

## SECOND DIVISION

[ G.R. NO. 218126, July 10, 2019 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
DANILO GARCIA MIRANDA, ACCUSED-APPELLANT.**

### D E C I S I O N

**LAZARO-JAVIER, J.:**

#### **The Case**

This Appeal assails the following issuances of the Court of Appeals in CA-G.R. CR-HC No. 05601 entitled "*People of the Philippines v. Danilo Garcia Miranda*":

- Decision<sup>[1]</sup> dated July 25, 2014, affirming the conviction of Danilo
- 1) Garcia Miranda for violation of Section 5 of Republic Act No. 9165 (RA 9165);<sup>[2]</sup> and
  - 2) Resolution<sup>[3]</sup> dated October 24, 2014, denying appellant's motion for reconsideration.

#### **The Proceedings Before the Trial Court**

#### **The Charge**

By two (2) separate informations, appellant Danilo Garcia Miranda was indicted for violations of Sections 5 and 11 of Article II of RA 9165, viz:

**Information<sup>[4]</sup> dated April 15, 2010 in Criminal Case No. 10-0373 for violation of Section 5, Article II of RA 9165:**

That on or about the 14<sup>th</sup> day of April 2010, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully, and feloniously sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport one (1) small heat-sealed transparent plastic sachet weighing 0.14 gram to Police Poseur Buyer PO3 Fernan Acbang, which contents of the said plastic sachet when tested was found positive for Methamphetamine (sic) Hydrochloride, a dangerous drugs (sic).

CONTRARY TO LAW.

**Information<sup>[5]</sup> dated April 15, 2010 in Criminal Case No. 10-0374 for violation of Section 11, Article II of RA 9165:**

That on or about the 14<sup>th</sup> day of April 2010, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to possess, did then and there willfully, unlawfully, and feloniously have in his possession and under his control and custody one (1) heat-sealed transparent plastic sachet containing white crystalline substance weighing 0.24 gram, which when tested was found positive for Methamphetamine (sic) Hydrochloride, a dangerous drug.

CONTRARY TO LAW.

Both cases were raffled to Regional Trial Court, Branch 259 of Parañaque City.

On arraignment, appellant pleaded not guilty to both charges.<sup>[6]</sup>

**Prosecution's Evidence**

PO3 Fernan Acbang of the Police Community Precinct No. 8, Parañaque City testified that in April 2010, he was assigned at the Station Anti-Illegal Drugs Special Operation Task Force (SAIDSOTF) of the Parañaque City Police Station. One (1) of his duties was to apprehend violators of RA 9165. On April 14, 2010, around 3:45 o'clock in the afternoon, he went to the police station because a male informant had given a tip that a certain Danilo Miranda was selling illegal drugs in Barangay Baclaran, Parañaque City.<sup>[7]</sup>

The information was relayed to PSI Marlou Besona who immediately apprised Police Supt. Alfredo Valdez about it. Police Supt. Valdez, in turn, instructed the team leader to coordinate with the Philippine Drug Enforcement Agency (PDEA).<sup>[8]</sup> Upon receipt of the PDEA coordination form, the team met for a briefing. He (PO3 Acbang) was designated as poseur-buyer and provided with four (4) marked 500-peso bills with which to buy shabu. PO2 Domingo Julaton III (PO2 Julaton) was designated as his back-up. The planned buy-bust operation was also entered into the blotter.<sup>[9]</sup>

The team went in two cars to Brgy. Baclaran. They arrived there around 4:50 o'clock in the afternoon. He and the informant were in the same car. They alighted on Bagong Silang Street. They had already walked about 30 steps when the asset pointed to a man wearing a white *sando* and bearing many tattoos. They approached the man and the asset talked to the man. The asset introduced him to the man as a *balikbayan*.<sup>[10]</sup>

After the introduction, he approached the man and asked "*Tay, mayroon ka bang item diyan i-iscore sana ako* (Sir, do you have an item available?)" The man replied "*Mayroon pa ako ditong dalawang kasa, Gusto mo kunin yung isa* (I have here two shots. Would you like to take one?)." He handed the marked money to the man, who, after counting it, slid it in his right pocket. The man took out a small

transparent plastic sachet, containing white crystalline substance from his pocket and handed it to him (PO3 Acbang). After taking the sachet, he scratched his head: the pre-arranged signal.<sup>[11]</sup>

He held on the man while his back-up PO2 Julaton approached. They both now held the man, who tried to free himself. Together, they walked until they reached appellant's house which was only eight steps away from the road. Inside appellant's house, they directed him to empty his pockets. Appellant produced from his left pocket a plastic sachet containing white crystalline substance.<sup>[12]</sup>

