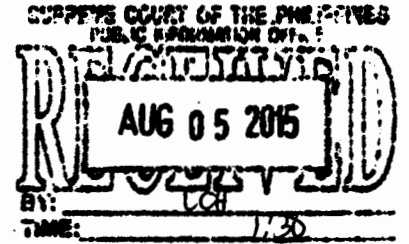




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 1, 2015 which reads as follows:

“G.R. No. 189811 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. ESTER MANSILUNGAN y GAYA, Accused-Appellant.

This review relates to the decision promulgated on July 29, 2009,¹ whereby the Court of Appeals (CA) affirmed the decision rendered on July 8, 2007 by the Regional Trial Court, Branch 64,² in Makati City finding the accused-appellant guilty of the illegal sale of 0.02 gram of methylamphetamine hydrochloride, a prohibited drug more popularly known as *shabu*, in violation of Section 5, Article II of Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002); and sentencing her to suffer life imprisonment, and to pay a fine of ₱500,000.00.³

Antecedents

On November 5, 2004, a confidential informant tipped off elements of the Makati City Police about the selling of dangerous drugs in Makati of one “Michael Bakla” and one “Ester.”⁴ A buy-bust team that included PO3 Esterio Ruiz as the designated poseur buyer, PO1 Percival Mendoza and Makati Anti-Drug Abuse Council (MADAC) agent Norman Bilason was formed to monitor and apprehend the suspected drug peddlers.⁵ After

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¹ *Rollo*, pp. 2-10, penned by Associate Justice Ricardo R. Rosario, and concurred in by Associate Justice Jose L. Sabio, Jr. (deceased) and Associate Justice Vicente S.E. Veloso (retired).

² *CA rollo*, pp. 19-24; penned by Acting Presiding Judge Maria Cristina J. Cornejo..

³ *Id.* at 23.

⁴ *Supra* note 1, at 4.

⁵ *Id.*

coordinating with the Philippine Drug Enforcement Agency (PDEA),⁶ the buy-bust team, accompanied by the confidential informant, proceeded to the intersection of Kalayaan Avenue and Zobel Street in Barangay Singkamas, Makati City where they found Ester.⁷ The confidential informant introduced PO3 Ruiz to her, and PO3 Ruiz was able to buy *shabu* from her with the marked money worth ₱200.00.⁸ Upon consummation of the sale, PO3 Ruiz gave the pre-arranged hand signal. Thus, PO1 Mendoza and Bilason came forward to apprehend Ester,⁹ who, however, noticed their approach and ran away. The lawmen pursued her until they apprehended her inside a toilet.¹⁰ The sachet of *shabu* sold to PO3 Ruiz was marked with “@Ester.” The lawmen brought Ester with them to the police station for processing and testing for drug use.¹¹ Ester, soon identified as the accused, tested positive for the use of methylamphetamine hydrochloride.¹² The substance sold by the accused to PO3 Ruiz was also examined at the PNP Crime Laboratory, and was found to be positive for methylamphetamine hydrochloride, a dangerous drug, weighing 0.02 gram.¹³

The accused denied having sold *shabu* to PO3 Ruiz, and insisted that she had simply been handcuffed and arrested by the policemen while she was inside the toilet outside the house of her sister.¹⁴ Nevertheless, she admitted using methylamphetamine hydrochloride.¹⁵

Following the apprehension of the accused, she was charged in court under two informations for the illegal sale of a dangerous drug and for the use of dangerous drugs respectively under Section 5¹⁶ and Section 15¹⁷ of R.A. No. 9165.

At the arraignment on November 30, 2004, the accused entered a plea of *not guilty* to the violation of Section 5 of R.A. No. 9165.¹⁸

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⁶ Id.
⁷ Id.
⁸ Id. at 4-5.
⁹ Id. at 5.
¹⁰ Id.
¹¹ Id.
¹² Id.
¹³ Id.
¹⁴ Id.
¹⁵ Id.
¹⁶ CA rollo, p. 13.
¹⁷ Id. at 14.
¹⁸ Id. at 19.

On January 25, 2005, the accused was arraigned for the violation of Section 15 of R.A. No. 9165, and she pleaded *not guilty*.¹⁹

On May 24, 2007, the accused withdrew her plea of *not guilty* to violation of Section 15 of R.A. No. 9165 and entered a *guilty* plea instead.²⁰

After trial, the RTC convicted the accused of the crimes charged,²¹ sentencing her to suffer life imprisonment and to pay a fine of ₱500,000.00 for the violation of Section 5 of R.A. No. 9165; and ordering her to undergo rehabilitation for at least six months in a government rehabilitation center under the auspices of the Bureau of Correction for the violation of Section 15 of R.A. No. 9165.

