that a certain Jao Mapa (later identified as the Accused-Appellant) was selling prohibited narcotics at Laperal Compound, Guadalupe Viejo, Makati City. Immediately, a briefing for a buy-bust operation was conducted. The buy-bust team prepared Three Hundred Pesos (PhP300.00) worth of marked money and designated PO1 Mendoza as the poseur-buyer. The other members of the team were PO2 Lique, PO1 Randy Santos, and PO1 Voltaire Esquerra. The team coordinated with the Philippine Drug Enforcement Agency before proceeding to the target area.

At around 9:15 o'clock in the evening of the same day, the team proceeded to the basketball court inside Laperal Compound where the Accused-Appellant was sighted. Once inside, PO1 Mendoza and the informant, with the help of sufficient lights coming from the nearby shanties and sari-sari stores, saw a man wearing a camouflage short pants and a dark t-shirt casually standing beside one of the basketball court's post while talking to two (2) men. The informant called the attention of the Accused-Appellant and introduced PO1 Mendoza to the latter as a buyer intending to purchase Three Hundred Pesos (PhP300.00) worth of *shabu*. PO1 Mendoza then handed the marked money to the Accused-Appellant who, in turn, took from his right pocket a small plastic sachet allegedly containing *shabu* and gave it to the former. Upon receipt, PO1 Mendoza examined the contents thereof and asked the Accused-Appellant, "Panalo to ha?" The Accused-Appellant replied with "Ako pa! Amin ang pinakamagandang bato dito."

When PO1 Mendoza was certain that the plastic sachet contained

⁹ *Id.* at 120, TSN, 14 April 2008.

¹⁰ *Id.* at 188-206, TSN, 26 May 2008.

¹¹ *Id.*

¹² *Id.* at 264-276, TSN, 7 July 2008.

shabu, he lit a cigarette, a pre-arranged signal, and motioned to his team members to arrest the Accused-Appellant. PO1 Mendoza subsequently introduced himself as a police officer and arrested the latter. A few seconds later, his other team members arrived. A procedural body search was conducted resulting in the discovery of a small Mercury Drug plastic bag containing seventeen (17) small heat-sealed transparent plastic sachets with suspected *shabu*, the marked money, and several Peso bills of different denominations. The confiscated items were immediately marked, photographed, and inventoried at the place of arrest and in the presence of Brgy. Capt. Gatchalian. The photographs of the seized items were taken by PO3 Lique. Thereafter, the Accused-Appellant was brought to the Makati Police Station for further investigation. Subsequently, the seized plastic sachets were brought to the Crime Laboratory to determine the presence of *shabu*. The results thereof showed that the substances therein were positive for *Methylamphetamine, Hydrochloride*, a dangerous drug.¹³

The version of the defense, on the other hand, consisted of the sole testimony of the accused, to wit:

The Accused-Appellant testified that, on April 8, 2006, at around 3:00 o'clock in the afternoon, he was watching a game at the basketball court in Laperal Compound, Guadalupe Viejo, Makati City, when several men arrived and asked him if he knew the whereabouts of a certain Alvin. When he could not give any information, they brought him to the Makati Police Station. It was only after he was detained that he learned that charges were being filed against him for the sale and possession of dangerous drugs.¹⁴

After trial, the court found accused-appellant guilty beyond reasonable doubt of both crimes.¹⁵ The dispositive portion of the Decision dated 28 July 2008 reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. 06-750, finding the accused JOHN BRIAN AMARILLO y MAPA, guilty beyond reasonable doubt of the charge for violation of Section 5, Article II, R.A. No. 9165 and sentences him to suffer the penalty of life imprisonment and to pay a fine of five hundred thousand pesos (P500,000.00);

¹³ CA *rollo*, pp. 94-96. Decision dated 31 May 2010.

¹⁴ *Id.* at 96.

¹⁵ Records, pp. 108-114. Decision dated 28 July 2008.

