

SECOND DIVISION

[G.R. No. 228881, February 06, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DONDON GUERRERO Y ELING, ACCUSED-APPELLANT.**

DECISION

CAGUIOA, J:

Before the Court is an ordinary appeal^[1] filed by Dondon Guerrero y Eling (Guerrero) assailing the Decision^[2] dated May 27, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07423, which affirmed the Decision^[3] dated March 10, 2015 of the Regional Trial Court of La Union, San Fernando City, Branch 29 (RTC) in Criminal Case No. 9984, finding Guerrero guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,^[4] otherwise known as "The Comprehensive Dangerous Drugs Act of 2002," as amended.

The Facts

Guerrero was charged with violation of Section 5, Article II of RA 9165. The accusatory portion of the Information^[5] reads as follows:

That on or about the 31st day of August, 2013, in the City of San Fernando, (La Union), Philippines, and within the jurisdiction of this Honorable Court, the above named accused, conspiring, confederating, and mutually helping one another did then and there willfully, unlawfully, and feloniously for and in consideration of a sum of money in the amount of five thousand pesos (P5,000.00), Philippine currency, sell and deliver methamphetamine hydrochloride, commonly known as "shabu", a dangerous drug, with total weight of .1953 gram to SPO1 Arnulfo Rosario who posed as [a] buyer thereof using five pieces of one-thousand peso bill boodle money with serial numbers TE964331, TE964331, JU147643, JU147643, and NP429483, without first securing the necessary permit, license or prescription from the proper government agency or authority. CONTRARY TO LAW.^[6]

Upon arraignment, Guerrero pleaded not guilty to the crime charged. Thereafter, trial ensued. The prosecution's version, summarized by the CA is as follows:

The prosecution called on Maximiano Valentin as its first witness. However, his testimony was dispensed with after the defense admitted the facts he will be testifying on. Both parties stipulated that (1) he is the resident Chemist of PDEA Region 1; (2) the Chemistry Report No. PDEARO1-DD013-0022 exists and was duly executed; and (3) the specimen subject of the examination conducted by the witness is the same specimen turned over to him by SPO1 Arnulfo Rosario.

The circumstances of how the buy bust operation was conducted were culled from the testimonies of SPO1 Arnulfo Rosario and SPO1 Grant Bitabit who were members of the Regional Anti-Illegal Drug Special Operations Task Group (RAIDSOTG). Their testimonies show that on August 31, 2013, at about 4:30 p.m., a confidential informant ("CI") came to the office of RAIDSOTG Region I and reported to SPO1 Rosario that appellant and Marian Dagium were looking for buyers of shabu. SPO1 Rosario reported this to PO3 Allan Abang, their team leader, who in turn ordered SPO1 Rosario to transact with appellant and Marian Dagium. Using the CI's cellphone, SPO1 Rosario contacted appellant and informed him that he was interested in buying Php5,000.00 worth of shabu. They agreed to meet near the RITZ Apartelle.

Thereafter, PO3 Abang coordinated with the PDEA. Members of the PDEA and PNP San Fernando City arrived at the office of RAIDSOTG for a briefing on a joint operation against appellant and Marian Dagium. In this meeting, SPO1 Rosario was designated as the poseur buyer, SPO1 Bitabit as the arresting officer while the rest of the team were to serve as back up. SPO1 Rosario prepared the buy-bust money consisting of five pieces of Phpl,000.00 bills marked with his initials "AMR[.]"

Around 5:30 to 6:00 p.m., the team proceeded to the RITZ Apartelle in Canaoay, San Fernando City to familiarize themselves with the place and returned to the RAIDSOTG office thereafter. The CI then contacted appellant again to confirm the time of their meeting. Appellant informed the CI that he's already on his way and so the back-up team went to RITZ Apartelle in a Toyota Revo, positioning themselves on the side of the road in front of the apartelle. On the other hand, SPO1 Rosario and the CI rode a tricycle to the apartelle at around 12:20 am of September 1, 2013 and positioned themselves in front of RITZ Apartelle.

The CI informed appellant that they were already in front of the apartelle. Four individuals came out from the building: appellant, Melchor Lorenzo, Jerry Salingbay and Marian Dagium. Appellant approached SPO1 Rosario and the CI. Appellant then asked SPO1 Rosario if he has the money and SPO1 Rosario likewise asked if appellant has the "stuff with him. Appellant answered in the affirmative and instructed Melchor Lorenzo to receive the marked money. Melchor Lorenzo took the marked money while appellant handed over to SPO1 Rosario a transparent plastic sachet containing white crystalline substance. SPO1 Rosario confirmed that the contents of the sachet as shabu and then executed a pre-arranged signal by lighting a cigarette. This signal prompted arresting officer SPO1 Bitabit and the rest of the back-up team to approach the group and arrest the four individuals, including appellant.

