

## SECOND DIVISION

[ G.R. No. 243190, August 28, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
DENNIS SARABIA Y REYES, ACCUSED-APPELLANT.**

### DECISION

**CAGUIOA, J:**

#### *The Case*

Before the Court is an ordinary appeal<sup>[1]</sup> filed by accused-appellant Dennis Sarabia y Reyes (accused-appellant Sarabia), assailing the Decision<sup>[2]</sup> dated April 30, 2018 (assailed Decision) of the Court of Appeals<sup>[3]</sup> (CA) in CA-G.R. CR-HC No. 08785, which affirmed the Decision<sup>[4]</sup> dated September 30, 2016 rendered by the Regional Trial Court of Laoag City, Branch 13 (RTC) in Criminal Case Nos. 15573 and 15574, entitled *People of the Philippines v. Dennis Sarabia y Reyes*, finding accused-appellant Sarabia guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165,<sup>[5]</sup> otherwise known as "The Comprehensive Dangerous Drugs Act of 2002," as amended.

#### *The Facts and Antecedent Proceedings*

For allegedly selling a plastic sachet containing 0.0392 gram of methamphetamine hydrochloride, commonly called *shabu*, and for allegedly possessing six plastic sachets containing 3.219 grams of the same substance in a buy-bust operation conducted by the Philippine Drug Enforcement Agency (PDEA) at Jose P. Rizal Street, Barangay 1, Laoag City, accused-appellant Sarabia was charged in two separate Informations<sup>[6]</sup> for violating Sections 5 and 11 of RA 9165.

The Information for Section 5 of RA 9165 reads as follows:

That on or about the 30<sup>th</sup> day of June, 2013, in the City of Laoag, Philippines, and within the Jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully, and feloniously sell and deliver to the PDEA agent/poseur buyer one (1) small heat sealed transparent plastic sachet containing alleged methamphetamine hydrochloride commonly known as "shabu", a dangerous drug, weighing 0.0392 grams (*sic*), without any license or authority to sell the same, in violation of the aforecited law.

CONTRARY TO LAW.<sup>[7]</sup>

The Information for Section 11 of RA 9165 reads as follows:

That on or about the 30<sup>th</sup> day of June, 2013, in the City of Laoag, Philippines, and within the Jurisdiction of this Honorable Court, the said

accused, did then and there willfully, unlawfully, and feloniously have in his possession, control and custody six (6) plastic plastic (*sic*) sachet containing methamphetamine hydrochloride commonly known as "shabu", a dangerous drug, with aggregate weighing (*sic*) 3.219<sup>[7a]</sup> grams, without any license or authority to sell the same in violation of the aforesaid law.

CONTRARY TO LAW.<sup>[8]</sup>

As gathered from the testimonies of the prosecution's witnesses presented during the trial, the prosecution's version of events is as follows:

"[A]t around 7:00 o'clock in the evening of June 30, 2013, a male confidential informant (CI) went to the temporary office of the PDEA-INSET located in Brgy. 13, San Nicolas, Ilocos Norte and reported the illegal activity of the accused, a resident of Brgy. 12, Laoag City. After interviewing the [CI] who claimed that the accused had trust and confidence in him and had asked him to look for buyers of shabu for a good commission, IO1 Mirindato informed their Team Leader SO2 Annabelle Cabarles who then told him to ask the CI to call the accused and order from him shabu worth P1,000.00. Upon being told, the CI called the accused. IO1 Mirindato heard the CI telling, "*pare, may katransaction ako, isang libo*", to which the man on the other end of the line whom the CI identified to be the accused, said "*okay, mamaya magkita tayo 10:30 kasama yang katransaction natin sa waiting shed malapit sa Partas Terminal*". IO1 Mirindato thereupon relayed it to their Team Leader who then conducted a briefing for the conduct of a buy busy operation. She assigned IO1 Mirindato to act as poseur buyer, IO1 Bahiyan as arresting officer and she together with IO1 Nickson Acosta and IO1 Karen Benmaso as perimeter back up who will help in the arrest of the accused just in case. The team agreed that the pre-arranged signal to indicate the consummation of the sale will be IO1 Mirindato's scratching his head.

