



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **December 9, 2020**, which reads as follows:*

“G.R. No. 231126 (*People of the Philippines v. Antonio Abella Yee a.k.a. Tatay Boy*). - On appeal is the November 10, 2016 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01996 affirming the December 3, 2014 Judgment² of the Regional Trial Court (RTC) of Dumaguete City, Branch 30, in Crim. Case No. 2013-21957 finding accused-appellant Antonio Abella Yee (Yee) guilty of the crime of Illegal Sale of Dangerous Drugs under Section 5, Article II of Republic Act No. 9165 (RA 9165).

The Amended Information³ charged Yee as follows:

That on or about the 9th day of November, 2013, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did, then and there willfully, unlawfully and criminally sell and/or deliver to PO1 Jerald Manlan[,] a poseur buyer[,] one (1) heat-sealed transparent plastic sachet containing 0.21 gram of white crystalline substance of Methamphetamine Hydrochloride, commonly called “*shabu*”, a dangerous drug.

That the accused is found positive for use of Methamphetamine, as reflected in Chemistry Report No. DT-154-13.

Contrary to Sec. 5, Art. II of R.A. 9165.⁴

Version of the Prosecution:

Acting on an informant's tip that a certain *Tatay Boy*, who was later identified as Yee, was selling *shabu* at the Cadawinonan Housing Project in

¹ *Rollo*, pp. 4-12; penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Edgardo L. Delos Santos (now a Member of this Court) and Geraldine C. Fiel-Macaraig.

² *CA rollo*, pp. 17-27; penned by Judge Rafael Cresencio C. Tan, Jr.

³ Records, p. 78.

⁴ *Id.*

Cadawinonan, Dumaguete City, Police Inspector Ryan Jay Orapa (PI Orapa) instructed Police Officer 1 Jerald Manlan (PO1 Manlan), PO1 Crisanto Panggoy (PO1 Panggoy), and a police asset, to conduct casing and surveillance operation on November 6, 2013. Thereafter, it was confirmed that Yee was indeed selling *shabu* to interested customers.⁵

On the following day, PO1 Manlan, PO1 Panggoy, and another confidential asset returned to the Cadawinonan Housing Project. At around 3:00 p.m., they approached Yee and introduced themselves as buyers of *shabu*. Yee, however, refused to sell and instead asked the trio to come back some other time.⁶

On November 9, 2013, a buy-bust team was formed with PO1 Manlan as the poseur-buyer, PO1 Panggoy as immediate back-up and several other police officers as secondary back-ups. The group then proceeded to the target area. When Yee arrived at around 5:25 p.m., PO1 Manlan immediately approached him and reminded him that he was interested in buying *shabu*. Yee in turn asked for payment then took out one heat-sealed plastic sachet containing suspected *shabu* granules from his right pocket and gave it to PO1 Manlan who examined the same. PO1 Manlan handed the ₱500.00 marked money to Yee and thereafter arrested him.⁷

After recovering the marked money from Yee, PO1 Manlan put markings on the plastic sachet of *shabu*. The team then went to the nearest police station where the inventory⁸ and taking of photograph of the seized item were conducted in the presence of barangay official Maria Grace Ozoa, Department of Justice (DOJ) representative Anthony Chilius Benlot and media representative Neil Rio. The buy-bust team returned to their police station where PI Orapa prepared a request⁹ to the Philippine National Police (PNP) Crime Laboratory. PO1 Manlan brought the request, together with the seized item, to the PNP Crime Laboratory. The items were received by PO2 Michelle Cañete¹⁰ who turned them over to Police Chief Inspector Josephine Suico Llena (Forensic Chemist Llena).

In Chemistry Report No. D-203-13¹¹ dated November 10, 2013, Forensic Chemist Llena found the specimen submitted to her positive for Methamphetamine Hydrochloride, otherwise known as *shabu*.¹²

⁵ TSN, September 23, 2014, pp. 3-4.

⁶ Id. at 5-6.

⁷ Id. at 7-11.

⁸ Records, p. 25.

⁹ Id. at 26.

¹⁰ Id. See also TSN, September 23, 2014, pp. 12-20.

¹¹ Id. at 30.

¹² Id.