SPO1 Bitabit apprised appellant and his three companions of their constitutional rights, after which, each person under arrest was frisked, resulting in the seizure of another plastic sachet from the wallet of Jerry Salingbay and another sachet from Marian Dagium. The marked money was recovered from Melchor Lorenzo. The recovered items were marked by SPO1 Rosario in the place of arrest, in the presence of other members

of the team, Dominador Dacanay of DZNL and barangay official Americo Flores of Canaoay. However, because it was dark in that place, the team leader ordered that they continue the inventory in their office at Camp Florendo Parian, San Fernando City.

The team, together with appellant and his three other companions, went to Camp Florendo, Parian, San Fernando City. In their office, the inventory of the seized items was continued. Pictures were taken during the inventory. After the Certificate of Inventory was signed, SPO1 Rosario prepared the Request for Laboratory Examination which was signed by their Action Officer P/Supt. Bersola. SPO1 Rosario delivered the request and the three plastic sachets of suspected shabu which were received by the Forensic Chemist of PDEA Maximiano Valentin.

The laboratory examination confirmed that the three sachets contained methamphetamine hydrochloride or shabu. The sachet that SPO1 Rosario received from appellant was marked with "A-AMR[.]" SPO1 Bitabit and SPO1 Rosario positively identified appellant as the person who gave SPO1 Rosario the sachet of shabu while Melchor Lorenzo was identified as the person who received the mark[ed] money.

The prosecution also presented Americo Flores, a barangay kagawad of Barangay Canaoay, San Fernando City. He testified that in the early morning of September 1, 2013, he was at home when a PDEA member called him to witness the marking of shabu, cellphones and marked money which were confiscated from a person under arrest. Around 12:20 a.m. of September 1, 2013, Americo Flores went to the RITZ Apartelle and he was shown three sachets of shabu, money bills and cellphones. There was also a media representative with them. When Americo Flores was asked to identify the persons under arrest whom he saw the morning of September 1, 2013, he pointed at Bienvenido Arquitola (an accused from a different case) and at Melchor Lorenzo. He confirmed that they had to continue the marking at the office because it was a bit dark in the place of arrest. Americo Flores identified the Receipt/Inventory of Property Seized which he signed as well as his signature thereon. He also identified the three plastic sachets which he claims to have been marked in his presence. He explained that he can identify the said sachets because of the markings placed thereon showing the date.

Other pieces of evidence submitted by the prosecution include: (1) Request for Laboratory Examination; (2) Chemistry Report; (3) Receipt/Inventory of Property Seized; (4) Photographs (taken during inventory); (5) Five pieces of marked (boodle) money; and (6) one heat sealed sachet containing shabu which was marked "A-AMR[.]"^[7] (Emphasis omitted)

On the other hand, the version of the defense, also summarized by the CA, is as follows:

The defense presented appellant, Melchor Lorenzo, and Jonathan Galvan, who is allegedly an employee of the RITZ Apartelle[,] as witnesses.

According to appellant's testimony on August 31, 2013, around 4:30 p.m., he was in front of the RITZ Apartelle with Marian Dagium, waiting for a tricycle. Dexter Ramos, Oga, and alias "Ittip[,] " who were detainees at the City Jail, arrived on board a tricycle. Dexter Ramos pointed a knife at appellant's back and asked him to ride the tricycle while Marian Dagium was dragged by Oga and forced her to board the tricycle as well. Melchor Lorenzo and Jerry Salingbay were left at the RITZ Apartelle.

Appellant was brought to a basketball court in Barangay Canaoay where he met PO3 Abang, SPO1 Rosario and SPO1 Bitabit. After Dexter Ramos alighted from the tricycle, SPO1 Bitabit rode the tricycle and brought them to RAIDSOTG. PO3 Abang forced appellant and Marian Dagium to admit that the shabu that was shown to them were theirs. Thereafter, appellant was brought to a restroom by a police officer who boxed him in his stomach several times. PO3 Abang then told him "palit ulo kami" so that he may be released and asked appellant if he had other companions. Appellant answered in the affirmative so they returned to the apartelle with SPO1 Rosario, SPO1 Bitabit and two other policemen.