After the briefing, the team prepared the materials needed in the operation. IO1 Mirindato marked the buy bust money consisting of a P1,000.00 bill with his initials "SPM" below the 1000 figure on the right lower portion of the bill. He also prepared their camera and some inventory forms to add to what they have already have in their kit. Also, SO2 Cabarles called their Regional Office to coordinate the operation.

At around 10:20 o'clock that morning, when all was ready, the team proceeded to the agreed place of transaction in their service vehicle and a private car. When they were already within the vicinity of the Partas (Bus) Terminal which was located at Jose P. Rizal Street in Brgy. 1, Laoag City, IO1 Mirindato and the CI alighted from the Nissan sedan in which they rode and walked to the waiting shed located about few meters away past the gate of the terminal. The rest of the team also alighted and positioned themselves strategically, with IO1 Bahiyan posting himself at the gate of the bus terminal. The team thereafter waited as the accused was not still at the place, telling the CI who called him, to just wait as he was still doing something.

A few minutes later, a man driving a tricycle arrived in front of the waiting shed. The CI told IO1 Mirindato that he is their subject and both of them then approached the accused. After a short introduction, the transaction then took place. After the exchange between the accused and IO1 Mirindato, the latter executed the pre-arranged signal and the later (*sic*) stopped and informed his authority to the accused who was already astride the motorcycle of his tricycle and was starting its engine. A few moments later as IO1 Mirindato took hold of the hand of the accused who was unable to react as he appeared shocked, IO1 Bahiyan arrived at the place approaching from the back of the accused. He ordered the accused to alight and brought him to the waiting shed where IO1 Mirindato body searched him and was able to recover from his possession the buy bust money, a cellphone and six more plastic sachets containing white crystalline substance. As the members of the back[-]up had also then arrived, they secured the place and SO2 Cabarles herself called the Laoag City Police Station for assistance. She also called barangay officials and media personalities to come and witness the inventory of the seized items. In the meantime as they waited for the witnesses, the team tagged the confiscated plastic sachets and marked them.

Sometime later when barangay officials including Barangay Chairman Darwin Domingo of Brgy. 1, Laoag City, and members of the media arrived, the seized items were inventoried. The witnesses thereafter signed the Certificate of Inventory, after which the accused and the seized items were taken to the temporary office of the PDEA in San [N]icolás, Ilocos Norte where other documents such as the booking sheet and letter request for laboratory examination were prepared. Thereafter, together with the said letter request, the plastic sachets containing white crystalline substance were submitted to the PNP Ilocos Norte Provincial Crime Laboratory Office where they were examined and found to be methamphetamine hydrochloride."<sup>[9]</sup>

On his part, accused-appellant Sarabia vehemently denied the prosecution's version of the incident and alleged the following:

"In his defense, accused Dennis Sarabia, 51 years old when he testified, married and who claimed to be a tricycle driver, belied the accusation against him. Basically, he claimed that he was just arrested even as he did not sell any shabu in a buy bust operation. He narrated that at 10:00 o'clock that evening of June 30, 2013, he was at Discolandia, a place known to be a red light district located in Brgy. 1, Laoag City, waiting for passengers. He was later able to get a passenger working at the AP Club whom he conveyed to Jollibee and back to his place of work. As he returned to the same place along Bonifacio Street where he usually waited for passengers, he was able to get one of his regular passengers who was selling slippers who wanted to be conveyed to the (jeepney) terminal for Solsona, Ilocos Norte. As the passenger had already boarded, he saw two men coming from the west. Since he only had one at that time, he waved at the two men hoping that they were also passengers. As they however met and as he had already stopped his tricycle, the two men, one of whom he identified as IO1 Bahiyan and the other he described to be with a moustache, just grabbed his two hands.