Version of the Defense:

The defense presented a different version of the incident. Yee claimed that on November 9, 2013 at past 3:00 p.m., he was in Cadawinonan playing cards with Ruel Ferraren (Ferraren) and Bodoy Omnos (Omnos) when about seven men rushed towards them. PI Orapa pointed a gun at Yee. He was bodily searched but nothing was recovered from him. He was then brought inside a vehicle where he was asked if he knew those who were selling *shabu*. After about 45 minutes, Yee was brought to the police station where he was asked to sign a document but Yee refused to sign. He denied that he was caught selling *shabu*.¹³

Ferraren and Omnos corroborated respondent's statement that they were merely playing cards when several men barged in and forcibly took Yee.¹⁴ Ferraren, however, admitted that he did know the name of respondent.¹⁵

Ruling of the Regional Trial Court:

On December 3, 2014, the trial court rendered judgment finding Yee guilty of Illegal Sale of Dangerous Drugs. Its dispositive portion reads:

WHEREFORE, in the light of the foregoing, the Court hereby finds the accused Antonio Abella Yee a.k.a. *Tatay Boy* GUILTY beyond reasonable doubt of the offense of illegal sale of 0.21 gram of *shabu* in violation of Section 5, Article II of R.A. No. 9165 and is hereby sentenced to suffer a penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The one (1) heat-sealed transparent plastic sachet with markings "AAY-BB-11-09-13" containing 0.21 gram of *shabu* is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused Antonio Abella Yee a.k.a. *Tatay Boy* shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.¹⁶

The trial court held that the prosecution was able to establish through the testimony of the poseur-buyer that Yee sold 0.21 gram of *shabu* in exchange for P500.00. The trial court upheld the validity of Yee's arrest and found that the integrity of the dangerous drug was properly preserved. Finally, the trial court disregarded the defense of denial and frame up in light of the credible testimonies and overwhelming evidence proving Yee's guilt.

¹³ TSN, November 3, 2014, pp. 2-6.

¹⁴ TSN, November 4, 2014, p. 5; TSN, November 5, 2014, p. 6.

¹⁵ TSN, November 5, 2014, p. 7.

¹⁶ CA rollo, p. 27.

Ruling of the Court of Appeals:

On November 10, 2016, the appellate court affirmed the judgment of conviction of the trial court. It upheld the validity of Yee's arrest and adopted the finding of the trial court that Yee was arrested while in the act of peddling illegal drugs, a circumstance where warrantless arrest is justified. Moreover, the appellate court pointed out that Yee was precluded from invoking any irregularities that may have attended his arrest after he entered a plea and participated actively in the trial without any objection. The appellate court gave full credit to the testimonies of the police officers relative to the presence of all the elements for illegal sale of dangerous drugs. With respect to the chain of custody, the appellate court found that each and every link in the chain had been duly accounted for.

In a Resolution dated June 19, 2017,¹⁷ We required the parties to simultaneously file their supplemental briefs. In two separate Manifestations,¹⁸ both parties expressed their intention not to file any supplemental brief since all the issues and arguments have already been raised in their respective Briefs before the appellate court.

Yee maintains that the alleged buy-bust operation was executed in gross violation of his constitutional right for lack of a valid warrant. He insists that his guilt was not proven beyond reasonable doubt because the evidence being used against him is the "fruit of the poisonous tree" it being seized without a valid warrant.¹⁹

The Office of the Solicitor General (OSG) supports the conviction of Yee. It argues that Yee's warrantless arrest was valid and legal as he was caught *in flagrante delicto*. Moreover, the OSG avers that Yee is now estopped from questioning the legality of his arrest having raised the same only on appeal.²⁰

Our Ruling

We dismiss the appeal.

Yee was charged with and convicted of the crime of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165. The elements necessary for its prosecution are as follows: (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.²¹ The delivery of the illicit drug

¹⁷ *Rollo*, p. 19.

¹⁸ *Id.* at 21 and 32.

¹⁹ *CA rollo*, pp. 52-68.

²⁰ *Id.* at 85-103.

to the poseur-buyer and the receipt by the seller of the marked money consummate the illegal transaction.

All these elements were duly established by the prosecution. Yee was caught *in flagrante delicto* selling *shabu* during a buy-bust operation. The poseur-buyer, PO1 Manlan, positively testified that the sale took place and that Yee sold to him the *shabu* in exchange for ₱500.00, thus:

Q So what happened on November 9?

A At about 4:30 in the afternoon, ma'am, Police Inspector Orapa of the PAIDSOTG called for a briefing, ma'am.

x x x x

A We then planned for an entrapment operation against Tatay Boy, ma'am.
x x x

Q Okay, what happened next?

A We proceeded to the area, ma'am.

Q Which area did you proceed to?

A At the Cadawinonan Housing Project, ma'am.

x x x x

Q And then what happened next, Mr. witness?

A At about 5:25 in the afternoon, ma'am, of the same date and year, ma'am, Tatay Boy Abella appeared already, ma'am.

Q Where was x x x Tatay Boy positioned?

A He was just on the side of the road, ma'am.

Q So when you saw Tatay Boy, what did you do next?

A I immediately approached him, ma'am x x x.

x x x x

Q And then what happened next upon arrival?

A I immediately approached him and he replied to me, ma'am, and said where is my money.

Q You said, you were using the word reply, did you ask him?

A Yes, ma'am, because I already approached him and confronted him [reminding him of what] we have [previously] agreed.

x x x x

Q So what did you [say] when Tatay Boy asked for the money?

