

SECOND DIVISION

[G.R. No. 243639, September 18, 2019]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE RASOS, JR. Y PADOLLO @ "JOSE", ACCUSED-APPELLANT.

D E C I S I O N

CAGUIOA, J:

Given the very nature of the anti-illegal drugs campaign, the nature of entrapment and buy-bust operations, the usual practice of utilizing unreliable characters as informants, and the great ease by which drug specimen can be planted in the pockets or hands of unsuspecting persons, most of whom come from the marginalized sectors of society, *the propensity for police abuse is great*. This is precisely why the innocent is provided refuge under the protective mantle of the law – through the mandatory requirements laid down in Republic Act No. 9165, as amended. The instant case is yet another example of how the lowly, through the majesty of the law, triumphs over the daunting and all-powerful prosecutorial power of the State.

The Case

Before the Court is an ordinary appeal^[1] filed by accused-appellant Jose Rasos, Jr. y Padollo @ "Jose" (Rasos, Jr.), assailing the Decision^[2] dated July 27, 2018 (assailed Decision) of the Court of Appeals^[3] (CA) in CA-G.R. CR-H.C. No. 09737, which affirmed the Judgment^[4] dated July 14, 2017 rendered by the Regional Trial Court of Manila, Branch 20 (RTC) in Criminal Case Nos. 15-319894 and 15-319895, entitled *People of the Philippines v. Jose Rasos, Jr. y Padollo @ "Jose "*, finding Rasos, Jr. guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,^[5] otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," as amended. Rasos, Jr. was acquitted of the charge of violating Section 11, Article II of RA 9165 on the ground of reasonable doubt.

The Facts and Antecedent Proceedings

As narrated by the CA in the assailed Decision, and as culled from the records of the instant case, the essential facts and antecedent proceedings of the instant case are as follows:

In two (2) separate Informations filed before the RTC of Manila, [Rasos, Jr.] was charged with violations of Section 5 and Section 11, Article II of R.A. No. 9165 committed as follows:

Criminal Case No. 15-319894

That on or about September 12, 2015, in the City of Manila, Philippines, the said accused, not being authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell, or offer for sale one (1) heat-sealed transparent plastic sachet containing ZERO POINT ZERO SIX ONE (0.061) [gram] of white crystalline substance marked as "JRP" known as "SHABU" containing methamphetamine hydrochloride, a dangerous drug.

Contrary to law.

Criminal Case No. 15-319895

That on or about September 12, 2015, in the City of Manila, Philippines, the said accused, not having been authorized by law to possess any dangerous drug, did then and there willfully, unlawfully, and knowingly have in his possession and under his custody and control one (1) heat-sealed transparent plastic sachet containing white crystalline substance weighing ZERO POINT ZERO NINE EIGHT (0.098) gram of methamphetamine hydrochloride marked as "JRP-1", otherwise known as "SHABU", a dangerous drug.

Contrary to law.

Upon arraignment on October 8, 2015, [Rasos, Jr.], with the assistance of counsel, pleaded *not guilty* to the crimes charged.

Trial on the merits ensued thereafter.

The prosecution presented four (4) witnesses, namely: poseur-buyer PO2 Jesse Garchitorena [(PO2 Garchitorena)]; back-up operative PO2 Eric de Guzman [(PO2 De Guzman)]; police investigator PO2 Bernie Rusiana; and Police Inspector Jeffrey Reyes, a forensic chemist at the Manila Police District Crime Laboratory Office.

The testimony of PI Jeffrey Reyes was dispensed with after both parties agreed to stipulate on the following: (a) his qualification as an expert forensic chemical officer; (b) the receipt of the letter-request for laboratory examination, together with the two (2) heat-sealed plastic sachets marked as "JRP" and "JRP1"; (c) he conducted a qualitative examination on the said specimens; (d) the result of his examination was reflected in Chemistry Report No. D-882-15 dated September 12, 2015; and (e) he submitted the said pieces of evidence to the court on February 18, 2016.