2. In Criminal Case No. 06-751, finding the same accused JOHN BRIAN AMARILLO y MAPA, guilty beyond reasonable doubt of the charge for violation of Section 11, Article II, R.A. No. 9165 and sentences him to suffer the penalty of imprisonment of twelve (12) years and one (1) days as minimum to twenty (20) years as maximum and to pay a fine of three hundred thousand pesos (P300,000.00).¹⁶

On appeal, the Court of Appeals AFFIRMED¹⁷ the decision of the trial court. Hence, this automatic review of the accused' conviction.

Our Ruling

We sustain the conviction of appellant.

To prove illegal sale of *shabu*, the following elements must be present: “(a) the identities of the buyer and the seller, the object of the sale, and the consideration; and (b) the delivery of the thing sold and the payment for the thing.”¹⁸ And, to secure conviction, it is material to establish that the transaction or sale actually took place, and to bring to the court the *corpus delicti* as evidence.¹⁹

In the instant case, the prosecution proved beyond reasonable doubt that accused-appellant, not being authorized by law, sold a sachet of *shabu* to PO1 Mendoza in a buy-bust operation. PO1 Mendoza testified that, during the buy-bust operation, the informant introduced him to accused-appellant; that informant asked accused-appellant if he could help PO1 Mendoza buy *shabu*; that accused-appellant agreed to sell him Three Hundred Peso-worth of *shabu*; that PO1 Mendoza, counted the pre-marked bills in front of accused-appellant and gave them to him; and that accused-

¹⁶ *Id.* at 114.

¹⁷ CA rollo, p. 104. Decision dated 31 May 2010.

¹⁸ *People v. Bautista*, G.R. No. 177320, 22 February 2012.

¹⁹ *Id.* citing *People v. Naquita*, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 449; *People v. del Monte*, G.R. No. 179940, 23 April 2008, 552 SCRA 627, 637-638; *People v. Santiago*, G.R. No. 175326, 28 November 2007, 539 SCRA 198, 212.

appellant, in turn, handed him a small transparent plastic sachet, which he took from the pocket of his short pants, and which tested for *shabu* based on the result of the laboratory examination. PO1 Lique corroborated the testimony of PO1 Mendoza by stating that he saw accused-appellant hand something to the poseur-buyer. Further, the seized items, together with the result of the laboratory examination and the marked money were all presented in court.

As to the crime of illegal possession of *shabu*, the prosecution clearly proved the presence of the following essential elements of the crime: “(a) the accused [was] in possession of an item or object that is identified to be a prohibited or dangerous drug; (b) such possession [was] not authorized by law; and (c) the accused freely and consciously possessed the drug.”²⁰ After the arrest of the accused-appellant, seventeen (17) heat-sealed sachets of white substance were found in his possession. The chemistry report showed that the white substance in the plastic sachets tested for *shabu*. And, there was no showing that such possession was authorized by law.

We find no merit in the arguments of the defense that the arresting officers did not testify that the marking of the seized items were done in the presence of the persons mentioned by the law and its implementing rules; and that testimonies on how the confiscated items were turned over to the investigator for examination were lacking.

The Joint Affidavit of Arrest²¹ executed by PO1 Mendoza and PO1 Randy C. Santos, the allegations of which PO1 Mendoza affirmed and confirmed during his direct testimony, is clear on two points: (1) that the seized items were marked and inventoried at the place where accused-

²⁰ *Id.* citing *People v. Naquita*, *id.*

²¹ Records, pp. 22-24.

appellant was arrested; and (2) that the integrity of the seized items was preserved. Thus:

4. That immediately thereafter, together with the confiscated pieces of evidence marked and inventoried at the place of suspect's apprehension, the confiscated pieces of evidence, together with suspect AMARILLO, were immediately brought at SAID SOTF office, for formal dispositions and proper investigations.

