



Republic of the Philippines  
**Supreme Court**  
 Manila

CERTIFIED TRUE COPY

*Wilfredo V. Lapitan*

WILFREDO V. LAPITAN  
 Justice, Clerk of Court  
 Third Division

AUG 02 2017

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**      **G.R. No. 220758**  
 Plaintiff-Appellee,

Present:

- versus -

VELASCO, JR., J.,  
*Chairperson,*  
 BERSAMIN,  
 REYES,  
 MARTIRES\*, and  
 TIJAM, JJ.

**STEPHAN CABILES y SUAREZ**  
 a.k.a. "KANO",  
 Accused-Appellant.

Promulgated:

June 7, 2017

*Wilfredo V. Lapitan*

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**DECISION**

**TIJAM, J.:**

Accused-appellant Stephan Cabiles y Suarez appeals the Decision<sup>1</sup> dated March 26, 2015 of the Court of Appeals (CA), finding him guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. (R.A.) 9165, and sentencing him to suffer the penalty of life imprisonment, and to pay a fine of PhP 500,000.

The facts are as follows:

On November 3, 2005, an Information<sup>2</sup> for violation of Sec. 5, Art. II of R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, was filed against accused-appellant for the illegal sale of methamphetamine hydrochloride commonly known as shabu, the

\* Designated as additional member as per Raffle dated March 15, 2017.

<sup>1</sup> Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Gabriel T. Ingles and Jhosep Y. Lopez, *rollo*, pp. 4-17.

<sup>2</sup> CA Decision dated March 26, 2015, *id.* at 4-6.

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accusatory portion of which reads as follows:

That on or about the 31<sup>st</sup> day of October 2005, in the City of Bacolod, Philippines and within the jurisdiction of this Honorable Court, the herein accused, not being authorized by law to sell, trade, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, did, then and there willfully, unlawfully and feloniously sell, deliver, give away to police poseur-buyer, PO1 Ian Piano, in a buy-bust operation, one (1) small heat-sealed transparent plastic packet containing methamphetamine hydrochloride or shabu, a dangerous drug, weighing 0.04 gram, in exchange for two (2) P100.00 bills in marked money, with Serial Nos. X681273 and JN653558, in violation of the aforementioned law.


When arraigned, accused-appellant pleaded not guilty to the crime charged. Trial ensued.

#### **Evidence of the Prosecution**

On October 20, 2005, SPO4 Ernesto Gonzales (SPO4 Gonzales) of the Office of Chief of Bacolod City Anti-Illegal Drugs-Special Operations Task Force (CAIDSOTG) received an information that a certain "*kano*", herein accused-appellant, of Purok Narra Baybay, Barangay 8, Bacolod City, was engaged in the illegal sale of dangerous drugs.

On October 31, 2005, SPO4 Gonzales formed a team and conducted a briefing for a buy-bust operation against accused-appellant. PO1 Ian S. Piano (PO1 Piano), the designated poseur-buyer, was given two pieces of PhP100 bills as buy-bust money.

At around four o'clock in the afternoon, SPO4 Gonzales instructed the confidential informant to meet them at the lagoon of the Provincial Capitol Building on Lacson Street in Bacolod City. SPO4 Gonzales instructed the confidential informant to send a text message to the accused-appellant regarding the place where the sale of illicit drugs would take place. Thereafter, PO1 Piano, together with the confidential informant, proceeded to the agreed place at Purok Narra Baybay, Barangay 8, Bacolod City. Upon seeing the accused-appellant, the confidential informant approached him and asked if he had the shabu, to which the accused-appellant positively confirmed. PO1 Piano handed the buy-bust money to the accused-appellant, which he placed in his pocket. Accused-appellant in turn handed to PO1 Piano a plastic sachet. Immediately after the exchange, PO1 Piano called SPO4 Gonzales, as the pre-arranged signal that the sale was consummated. Thereafter, PO1 Piano placed the accused-appellant under arrest. While being frisked, police officers recovered the buy-bust money from his pocket.



### Evidence for the Defense

Accused-appellant denied the charges against him. He alleged that at the time of the incident, he was at a “sari-sari” store buying rice and sardines, when suddenly three men were looking for a certain Pablo Bautista. Accused-appellant told the three men the location of the house of Pablo Bautista, but they frisked accused-appellant and placed him in handcuffs. Thereafter, accused-appellant was brought to police headquarters at Barangay Taculing, Bacolod City, and was subjected to a body search. But when nothing was recovered from him, suddenly a policeman got an empty plastic sachet from his drawer, and a certain Police Officer Grijaldo took out from his pocket a Php 200.00 bill, which was used as evidence in this case.