The version of the prosecution may be summarized as follows:

In the evening of September 11, 2015, a confidential asset reported to the Station Anti-Illegal Drugs-Special Operation Task Unit (SAID-SOTU) of the Manila Police District-Ermita Police Station (PS-5), the illegal drug trade activity of [Rasos, Jr.] along L. Guerrero St., Ermita, Manila. Immediately thereafter, a buy-bust team was formed to entrap [Rasos,

Jr.], with SPO4 Rowell Robles as team leader and PO2 Garchitorena as poseur-buyer, together with six (6) other police officers as back-up operatives. A Pre-Operation Report and Authority to Operate were sent to the Philippine Drug Enforcement Agency (PDEA). Upon receipt of the documents, the PDEA faxed Control No. 10001-042015-0154 authorizing the buy-bust team to proceed with the operation. During the briefing, poseur-buyer PO2 Garchitorena was given two (2) pieces of P100 bill bearing his initials "JC" to be used as buy-bust money. It was agreed that PO2 Garchitorena will remove his cap after the sale transaction.

At 3:00 o'clock in the morning of September 12, 2015, PO2 Garchitorena and the confidential informant proceeded to the target area on board a motorcycle while the rest of the team strategically positioned themselves nearby. PO2 Garchitorena and the confidential informant alighted from the motorcycle then walked towards [Rasos, Jr.]. Upon seeing the confidential informant, [Rasos, Jr.] approached them. After a short conversation, the confidential informant introduced PO2 Garchitorena to [Rasos, Jr.] as a buyer of *shabu*. Noticing the big physique of PO2 Garchitorena, [Rasos, Jr.] asked him, "*Ano ito? Gagamitin mo pampayat?*" [Rasos, Jr.] answered, "*Hindi bibili lang ako panggamit, dalawang tarya*". [Rasos, Jr.] then pulled out from his pocket two (2) plastic sachets of *shabu*. PO2 Garchitorena gave the two (2) pieces of P100 bill to [Rasos, Jr.]. [Rasos, Jr.] made PO2 Garchitorena choose between the two (2) plastic sachets of *shabu*. After PO2 Garchitorena picked one (1) plastic sachet of *shabu*, [Rasos, Jr.] placed the money and the remaining plastic sachet in his pocket. At the conclusion of the transaction, PO2 Garchitorena removed his cap which was the pre-arranged signal to his teammates that the sale has already been consummated. Seeing this, the back-up operatives rushed to the crime scene, introduced themselves as police officers and effected the arrest of [Rasos, Jr.]. PO2 Garchitorena directed [Rasos, Jr.] to empty his pockets, to which he obliged. As a result thereof, the two (2) pieces P100 bill buy-bust money and a plastic sachet of *shabu* was recovered from [Rasos, Jr.]. As the rain then started to pour, the team decided to conduct the marking and inventory of the seized evidence at the police station. PO2 Garchitorena held in his custody the two (2) plastic sachets of *shabu* until it was brought to the police station.

At the police station, PO2 Garchitorena marked the two (2) plastic sachets as "JRP" and "JRP-1". He also prepared an Inventory of the Property Seized in the presence of [Rasos, Jr.], with a certain Robert Amoroso, a member of the MPD Press Corps, signing the inventory as a witness. [Rasos, Jr.] together with the pla[s]tic sachet and buy-bust money, was also photographed. The police officers likewise prepared the Booking Sheet and Arrest Report of [Rasos, Jr.] All the pieces of evidence were then turned over to police investigator PO2 Bernie Rusiana. Thereafter, Station Commander Police Superintendent Albert Barot signed the letter-request dated September 12, 2015 addressed to the MPD Crime Laboratory Office to determine the presence of any form of dangerous drugs in the items seized from [Rasos, Jr.]. PO2 Garchitorena delivered the letter-request and the specimens to the MPD Crime Laboratory Office which were received by PI Jeffrey Reyes, a forensic

chemist, at 3:25 p.m. of September 12, 2015 as shown by the rubber stamped delivery receipt on the letter.