The accused appealed to the CA to challenge only her conviction for the violation of Section 5 of R.A. No. 9165.²² In her appellant's brief, she argued that the Prosecution's failure to present SPO3 Luisito Puno, the police officer who had delivered the sachet of *shabu* to the PNP Crime Laboratory, signified the failure to establish a perfect chain of custody.²³

The Office of the Solicitor General countered that the testimony of SPO3 Puno was not necessary because his possession and delivery of the sachet of *shabu* to the PNP Crime Laboratory had already been established by the stamp in the Memorandum of Endorsement of P/Supt. Marietto M. Valerio;²⁴ that the parties had also stipulated that SPO3 Puno had conducted the investigation and had prepared the final investigation report;²⁵ that with the records and the testimonies of PO3 Ruiz and PO1 Mendoza, the Prosecution established the unbroken chain of custody of the sachet of *shabu* from the time it had come to the possession of the police operatives and delivered to the PNP Crime Laboratory for testing until its eventual presentation as evidence during trial.²⁶

As mentioned, the CA upheld the accused's conviction, holding that the testimonies of PO3 Ruiz, PO1 Mendoza and Bilason sufficiently established that the chain of custody had remained unbroken; and that the sachet of *shabu* recovered from the accused and the one presented as evidence during trial were one and the same.²⁷ The CA ruled that the non-

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¹⁹ Id.
²⁰ Id. at 22.
²¹ Supra note 2, at 23-24.
²² CA rollo, pp. 42-52.
²³ Id. at 51.
²⁴ Id. at 82.
²⁵ Id.
²⁶ Id. at 85-86.
²⁷ Supra note 1, at 8.

presentation of SPO3 Puno was not fatal for the Prosecution considering that his testimony “was dispensed with upon the conformity of the defense itself,”²⁸ and that the Prosecution satisfactorily proved all the elements of illegal sale of *shabu*.²⁹

Ruling of the Court

The appeal has no merit.

First of all, the appeal challenges the findings of fact by the RTC and the CA. We cannot favor such challenge considering that the findings of fact of the trial court are accorded great respect especially because they were affirmed by the CA.³⁰ The Court can revisit, review and set aside factual findings only when the trial court was shown to have been capricious and arbitrary, or when the trial court was shown to have committed palpable error in its determination of the facts.³¹ But no palpable error, capriciousness or arbitrariness attended the RTC’s factual findings on the chain of custody being unbroken. Indeed, the testimonial and documentary evidence presented by the Prosecution credibly and sufficiently established the identity of the seized drug from the time it was sold to the poseur buyer until it was presented in court. PO3 Ruiz attested that it was he who had received the seized drug from the accused, and that it was also he who had marked it with “@Ester” to identify it.³² The possession of the seized drug marked “@Ester” was transferred from PO3 Ruiz to SPO3 Puno who then delivered it to the PNP Crime Laboratory. The stamp on the request for laboratory examination indicated that the seized drug was delivered to the PNP Crime Laboratory on November 5, 2004.³³ According to the Physical Science Report issued on November 5, 2004, the seized article marked “@Ester” was found to be positive for methylamphetamine hydrochloride.³⁴ The custody of the seized drug remained with the PNP Crime Laboratory until it was brought to the court for presentation at the trial.³⁵ At the trial, the Prosecution witnesses positively identified the evidence marked “@Ester” to be the same article received by the poseur buyer during the buy-bust operation.³⁶ Under the

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²⁸ Id.

²⁹ Id. at 9.

³⁰ *Castillo v. Court of Appeals*, G.R. No. 106472, August 7, 1996, 260 SCRA 374, 381.

³¹ *People v. Quiamanlon*, G.R. No. 191198, January 26, 2011, 640 SCRA 697, 706.

³² TSN, May 5, 2005, pp. 11, 14.

³³ Records, p. 100.

³⁴ Id. at 101.

³⁵ Id. at 29.

³⁶ TSN, May 5, 2005, p. 14; TSN, May 12, 2005, p. 22.; TSN, March 22, 2006, p. 9.

circumstances, the Court cannot doubt the evidence of the *corpus delicti* – that the substance presented as evidence was the same substance that was sold by the accused-appellant to the poseur buyer.³⁷

Secondly, the CA correctly held that SPO3 Puno's failure to testify did not suffice to overturn the accused's conviction. The parties entered into stipulations during the trial with respect to SPO3 Puno's preparation of the final investigation report,³⁸ following which SPO3 Puno was dispensed with as a witness with the conformity of the Defense.³⁹ The Defense thereby expressly conceded that SPO3 Puno had regularly performed his duties relative to the preservation of the integrity of the substance in question for the whole time that the substance remained in his custody.⁴⁰

Under Section 5, Article II of R.A. No. 9165,⁴¹ the sale of dangerous drugs is punishable by life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10 Million. Accordingly, the RTC correctly imposed on the accused the penalty of life imprisonment and fine of ₱500,000.00.⁴²

WHEREFORE, the Court **AFFIRMS** the decision of the Court of Appeals promulgated on July 29, 2009 in CA-G.R. CR-H.C. No. 03106; and **ORDERS** the accused-appellant to pay the cost of suit.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA

Division Clerk of Court, 7/1/15

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³⁷ *People v. Llanita*, G.R. No. 189817, October 3, 2012, 682 SCRA 288, 304.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *People v. Salvidar*, G.R. No. 207664, June 25, 2014.

⁴¹ 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

⁴² *Supra* note 3.

The Solicitor General (x)
Makati City

Court of Appeals (x)
Manila
(CA-G.R. CR H.C. No. 03106)

The Hon. Presiding Judge
Regional Trial Court, Br. 64
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(Crim. Case No. 04-3611)

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