On May 2, 2013, the Regional Trial Court (RTC) rendered a Decision<sup>3</sup>, finding accused-appellant guilty beyond reasonable doubt of illegal sale of shabu, the dispositive portion of which reads:

**WHEREFORE**, premises considered, judgment is hereby rendered, as follows:

(a) Finding Accused-Defendant **STEPHAN CABILES Y SUAREZ** alias “Kano” **GUILTY**, beyond moral certainty, of Section 5, Article II, Comprehensive Dangerous Drug Act of 2002. He is hereby sentenced to suffer the penalty of life imprisonment and ordered to pay a fine of Five Hundred Thousand Pesos (P500,000.00);

(b) The dangerous drug subject matter of this case (Exhibit 'H') is hereby confiscated in favor of the government pursuant to Section 20, R.A. No. 9165 and ordered to be turned-over to the Philippine Drug Enforcement Agency (PDEA), Regional Office Six (6) for destruction; and,

(c) No pronouncement as to cost.

**SO ORDERED.**<sup>4</sup>

The CA upheld the conviction of accused-appellant in a Decision dated March 26, 2015. The *fallo* thereof provides:

**WHEREFORE**, the Decision dated May 2, 2013 rendered by the Regional Trial Court, Branch 47, Bacolod City in Criminal Case No. 05-28532 convicting accused-appellant Stephan Cabiles y Suarez a.k.a. “Kano” of Violation of Section 5, Article II or R.A. 165 or the Comprehensive Dangerous Drugs Act is **AFFIRMED**.

With costs against the accused-appellant.

<sup>3</sup> Penned by Acting Presiding Judge Raymond Joseph G. Javier, CA rollo, pp. 38-48.

<sup>4</sup> Id. at 48.

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**SO ORDERED.**

Hence, this appeal.

The appeal is unmeritorious.

In a prosecution for the illegal sale of dangerous drugs, such as shabu, the following elements must be duly established: (1) the identity of the buyer and seller, the object, and the consideration; and, (2) the delivery of the thing sold and the payment therefor. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.<sup>5</sup>

Here, the prosecution submitted evidence that duly established the elements of illegal sale of shabu. It was positively identified that the accused-appellant was the seller of the seized illegal substance which turned out to be positive for methamphetamine hydrochloride, a dangerous drug. Accused-appellant sold and delivered the drug for PhP 200.00 to PO1 Piano. The act of accused-appellant of handing over the shabu after receiving the PhP 200.00 buy-bust money handed by PO1 Piano, is sufficient to consummate the sale of illegal drugs. Verily, all the elements of the sale of illegal drugs were established to warrant accused-appellant's conviction.

We cannot give credence to accused-appellant's argument that the failure of PO1 Piano to actually hear the conversation between the confidential informant and the accused-appellant casts doubt on the existence of a legitimate buy-bust operation. What is controlling is that the offense is consummated after accused-appellant handed the shabu to PO1 Piano in exchange for the PhP 200.00 buy-bust money.

We also find no merit in the accused-appellant's contention that there were procedural lapses in the chain of custody, particularly when he claimed that the prosecution failed to take a picture of the seized illegal substance in his presence and that the police officers merely presented a Barangay Certification from the Councilors of Barangay 8 of Bacolod City. Accused-appellant argues that the integrity and evidentiary value of the seized illegal substance were not duly preserved.

We disagree. The prosecution was able to preserve the integrity and evidentiary value of the seized illegal substance. As correctly observed by the CA, PO1 Piano immediately put the markings "ISP" on the one heat-sealed transparent plastic sachet of shabu at the scene of operation and in the

<sup>5</sup> *People of the Philippines v. Dela Cruz*, G.R. No. 193670, December 3, 2014, citing *People v. Bara*, G.R. No. 184808, November 14, 2011.

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presence of the accused-appellant. Then, accused-appellant was brought to the Barangay Hall for inventory and for issuance of certification that a buy-bust operation was duly conducted. PO1 Piano prepared the letter request for laboratory examination and delivered the same together with seized illegal substance to the PNP Crime Laboratory. It yielded a positive result for methamphetamine hydrochloride, a dangerous drug, per Chemistry Report No. D-464-2005, and as testified by Police Senior Inspector Alexis A. Guinanao in open court. Therefore, the integrity and evidentiary value of the seized illegal substance from accused-appellant are shown to have been properly preserved and the crucial links in the chain of custody were shown to be unbroken.<sup>6</sup>