A I said, ma'am, show me first the item.

x x x x

²¹ *People v. Ordiz*, G.R. No. 206767, September 11, 2019.

Q Okay, when you asked him to show first the item, what happened next?

A He took it from his right side pocket, ma'am.

Q What did he take?

A Heat-sealed plastic sachet, ma'am, containing suspected shabu granules, ma'am.

Q Okay, and then what did he do with the heat-sealed plastic sachet that you mentioned?

A He gave it to me, ma'am.

Q And then what happened next after he gave it to you?

A I visually examined it.

Q So did you receive it?

A Yes, ma'am.

Q And then you said that you visually examined it?

A Yes, ma'am.

x x x x

Q And so what was your findings in this visual examination of yours?

A It was *shabu*, ma'am.

Q So what did you do after that conclusion of yours?

A The same, ma'am, I gave the same money, ma'am, to Tatay Boy, the Php500 bill, with serial No. ZR898262.

Q And did Tatay Boy receive the Php500 bill?

A Yes, ma'am.

Q Then what happened next after he received the Php500 bill?

A Almost simultaneously, ma'am, I arrested him, ma'am.²²

In her Chemistry Report, Forensic Chemist Llena confirmed the presence of methamphetamine hydrochloride on the heat-sealed plastic sachet which PO1 Manlan received from Yee. The marked money was also presented in evidence. Therefore, the delivery of the dangerous drug to PO1 Manlan and the receipt by respondent of the marked money successfully consummated the buy-bust transaction.

Moreover, the prosecution had sufficiently established a continuous and unbroken chain of custody. In *Malilin v. People*,²³ the Court explained the chain of custody rule, viz.:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that

²² TSN, September 23, 2014, pp. 7-11.

²³ 576 Phil. 576 (2008).

every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.²⁴

In this case, the testimonies of the prosecution witnesses sufficiently established the unbroken links in the chain custody of the dangerous drug. The first link is from PO1 Manlan's receipt of the plastic sachet of *shabu* from Yee and its marking with the initials "AAY-BB-11-09-13", and when it was placed inside a brown envelope to the time it was brought to the police station and kept inside the locked drawer of PO1 Manlan where only he has access to the same. The second link commences from the time PO1 Manlan brought the plastic sachet of *shabu* to the PNP Crime Laboratory and received by PO3 Cañete, who turned it over to Forensic Chemist Llena for examination. The third link in the chain of custody starts from the time Forensic Chemist Llena received the plastic sachet of *shabu* for examination until its submission to the trial court together with the Chemistry Report.

More importantly, the prosecution had complied with the requirements under Section 21, Article II of RA 9165 in that a physical inventory and photographs were taken immediately after seizure in the presence of Yee, a barangay official, a DOJ representative, and a media representative.

Yee's denial does not inspire belief. The defense of denial, like alibi, has been viewed by the Court with disfavor for it can just as easily be concocted. Denial in drug cases requires strong and convincing evidence because of the presumption that the law enforcement agencies acted in the regular performance of their official duties. Bare denials of Yee cannot prevail over the positive testimonies of the police officers. Moreover, there is no evidence of any improper motive on the part of the police officers who conducted the buy-bust operation to falsely testify against Yee.²⁵

Respondent's insistence on the illegality of his warrantless arrest lacks merit. Section 5, Rule 113 of the Rules of Court allows a warrantless arrest under any of the following circumstances:

Sec. 5. *Arrest without warrant, when lawful* – A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

²⁴ Id. at 587.

²⁵ *People v. Baya*, G.R. No. 240428, September 11, 2019.

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In the instant case, the warrantless arrest was effected under the first mode, *i.e.* Yee was caught selling an illegal drug. PO1 Manlan and PO1 Panggoy were active participants to the buy-bust operation. After laboratory examination, the white crystalline substance placed inside the plastic sachet was found positive for methamphetamine hydrochloride or *shabu*, a dangerous drug. Under these circumstances, it is beyond dispute that Yee was arrested *in flagrante delicto* while committing a crime.

In fine, it has been established by proof beyond reasonable doubt that Yee sold *shabu*, a dangerous drug. Under Section 5, Article II of RA 9165, the penalty of life imprisonment to death and fine ranging from ₱500,000.00 to ₱1,000,000.00 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. Hence, the trial court, as affirmed by the appellate court, correctly imposed the penalty of life imprisonment and a fine of ₱500,000.00.

WHEREFORE, the appeal is **DISMISSED**. The November 10, 2016 *Decision* of the Court of Appeals in CA-G.R. CR-H.C. No. 01996, is **AFFIRMED in toto**.

SO ORDERED." (Lopez, *J.*, designated as additional member per raffle dated November 23, 2020 vice *J.* Delos Santos who recused due to prior action in the Court of Appeals).

By authority of the Court:

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G.R. No. 231126 *for*

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