



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff-Appellee,*

G.R. No. 200797

- versus -

Present:  
CARPIO, *Chairperson*  
VELASCO, JR.,  
DEL CASTILLO,  
MENDOZA, *and*  
LEONEN, *JJ.*

MANOLITO OPIANA Y TANAEL,  
*Accused-Appellant.*

Promulgated:

JAN 12 2015

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RESOLUTION

DEL CASTILLO, J.:

Appellant Manolito Opiana y Tanael was charged with the crimes of violations of Section 5 (sale of illegal drugs; 0.05 gram) and Section 11 (possession of dangerous drugs; 0.74 gram), both of Article II, Republic Act No. 9165 (RA 9165) or the Comprehensive Dangerous Drugs Act of 2002.

The facts of the case showed that on April 8, 2008, the Makati police officers and Makati Anti-Drug Abuse Council (MADAC) operatives conducted an entrapment/buy-bust operation on appellant who was reportedly engaged in illegal drug trade in Brgy. Guadalupe Viejo, Makati City. MADAC operative Sherwin Sydney Serrano (Serrano) acted as poseur-buyer. After having been introduced by the informant as a "scorer" of *shabu*, appellant and Serrano negotiated for the sale of ₱300.00 worth of *shabu*. Serrano gave appellant the ₱300 marked money and in exchange, appellant handed to Serrano a heat-sealed sachet containing white crystalline substance. After making the pre-arranged signal, appellant was apprehended and when bodily frisked, 19 heat-sealed sachets were recovered from his possession. Laboratory examination revealed that all 20 heat-sealed sachets yielded positive results for *shabu*.

\* Per Special Order No. 1910 dated January 12, 2015.

Appellant denied the charges against him. He claimed that on April 8, 2008, he was repairing a vehicle in front of his house when a green van arrived and three (3) men alighted. When he affirmatively answered to their query whether he is “Noli,” he was immediately arrested. He asserted that the police officers mistook him as the “Noli” who was known to be a drug peddler in their area. He argued that he is known in their place as “Noli Mekaniko,” and not the drug peddler.

***Ruling of the Regional Trial Court (RTC)***

In a Decision dated May 26, 2009, the Regional Trial Court of Makati City, Branch 65, convicted appellant of violations of Sections 5 (sale of illegal drugs) and 11 (possession of dangerous drugs), Article II of RA 9165. It ratiocinated thus:

In order to successfully prosecute an accused for illegal sale of dangerous drugs, the prosecution must be able to prove the following elements: (1) identities of the buyer and seller, the object, and the consideration; and 2) the delivery of the thing sold and the payment therefor. x x x The delivery of the illegal drugs subject of the sale and the receipt of the marked money consummate the buy-bust transaction between the entrapping officers and the accused. It is therefore important to prove only that the transaction or sale actually took place, coupled with the presentation in court of the dangerous drugs. x x x

x x x x

After a prudent consideration, the court finds that the prosecution succeeded in proving the guilt of the accused for the crime of violation of Section 5, Article II of Republic Act No. 9165 beyond reasonable doubt. Indeed, the collective evidence presented during the trial by the prosecution adequately established that a valid buy-bust operation was conducted by the operatives of the MADAC as well as the SAID-SOTF, Makati City on April 8, 2008 after proper coordination with the PDEA was made x x x. During the operation, 0.05 gram of shabu x x x was purchased by MADAC operative Serrano from accused Manolito Opiana in consideration of ₱300.00. The results of the laboratory test confirmed that the item contained in the said plastic sachet which was bought from the accused was indeed methylamphetamine hydrochloride or shabu x x x. There can be no gainsaying the credibility of the forensic chemist who conducted the laboratory examination on the specimen. In fact, nothing was adduced or intimated that the said prosecution witness had reason to fabricate or concoct her findings.