5. That, before the SAID SOTF office, the investigator on case acknowledge the complaint, and in preparation for the formal filing of formal charges against herein suspects, same was subjected to the procedural Drug Test at SOCO/SPD and mandatory MEDICO LEGAL examinations at OSMAC Malugay as assisted by the same arresting officers, xxx. The confiscated pieces of evidence, only in so far with the suspected illegal drugs and the small white plastic Mercury Drug were referred at SOCO SPD for laboratory examinations and safe keeping.²²

The Joint Affidavit of Arrest is consistent with the following testimony of PO1 Mendoza on direct examination:

Q: Mr. Witness, after the inventory what did you do next, if there's any?

A: We proceeded to our office, SAID SOFT office, sir.

Q: And what did you do when you reached your office?

A: We made the necessary documents for filing the case, sir.

Q: What did you do with the items you recovered from the accused?

A: **We turned it over to the investigator together with the subject person to SOCO crime laboratory for drug test examination and for laboratory examination, sir.**²³ (*Emphasis supplied.*)

The testimony, in turn, is well-supported by a copy of the Request for Laboratory Examination (Exhibit "A") showing that it was PO1 Mendoza himself who brought the request to the PNP Crime Laboratory. Stamped on the face of the receiving copy of the request were the following:

PNP CRIME LABORATORY
SOUTHERN POLICE DISTRICT OFFICE
F. ZOBEL, MAKATI CITY
CONTROL NO. 1204-06
T/D RECEIVED: 11:55 PM 8 APRIL 06

²² *Id.* at 23-24.

²³ *Id.* at 128-129, TSN, 14 April 2008.

RECEIVED BY: NVP DE RANIA
DELIVERED BY: **PO1 PERCIVAL MENDOZA**
CASE NO. D-284-06²⁴ (*Emphasis supplied*)

As to the required “presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice, and any elected public official,” Section 21, Article II of the Implementing Rules and Regulations (IRR) of R.A. 9165 specifically provides:

SECTION 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* – x x x:

- 1) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, **physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice, and any elected public official** who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; *Provided, further*, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items;

x x x x (*Emphasis supplied*)

This has been substantially complied with after the prosecution was able to show that the accused, the arresting officers and a public official were all present during the inventory of the seized items as evidenced by the testimonies of the witnesses, the photographs, and the Acknowledgement Receipt of the items seized.

²⁴

Id. at 88.

Even assuming for the sake of argument that all of these were defective for one reason or another, the defense failed to consider the following well-settled principle:

The failure of the prosecution to show that the police officers conducted the required physical inventory and photograph of the evidence confiscated pursuant to said guidelines, is not fatal and does not automatically render accused-appellant's arrest illegal or the items seized/confiscated from him inadmissible. xxx²⁵

The Court has long settled that an accused may still be found guilty, despite the failure to faithfully observe the requirements provided under Sec. 21 of RA 9165, for as long as the chain of custody remains unbroken.²⁶

As to the credibility of the witnesses and their testimonies, we hold, as we have done time and again, that “the determination by the trial court of the credibility of witnesses, when affirmed by the appellate court, is accorded full weight and credit as well as great respect, if not conclusive effect”²⁷ and that “findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings.”²⁸

Also, after a thorough examination of the records, we find the testimonies of the witnesses for the prosecution credible. For instance, after the cross examination of *Barangay* Captain Gatchalian, the presiding judge asked him a number of clarificatory questions, which he readily answered in a straightforward manner. Thus:

²⁵ *People v. Manlangit*, G.R. No. 189806, 12 January 2011, 639 SCRA 455, 468-469.

²⁶ *Id.* citing *People v. Rasialda*, G.R. No. 188330, 25 August 2010, 629 SCRA 507.

²⁷ *People v. Sabadlab*, G.R. No. 186392, 18 January 2012 citing *People v. Mayingque*, G.R. No. 179709, 6 July 2010, 624 SCRA 123, 140.

²⁸ *People v. Presas*, G.R. No. 182525, 2 March 2011, 644 SCRA 443, 449 citing *People v. Pagkalinawan*, G.R. No. 184805, 3 March 2010, 614 SCRA 202 further citing *People v. Julian-Fernandez*, 423 Phil. 895, 910 (2001).