He resisted and asked why but they just handcuffed him and sent away his passenger telling him to get off the tricycle if he did not like to be implicated. As his passenger got off, he was then pushed inside the tricycle which the man with a moustache then drove while another man he identified to be IO1 Mirindato boarded the tricycle and sat beside him. He asked IO1 Mirindato what his fault was and why they handcuffed and arrested him but the agent just told him to keep quiet and to just go with them and that they will take care of him. He was then brought to P. Gomez Street where he was made to alight. There, he was frisked by IO1 Mirindato who took his cellphone and his earnings amounting to P450.00. He was again later boarded in the tricycle and was brought to Brgy. 2, San Nicolas, Ilocos Norte where, after the men were finished conversing in the phone, he was again frisked by the man [with the] moustache who took his wallet and its contents that included his money amounting to P1,700.00. After that, as he heard the two men talking about it, they brought him back to Laoag City at Rizal Street at the waiting shed near Partas. As he was made to sit on one corner of the waiting shed, he observed IO1 Mirindato holding a folder and later as if writing and then cutting something like plastic. There were also people including barangay officials, a cameraman and police officers who arrived. Afterwards, he was brought to the Laoag City Police Station where the men who arrested him wanted to leave him but the policemen they talked to refused telling them that they should take charge of him as they were the ones who arrested him. They therefore again brought him to Brgy. 2, San Nicolas."

[10]

### ***The Ruling of the RTC***

In its Decision dated September 30, 2016, the RTC found accused-appellant Sarabia guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165.

The dispositive portion of the RTC's Decision reads:

**WHEREFORE**, the Court hereby renders judgment finding accused **Dennis Sarabia y Reyes** GUILTY beyond reasonable doubt as charged in these cases and is therefore sentenced to suffer as follows:

1. In Criminal Case No. 15573 for illegal sale of shabu, to suffer the penalty of Life Imprisonment and to pay a fine of P2,000,000.00; and
2. In Criminal Case No. 15574 for illegal possession of the six plastic sachets of shabu determined to have an aggregate weight of 3.219 grams, to suffer the indeterminate penalty of imprisonment of TWELVE (12) YEARS and ONE (1) DAY to FOURTEEN (14) YEARS and to pay a fine of THREE HUNDRED THOUSAND PESOS (Php300,000.00).

The contrabands subject hereof are confiscated for proper disposal as the law prescribes.

**SO ORDERED.**[11]

In sum, the RTC believed that the prosecution was able to fulfill its burden of proof in establishing all the essential elements of illegal sale and possession of dangerous drugs under Sections 5 and 11 of RA 9165.

Insisting on his innocence, accused-appellant Sarabia appealed before the CA.

### ***The Ruling of the CA***

In the assailed Decision, the CA affirmed the RTC's conviction of accused-appellant Sarabia. The dispositive portion of the assailed Decision reads:

**WHEREFORE**, premises considered, the *Appeal* filed by Dennis Sarabia y Reyes on 7 October 2016 is **DENIED**. The *Decision* rendered by the Regional Trial Court, Branch 13, Laoag City, First Judicial Region on 30 September 2016 in Criminal Case Nos. 15573 and 15574 is **AFFIRMED**.

**SO ORDERED.**<sup>[12]</sup>

The CA agreed with the RTC in finding that there is, in the instant case, "concurrence of the elements of the crimes of Sale of Dangerous Drugs and Possession of Dangerous Drugs, the presentation of the evidence of the *corpus delicti* in court, and the proper preservation of the integrity and the evidentiary value of the seized illicit substances."<sup>[13]</sup>

Hence, this appeal before the Court of Last Resort.

### **Issue**

For the Court's resolution is the issue of whether accused-appellant Sarabia is guilty beyond reasonable doubt for the crimes charged.

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

The foregoing question is answered in the *negative*. Accused-appellant Sarabia's guilt was not proven beyond reasonable doubt. Therefore, accused-appellant Sarabia is acquitted of the crimes charged.

### ***The essential elements of illegal sale and possession of dangerous drugs***

Accused-appellant Sarabia was charged with the crimes of illegal sale and possession of dangerous drugs, defined and penalized under Sections 5 and 11, respectively, of RA 9165.

In order to convict a person charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution is required to prove 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.**<sup>[14]</sup>

On the other hand, illegal possession of dangerous drugs under Section 11, Article II of RA 9165 has the following elements: (1) **the accused is in possession of an item or object**, which is identified to be a prohibited or regulated drug; (2) such