In Chemistry Report No: D-882-15 dated September 12, 2015, PI Reyes found that the plastic sachet marked as "JRP" weighing zero point zero six one (0.061) gram as well as the other plastic sachet marked as "JRP-1" weighing zero point zero nine eight (0.098) gram, both tested positive for methamphetamine hydrochloride or *shabu*.

For the defense, [Rasos, Jr.] and his live-in partner Sanilyn Rasos were presented as witnesses.

[Rasos, Jr.] offered the defenses of denial and extortion. He alleged that at 3:00 a.m. of September 12, 2015, he was soundly sleeping at his house when several men in civilian clothes who introduced themselves as police officers, suddenly stormed inside and arrested him. [Rasos, Jr.] was brought to Police Station 5 where he was placed in a detention cell. He was shocked when the police officers showed him the two (2) plastic sachets of *shabu* that were allegedly confiscated from him. It was only a day after his arrest that he learned that he had been charged with violations of Sections 5 and 11 of R.A. No. 9165.

Sanilyn Rasos testified that she and [Rasos, Jr.] were asleep in their room at the second floor of their house when two (2) men in civilian clothes barged in and ordered them to go downstairs. [Rasos, Jr.] was handcuffed and bodily searched but nothing was recovered from him. She came to know that [Rasos, Jr.] was arrested because a confidential informant reported him to be selling *shabu*. Before proceeding to the police station, a police officer demanded from her P5,000.00 for [Rasos, Jr.'s] freedom. As she was unable to produce the said amount, the charges of illegal sale and possession of dangerous drugs were pursued against [Rasos, Jr.].^[6]

The Ruling of the RTC

On July 14, 2017, the RTC rendered a Judgment convicting Rasos, Jr. for committing illegal sale of dangerous drugs under Section 5, Article II of RA 9165. With respect to illegal possession of dangerous drugs under Section 11, Article II of RA 9165, the RTC acquitted Rasos, Jr. on the ground of reasonable doubt.

The dispositive portion of the RTC's Judgment reads:

Premises considered[,] in Criminal Case No. 15-319894, the Court finds the accused Jose Rasos y Padollo GUILTY beyond reasonable doubt of the offense of violation of Section 5, RA 9165 and hereby imposes on him the penalty of LIFE IMPRISONMENT and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00).

On the ground of reasonable doubt, accused Jose Rasos y Padollo is ACQUITTED of the charge of violation of Section 11, RA 9165 in Criminal

Case No. 15-319895.

The ZERO POINT ZERO SIX ONE (0.061) gram of shabu and ZERO POINT ZERO NINE EIGHT (0.098) gram of shabu subject of the instant criminal cases are ordered confiscated in favor of the government.

SO ORDERED.^[7]

The RTC found that "[s]ave for their barren allegations that [Rasos, Jr.] was arrested inside his house, [Rasos, Jr.] and his partner have not presented convincing evidence to prove the same, x x x The testimony of the poseur[-buyer] clearly established that [Rasos, Jr.] offered for sale to the poseur[-buyer] two plastic sachets of shabu albeit only one was purchased by the latter."^[8]

Feeling aggrieved, Rasos, Jr. filed an appeal before the CA.

The Ruling of the CA

In the assailed Decision, the CA affirmed the RTC's conviction of Rasos, Jr. The dispositive portion of the assailed Decision reads:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED.** The Judgment dated July 14, 2017 of the Regional Trial Court, Branch 20, Manila is **AFFIRMED.**

SO ORDERED.^[9]

The CA held that "[a]fter a thorough and careful review of the records, [the CA] was convinced that the prosecution has sufficiently proven beyond reasonable doubt [Rasos, Jr.'s] guilt of illegal sale of dangerous drugs."^[10]

Hence, the instant appeal.

Issue

Stripped to its core, for the Court's resolution is the issue of whether the RTC and CA erred in convicting Rasos, Jr. for violating Section 5, Article II of RA 9165.

The Court's Ruling

The appeal is meritorious. The Court acquits Rasos, Jr. for failure of the prosecution to prove his guilt beyond reasonable doubt.

Rasos, Jr. was charged with the crime of illegal sale of dangerous drugs, defined and penalized under Section 5, Article II 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