Someone from their team had called for a barangay official. Romero Cantojas, a barangay tanod of Brgy. Baclaran, arrived at appellant's house around 5:55 in the afternoon. The barangay hall was just close by. The barangay tanod witnessed the marking of the items. They also took photographs of the items. He placed his initials "FA" (subject of the sale) and "FA-1" (recovered from appellant's left pocket) on the two plastic sachets which he recovered. Appellant was sitting in the living room while the police chief and other police officers were outside.<sup>[13]</sup>

He personally prepared the inventory and had it signed by the barangay tanod. After the inventory, they brought appellant and the seized items to their office and prepared the request for laboratory examination of the seized items as well as request for appellant's drug test. He was the one who delivered the request to the crime laboratory in Makati City at 10 o'clock in the evening of April 14, 2010. The plastic sachets tested positive for methamphetamine hydrochloride.<sup>[14]</sup>

PO2 Julaton confirmed he was PO3 Acbang's back-up. As back-up, he was positioned 100 meters from PO3 Acbang. When appellant got apprehended, he was the one who recovered the buy-bust money and informed appellant of his Miranda rights. He also confirmed that the inventory was conducted in appellant's house. After the inventory, they proceeded to the police station for documentation. The inventory was signed only by PO3 Acbang and witnessed by Barangay Tanod Romuelo Cantojas because appellant refused to sign it.<sup>[15]</sup> He also prepared a request for laboratory examination and another request for drug test, booking sheet of the arrested person, and spot report. During the inventory, he photographed the seized items and appellant. He had the photographs from his cellphone developed.<sup>[16]</sup>

Insp. Richard Mangalip was presented in court. The prosecution and the defense stipulated on the qualifications of Insp. Richard Mangalip as the forensic chemist who did laboratory examination on the drug items. He had no personal knowledge about the source of the drug items.<sup>[17]</sup>

The prosecution also submitted the following object and documentary evidence: a) Letter-Request for Examination of Seized Evidence<sup>[18]</sup> dated April 14, 2010; b) Physical Science Report No. D-121-10S,<sup>[19]</sup> indicating that specimens "FA" (0.14 g) and "FA-1" (0.24 g) were positive for "methamphetamine hydrochloride"; c) Pinagsamang Salaysay (Joint Statement)<sup>[20]</sup> dated April 15, 2010 executed by PO3 Fernan Acbang and PO2 Domingo Julaton III; d) Affidavit of Attestation<sup>[21]</sup> dated April 14, 2010 executed by PO2 Domingo Julaton III; e) Pre-Operation Form<sup>[22]</sup> dated April 14, 2010; f) Coordination Form<sup>[23]</sup> dated April 14, 2010; f)

Receipt/Inventory of Property Seized<sup>[24]</sup> dated April 14, 2010; g) photographs of the inventory;<sup>[25]</sup> h) appellant's information sheet;<sup>[26]</sup> h) Spot Report<sup>[27]</sup> dated April 14, 2010; and i) reproduction of four pieces of P500 bills.<sup>[28]</sup>

## **The Defense's Evidence**

Appellant Danilo Miranda denied that he ever sold or had been in possession of shabu. On April 14, 2010, around 4 o'clock in the afternoon, he was in his house preparing his hair color. Suddenly, two (2) men entered the house, followed by another man. He was shown two (2) small plastic sachets from a small pouch and told that those items belonged to him. He was told not to move. He later learned that these men were police officers PO2 Julaton, PO3 Acbang, and PSI Besona. They were also followed by two (2) other men.<sup>[29]</sup>

He was handcuffed and brought out of his house. He was not shown any search warrant. The police authorities called the barangay authorities while fixing the evidence and taking pictures. One barangay official arrived, was asked to sit in front of the table, and made to sign a document. After signing, the barangay official left. A police officer named Ocampo took a silver-plated sword which his son used for ROTC drills.<sup>[30]</sup> Afterwards, he was taken onboard a green Adventure. His two (2) children, Mellanie\* Miranda and Estrellito Miranda wanted to join him but they were forbidden from doing so. The police officers boarded the vehicle and he was taken to the police headquarters. They prepared some reports and he was later taken to the crime laboratory around 9 o'clock in the evening.<sup>[31]</sup> At the crime laboratory, he was asked to urinate but was not allowed to enter the building. He was later detained at the Coastal Special Investigation Division. He had filed counter-charges against the police officers before the People's Law Enforcement Board (PLEB). The real reason why he was arrested was because he was accused of being involved in a grenade-throwing incident in his place.<sup>[32]</sup>