Likewise, there can be no question about the identity of the *corpus delicti* in the instant case for sale of illegal drugs. The small plastic sachet containing shabu marked as “WIN” which was brought to and identified in court was found to be the same plastic sachet of shabu which the prosecution witness, MADAC operative Serrano, purchased from the accused during the buy-bust operation. Brgy. Capt. Ernesto Bobier testified and confirmed having signed the inventory sheet x x x of the items seized from the accused in his presence. Therefore, the integrity and evidentiary value of the items confiscated and/or purchased from the accused had been well safeguarded as to be reliable.

Needless to state, the identity of the accused was positively established in open court by the witnesses for the prosecution who pointed to him as the same person who was apprehended during the buy-bust operation.

Moreover, the prosecution adequately established the existence of all the elements for the offense of illegal possession of dangerous drugs under Section 11, Article II of the same Act, to wit: (1) the accused is in possession of the object identified as a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug x x x.

It has been ruled that there can be no conviction for the subject offense unless the prosecution shows that the accused knowingly possessed the prohibited articles in his person, or that *animus possidendi* is shown to be present together with his possession or control of such article x x x. Based on the testimony of the prosecution witnesses, however, it was clearly shown that nineteen (19) plastic sachets containing shabu x x x were recovered from the accused. The contents thereof were later examined at the PNP Crime Laboratory and were found to be in fact methylamphetamine hydrochloride or shabu. The accused had no authority to possess or otherwise use said dangerous drugs; neither did he have any license or prescription to possess the same. The intention of the accused to possess the said plastic sachets containing shabu was patent considering that these were found in his person after a routine body search was conducted. It is also beyond cavil that he possessed the said plastic sachets containing shabu freely and consciously.

The inventory of the items seized from the accused and the testimony in open court of Brgy. Capt. Ernesto Bobier, an elected official, bolstered the claim of the prosecution that a buy-bust operation was conducted by operatives of the MADAC as well as SAID-SOTF, Makati City, which operation resulted in the arrest of the accused. It is settled that in cases involving violations of the Comprehensive Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. x x x<sup>1</sup>

The dispositive portion of the trial court's Decision reads:

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

1. In Criminal Case No. 08-542, the court finds the accused, MANOLITO OPIANA y TANAEL, 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 (₱500,000.00);
2. In Criminal Case No. 08-543, the court finds the same accused, MANOLITO OPIANA y TANAEL, 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) day as minimum to fourteen (14) years and eight (8) months as maximum and to pay a

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<sup>1</sup>Records, pp. 112-114.

fine of Three Hundred Thousand Pesos (₱300,000.00).

The period of detention of the accused should be given full credit.

Let the dangerous drugs subject matter of these cases be disposed of in the manner provided by law.

SO ORDERED.<sup>2</sup>

### ***Ruling of the Court of Appeals***

Aggrieved, appellant appealed to the Court of Appeals (CA). In his Brief, appellant alleged that the buy-bust team did not observe the proper procedure governing the handling, custody and disposition of the illegal drugs. In particular, he contended that there was a gap in the chain of custody as it was unclear what happened to the specimen after it was delivered to the crime laboratory and examined by the forensic chemist or how it was brought to the court. The defense also lamented the failure of the police officers to secure a search warrant or warrant of arrest despite ample time to do the same.

Unpersuaded, the CA, in its June 30, 2011 Decision, ruled as follows:

WHEREFORE, PREMISES CONSIDERED, the instant appeal is DENIED. The Decision dated 26 May 2009 is hereby AFFIRMED IN TOTO.

SO ORDERED.<sup>3</sup>

The CA opined that based on the testimony of MADAC operative Serrano, all the elements for the illegal sale of dangerous drugs, *i.e.*, that a sale transaction took place and the illicit drug was presented in court, were satisfactorily proved. More important, the integrity and evidentiary value of the illicit drug were properly preserved, *viz.*:

x x x [T]he marking of the evidence was testified to by Serrano whereas the testimony of the investigator x x x was stipulated upon by the prosecution and the defense. The recovered items were turned over to PO1 Randy C. Santos upon his conduct of investigation. The request for laboratory examination was delivered by PO1 Gimena on 08 April 2008 at 2125H and the same was received by PSI Jocelyn J. Belen whose testimony was likewise stipulated upon. Although there has been no photographs taken and no testimony as to what happened with the evidence after the same was submitted for laboratory examination, the same was positively identified by Serrano during trial. x x x<sup>4</sup>

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<sup>2</sup>*Id.* at 114; penned by Judge Edgardo M. Caldoná.

<sup>3</sup>CA *rollo*, p. 154; penned by Associate Justice Rodil V. Zalameda and concurred in by Associate Justices Amelita G. Tolentino and Normandie B. Pizarro.

<sup>4</sup> *Id.* at 91.

Anent the charge for illegal possession of dangerous drugs, the CA also found that the prosecution satisfactorily established all the elements thereof, to wit: 1) that the accused is in possession of a prohibited drug; 2) such possession is not sanctioned by law; and 3) the accused freely and consciously possessed the illegal drugs. In addition, the CA found no ill-motives on the part of the police operatives.

In an April 25, 2012 Resolution,<sup>5</sup> we required both parties to file their respective supplemental briefs. However, both opted to adopt the briefs they submitted before the CA.

### ***Our Ruling***

After a careful review of the records of the case, the Court finds the appeal to be lacking in merit. Both the RTC of Makati City, Branch 65 and the CA correctly found appellant guilty beyond reasonable doubt of violations of Sections 5 and 11, Article II of RA 9165, as amended by RA 9346.<sup>6</sup> For the violation of Section 5, the prosecution satisfactorily established the following elements: “(1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor. What is material in a prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti or the illicit drug in evidence.”<sup>7</sup> Similarly, the prosecution satisfactorily established the following elements for the illegal possession of dangerous drugs in violation of Section 11, to wit: appellant was shown to have been in possession of 0.74 gram of *shabu*, a prohibited drug; his possession was not authorized by law; and that he freely and consciously possessed the said illegal drug.

Under the law, the penalty for the unauthorized sale of *shabu*, regardless of its quantity and purity, is life imprisonment to death and a fine ranging from ₱500,000.00 to ₱10 million. However, with the enactment of RA 9346, only life imprisonment and fine shall be imposed. Thus, the penalty imposed by the trial court and affirmed by the CA, *i.e.*, life imprisonment and a fine of ₱500,000.00, is proper. However, appellant is not eligible for parole pursuant to Section 2 of the Indeterminate Sentence Law. The penalty for illegal possession of dangerous drugs, on the other hand, is imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from ₱300,000.00 to ₱400,000.00, if the quantity of the dangerous drug is less than five (5) grams. In this case, appellant was found to have been in illegal possession of 0.74 gram of *shabu*. Thus, he was

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<sup>5</sup>Rollo, pp. 39-40.

<sup>6</sup>AN ACT PROHIBITING THE IMPOSITION OF THE DEATH PENALTY IN THE PHILIPPINES.

<sup>7</sup>*People v. Dilao*, 555 Phil. 394, 409 (2007).

properly meted the penalty of imprisonment ranging from twelve (12) years and one (1) day to 14 years and eight (8) months and a fine of ₱300,000.00.


**WHEREFORE**, the June 30, 2011 Decision of the Court of Appeals is **AFFIRMED** with **MODIFICATION**. Appellant Manolito Opiana y Tanael is hereby found guilty beyond reasonable doubt of the crime of violations of Sections 5 and 11, Article II of Republic Act No. 9165, as amended by Republic Act No. 9346, and sentencing him to suffer the penalty of life imprisonment without eligibility for parole and ordering him to pay the fine of ₱500,000.00, for violation of Section 5, Article II, Republic Act No. 9165, and imprisonment of twelve (12) years and one (1) day to fourteen (14) years and eight (8) months and a fine of ₱300,000.00, for violation of Section 11, Article II, Republic Act No. 9165.

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

  
**ANTONIO T. CARPIO**  
*Associate Justice*  
*Chairperson*

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

  
**JOSE CATRAL MENDOZA**  
*Associate Justice*

  
**MARVIC M.V.F. LEONEN**  
*Associate Justice*

**ATTESTATION**

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO**

*Associate Justice*  
*Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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*