Moreover, the Court finds no compelling reason to doubt the veracity of the testimony of the prosecution witnesses. The testimonies of PO1 Piano and SPO4 Gonzales established beyond reasonable doubt accused-appellant's culpability. Their narrations on what transpired in the afternoon of October 20, 2005, from the moment the confidential informant disclosed the illegal activities of accused-appellant up to the time of his arrest dated October 31, 2005, deserve great respect and credence. The direct account of law enforcement officers enjoy the presumption of regularity in the performance of their duties. It should be noted that "unless there is clear and convincing evidence that the police officers were inspired by any improper motive or did not properly perform their duty, their testimonies on the operation deserve full faith and credit."<sup>7</sup> Thus, unless the presumption is rebutted, it becomes conclusive.<sup>8</sup> Since, accused-appellant failed to present or refute the evidence presented against him, therefore, the conduct of the operation of the police officers prevails and is presumed regular. Time and again, this Court has accorded great weight to factual findings of the trial court, particularly as regards credibility of witnesses, for it had the opportunity to observe first hand the deportment and demeanor of witnesses and it was in a position to discern whether or not they were telling the truth.<sup>9</sup> Hence, the Court finds no error on the part of the RTC and CA in upholding the presumption of regularity in the

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<sup>6</sup> Section 21, Article II of R.A. 9165 and the Implementing Rules and Regulations, as to the doctrine of chain custody, it provides:

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The integrity and evidentiary value of seized item is properly preserved for as long as the chain of custody of the same are duly established. Chain of Custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court. Such record of movements and custody of seized item shall include the identity and signature of the person who had temporary custody of the seized item, the date and time when such transfer of custody was made in the course of safekeeping and use in court as evidence, and the final disposition. *People v. Glenn Salvador y Bal Verde and Dory Ann Parcon y Del Rosario*, G.R. No. 190621, February 10, 2014.

<sup>7</sup>*People of the Philippines v. Brita*, G.R. No. 191260, November 24, 2014, citing *People v. Lim*, 615 Phil. 769, 782 (2009).

<sup>8</sup>*Bustillo, et. al. v. People of the Philippines*, G.R. No. 160718, May 12, 2010.

<sup>9</sup>*See Giovanni Serrani y Cervantes v. People of the Philippines*, G.R. No. 175023, July 5, 2010.

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performance of duty of the police officers who conducted the buy-bust operation. Anent the alleged irregularities pointed out by the accused-appellant, the same were without basis, too trivial and inconsequential, as explained above.

Finally, accused-appellant's defense of denial is inherently weak and viewed with disfavor for it can be easily concocted.<sup>10</sup> Denial cannot prevail against the positive testimony of a prosecution witness. A defense of denial which is unsupported and unsubstantiated by clear and convincing evidence becomes negative and self-serving, deserving no weight in law, and cannot be given greater evidentiary value over convincing, straightforward and probable testimony on affirmative matters.<sup>11</sup> For this defense to succeed, it must be proven with strong and convincing evidence.<sup>12</sup> Accused-appellant failed in this regard.

In view of the foregoing, We uphold accused-appellant's conviction of the offense charged. The penalty for unauthorized sale of shabu under Sec. 5, Art. II of R.A. 9165,<sup>13</sup> regardless of its quantity and purity, is life imprisonment to death and a fine ranging from PhP500,000 to PhP 10,000,000. However, with the enactment of R.A. 9346,<sup>14</sup> only life imprisonment and a fine shall be imposed. We, therefore, find that the penalty of life imprisonment and payment of fine in the amount of PhP 500,000 is within the range provided by law.

**WHEREFORE**, the appeal is **DISMISSED**. The Decision dated March 26, 2015 of the Court of Appeals, finding accused-appellant Stephan Cabiles y Suarez guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165, and sentencing him to suffer the penalty of life imprisonment and to pay a fine of PhP500,000 is hereby **AFFIRMED**.

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<sup>10</sup> See *People of the Philippines v. Dela Cruz*, G.R. No. 193670, December 3, 2014, citing *People v. De Jesus*, G.R. No. 198794, February 6, 2013.

<sup>11</sup> *People v. Glenn Salvador y Bal Verde and Dory Ann Parcon y Del Rosario*, G.R. No. 190621, February 10, 2014, citing *People v. Alberto*, G.R. No. 179717, February 5, 2010.

<sup>12</sup> *People of the Philippines v. Dela Cruz*, G.R. No. 193670, December 3, 2014, citing *People v. De Jesus*, G.R. No. 198794, February 6, 2013.


<sup>13</sup> Sec. 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 on 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.

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<sup>14</sup> "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES."


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**SO ORDERED.**

  
**NOEL GIMENEZ TIJAM**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson


  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

(On Leave)  
**SAMUEL R. MARTIRES**  
Associate Justice

**A T T E S T A T I O N**

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.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division



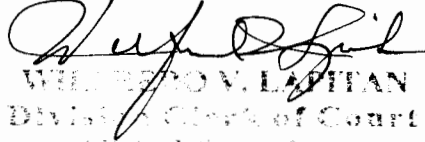
### CERTIFICATION

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

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WILFREDO V. LAPID  
Division Clerk of Court

AUG 6 2 2017