At the RITZ Apartelle, PO3 Abang made appellant knock on the door of Melchor Lorenzo's room, who in turn opened the door. PO3 Abang, PO1 Rosario and PO1 Bitabit barged into the room and asked the occupants to bring out their wallets. The police officers also turned over the beds and conducted a search but failed to recover anything.

At 7:30 p.m., appellant, Marian Dagium and Melchor Lorenzo were brought to RAIDSOTG. PO3 Abang brought out their cellphones, wallets and two sachets of shabu and asked them if they were his. Appellant answered in the negative. By 11:30 p.m., appellant, Marian Dagium, Melchor Lorenzo and Jerry Salingbay were brought back to the front of the RITZ Apartelle. The police officers then brought out the shabu and took pictures [sic] their pictures with the seized items. This was done without a media representative or a barangay official.

Thereafter, appellant and his companions were brought to the Marcos Building where they underwent medical examination. They were then brought to the Tangui Police Station and stayed there until the morning of September 1, 2013. At 9:30 a.m., PO3 Abang, SPO1 Rosario and SPO1 Bitabit and two other persons took them to the RAIDSOTG office. Around 10:30 a.m., two males arrived and the police officers brought out the pieces of evidence and took pictures of the barangay kagawad signing a document. Appellant does not know what the document contains because he was not furnished a copy. Thereafter, during inquest, appellant and his companions were assisted by a PAO lawyer. While they informed her of their story, they were told to forego the filing of counter-affidavits because even if they execute said affidavits, a case shall still be filed against them.

During cross-examination, appellant also testified that Dexter Ramos was detained at the City Jail for physical injuries while Oga was detained for violation of RA 9165. Appellant narrated that he only met Dexter Ramos, Oga and Ittip for the first time on August 31, 2013. When he asked

Dexter Ramos why he pointed a knife at him, the former answered that it was because PO3 Abang told him that he will be detained if he is unable to get another person as a "palit ulo[.]" Appellant also told the court that he did not tell the doctor who examined him that he had been boxed in the stomach and furthermore affirmed that he did not file any case against the persons whom he claims to have falsely accused him.

Appellant's co-accused, Melchor Lorenzo, also took the witness stand. He confirmed the narration of appellant and added the events and circumstances which brought them to the RITZ Apartelle in the afternoon of August 31, 2013. He testified that on said date, he and appellant (his nephew) went to eat at the market in San Ferna[n]do City, after which they fetched Jerry Salingbay at the plaza. The three of them went to RITZ Apartelle and checked in at Rm. 7 where they had a drinking spree. At about 3:30 p.m., Marian Dagium joined them. At 4:30 p.m.[,] Marian Dagium and appellant left to buy food but when they returned to the room at 6:30 p.m., they were already handcuffed and accompanied by police officers. Melcho[r] Lorenzo's account of the events that followed were the same as appellant's recollection.

The defense also presented Jonathan Galvan, a roomboy of the RITZ Apartelle on duty in the afternoon of August 31, 2013. He testified that appellant and his two companions occupied two rooms in the apartelle. At about 4:30 p.m., while he was at the counter, he saw appellant accompanied by a woman, exit the apartelle. Appellant, who was accompanied by four persons, returned to the apartelle around 6:00 p.m. They went inside a room and after about twenty minutes, appellant and his companions went out of the room, with appellant already in handcuffs. During cross-examination, Jonathan Galvan also confirmed that it was only appellant that he saw in handcuffs. He did not notice that any other person in the group was restrained. Thereafter, appellant with his companions left the apartelle and boarded a vehicle.^[8]

Ruling of the RTC

After trial on the merits, in its Decision dated March 10, 2015, the RTC convicted Guerrero of the crime charged. The RTC found the testimonies of the prosecution witnesses more credible.^[9] It ruled that the evidence on record sufficiently established the presence of the elements of illegal sale of dangerous drugs and that the chain of custody of *shabu* was likewise duly established.^[10] The dispositive portion of the said Decision reads:

WHEREFORE, premises duly considered, this Court finds the accused Dondon Guerrero y Eling, **GUILTY** beyond reasonable doubt of the crime of violation of Section 5, Article II of R.A. 9165 and is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of P500,000. The period of his preventive imprisonment shall be credited in his favor. The accused Melchor Lorenzo is **ACQUITTED** on the ground of reasonable doubt. He is therefore ordered released immediately from the custody of the City Jail Warden unless detained for some other lawful cause.