- Q: May we know xxx if you knew all along before the buy bust operation where to be conducted by the said anti-narcotics team?
- A: Yes, sir, because I am the Cluster head, every time we have an operation beforehand they tell me the operation.
- Q: So you knew all along that you will be called to act as the witness when the inventory would be prepared?
- A: Yes, [Y]our Honor.
- Q: When you reached the place where the incident happened, was the inventory sheet already accomplished wherein the items allegedly seized from the accused were listed?
- A: Not yet, when I arrived, that's the time they prepared the inventory sheet, so, **when I arrived, then they started to write the items.**²⁹
(*Emphasis supplied*)

PO3 Lique corroborated material facts in the testimony of PO1 Mendoza, to the effect that the sale of *shabu* between accused-appellant and PO1 Mendoza was consummated, and that *Barangay* Captain Gatchalian was present during the inventory of the seized items.

The doctrine of presumption of regularity in the performance of official duty is likewise applicable in the instant case there being no showing of any ill motive on the part of the arresting officers to falsely accuse accused-appellant of the crimes charged. In fact, he himself testified that “he did not know any of the persons who arrested him and that he did not also have any misunderstanding with any one of them.”³⁰ The Court elucidated:

xxx. And in the absence of proof of any intent on the part of the police authorities to falsely impute such a serious crime against appellant, as in this case, the presumption of regularity in the performance of official duty, . . . , must prevail over the self-serving and uncorroborated claim of appellant that she had been framed.³¹

Finally, we find the penalties imposed by the trial court in order.

Under Sec. 5, Article II of R.A. No. 9165, a person found guilty of

²⁹ Records, p. 195, TSN, 26 May 2008.

³⁰ *Id.* at 114. Decision dated 28 July 2008 of the Regional Trial Court.

³¹ *Espano v. CA*, 351 Phil. 798, 805 (1998) citing *People v. Velasco*, 252 SCRA 135 (1996) further citing *People v. Ponsica*, 230 SCRA 87 (1994).

unauthorized sale of *shabu* shall suffer 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).³²

On the other hand, under Section 11, Article II of the same Act, the crime of illegal possession of *shabu* weighing less than five (5) grams is punishable by 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).³³

Applying the Indeterminate Sentence Law in the determination of the appropriate penalty,³⁴ the trial court correctly imposed the following penalties: (1) in Criminal Case No. 06-750 for the crime of illegal sale of

³² **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 (P500,000.00) to Ten million pesos (P10,000,000.00) 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.

x x x x

³³ **SECTION 11. *Possession of Dangerous Drugs.*** – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.0) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

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 (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of xxx, methamphetamine hydrochloride or “shabu”, or xxx.

³⁴ Sec. 1, Act No. 4103 , as amended provides:

Sec. 1. x x x [I]f the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

shabu, life imprisonment and a fine of Five Hundred Thousand Pesos (₱500,000.00) considering that these are within the period and range of the fine prescribed by law;³⁵ and (2) in Criminal Case No. 06-751 for the crime of illegal possession of 0.33 gram of *shabu*, imprisonment for an indeterminate term of twelve (12) years and one (1) day, as minimum, to twenty (20) years, as maximum, and a fine of Three Hundred Thousand Pesos (₱300,000.00), which is within the range of the amount imposable therefor.³⁶


WHEREFORE, the Decision dated 31 May 2010 of the Court of Appeals in CA-G.R. CR-HC No. 03579 is **AFFIRMED**, and, thereby the 28 July 2008 Decision of the Regional Trial Court in Criminal Case Nos. 06-750-751 is hereby **AFFIRMED in toto**.

SO ORDERED.



JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice

³⁵ *People v. Sabadlab*, *supra* note 27.


³⁶ *People v. Lopez*, G.R. No. 181441, 14 November 2008, 571 SCRA 252, 262; *People v. Mamaril*, G.R. No. 171980, 6 October 2010, 632 SCRA 369, 372-373, 382.



BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

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.



ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)