Estrellito Miranda, appellant's son, denied that his father sold and was in possession of shabu. He executed a sworn statement in support of his father's administrative complaint against the police officers.<sup>[33]</sup> He also recalled that when he was about to enter their house, a man asked him who he was. He in turn asked the man and was told he was a police officer. His father said that the evidence was planted. The police officers also told him not to do anything otherwise there would be trouble. A barangay official arrived, signed a document, and left. His father was taken out of the house and put on a vehicle. He followed his father to the police station and he talked to the police officers. He also called his brother Malvin Miranda and informed him about the incident.<sup>[34]</sup>

Cherrie Peña, the person who was supposed to color appellant's hair, said she was at the gate when four (4) men entered appellant's house. She no longer went back to the house because she was scared. She was standing in the hallway when appellant was brought out handcuffed.<sup>[35]</sup>

Melanie Miranda, appellant's daughter, recalled she was outside the house, about twenty (20) steps away, helping her sister-in-law sell samurai balls. Four (4) men in civilian clothes entered their house. She followed them and one (1) of the men showed her a blue pouch. Something wrapped in plastic was also shown to her and

the man said he bought it from her father. She was surprised because she was not aware that her father was into selling anything. She asked appellant what was happening and he replied that plastic sachets were planted on him. She was instructed by the men to get some clothes for her father, who was only wearing shorts at the time.<sup>[36]</sup> She saw that the police putting the pouch and plastic sachets on the center table. Her father faced the center table and the police took pictures of the items. A barangay official came and was made to sign a document. Afterwards, her father was taken outside. She and her brothers Melvin, Fernandez, and Estrellito followed their father to the police station. There, she no longer knew what transpired because it was her father who spoke with the police. She also executed an affidavit in support of her father's complaint against the police officers.<sup>[37]</sup>

The defense submitted the following documentary evidence: 1) Pre-Operation Form<sup>[38]</sup> dated April 14, 2010; 2) Coordination Form<sup>[39]</sup> dated April 14, 2010; 3) Pinagsamang Salaysay (Joint Statement)<sup>[40]</sup> dated April 15, 2010 executed by PO3 Fernan Acbang and PO2 Domingo Julaton III; 4) Spot Report<sup>[41]</sup> dated April 14, 2010; 5) Joint Counter Affidavit<sup>[42]</sup> dated May 26, 2010 executed by PSI Marlou Besoña, SPO1 Ricky Macaraeg, PO3 Fernan Acbang, PO2 Domingo Julaton III and PO2 Elbert U. Ocampo submitted to the PLEB; 6) appellant's Sinumpaang Salaysay<sup>[43]</sup> dated May 13, 2010 submitted to the PLEB; 7) Pinagsamang Sagot sa Kontra-Salaysay<sup>[44]</sup> dated June 17, 2010 submitted to the PLEB by Danilo Miranda, Antonio Vertudez, and Cesaria Vertudez; 8) Sinumpaang Salaysay<sup>[45]</sup> dated May 13, 2010 submitted to the PLEB by Nestia Miranda; 9) Sinumpaang Salaysay<sup>[46]</sup> dated May 13, 2010 submitted to the PLEB by Estrellito Miranda; and 10) Sinumpaang Salaysay<sup>[47]</sup> dated May 13, 2010 submitted by to the PLEB by Melanie Miranda.

### **The Trial Court's Ruling**

By its Amended Decision<sup>[48]</sup> dated April 16, 2012, RTC - Branch 259, Parañaque City found appellant guilty of violations of Sections 5 and 11, both of RA 9165. It found appellant's imputation of ill-motive on the police officers to be a mere suspicion. It also noted that appellant's witnesses did not truly see the alleged planting of evidence. It disregarded appellant's defenses of denial and frame-up in favor of the prosecution's positive and categorical testimonies. It upheld the presumption of regular performance of the police officers' discharge of their duty. Consequently, it adjudged, thus:

WHEREFORE, premises considered, the court renders judgment as follows:

1. In Criminal Case No. 10-0373 for Violation of Sec. 5, Art. II, RA 9165, the court finds accused DANILO GARCIA MIRANDA, GUILTY beyond reasonable doubt and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Php 500,000.00.

2. In Criminal Case No. 10-0374 for Violation of Sec. 11, Art. II, RA 9165, the court finds accused DANILO GARCIA MIRANDA, GUILTY beyond reasonable doubt and is hereby sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum for