

## **SECOND DIVISION**

**[ G.R. No. 229212, September 04, 2019 ]**

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. GERARDO LABINI  
Y GRAJO @ "JERRY," APPELLANT.**

### **DECISION**

**CARPIO, J.:**

#### **The Case**

Before the Court is an appeal from the 2 December 2015 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR-HC No. 06978. The Court of Appeals affirmed the 5 May 2014 Decision<sup>[2]</sup> of the Regional Trial Court of Makati City, Branch 64 (trial court), finding appellant Gerardo Labini y Grajo @ Jerry guilty beyond reasonable doubt for violation of Sections 5 and 11, Article II of Republic Act No. 9165 (RA 9165).<sup>[3]</sup>

#### **The Antecedent Facts**

Appellant was charged with violation of Sections 5, 11 and 15, Article II of RA 9165 in three separate Informations, as follows:

##### **Criminal Case No. 11-2601**

On the 19<sup>th</sup> day of August 2011, in the City of Makati, the Philippines, accused, not being authorized by law, and without the corresponding license or prescription, did then and there willfully, unlawfully, and feloniously sell, deliver, and distribute zero point zero three (0.03) gram of methamphetamine hydrochloride, a dangerous drug, in consideration of Php300.

CONTRARY TO LAW.

##### **Criminal Case No. 11-2602**

On the 19<sup>th</sup> day of August 2011, in the City of Makati, the Philippines, accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without the corresponding prescription, did then and there willfully, unlawfully, and feloniously have in his possession, direct custody and control a total of zero point zero two (0.02) gram of methamphetamine hydrochloride, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.

##### **Criminal Case No. 11-2603**

On the 19<sup>th</sup> day of August 2011, in the City of Makati, the Philippines, accused, not being lawfully authorized by law to possess or use dangerous drug, and without the corresponding prescription, did then and there willfully, unlawfully, and feloniously use methamphetamine (sic), a dangerous drug, as shown in a confirmatory test conducted on him after he was arrested, in violation of the above-cited law.

CONTRARY TO LAW.<sup>[4]</sup>

Appellant filed a Motion for Judicial Determination of Probable Cause dated 9 January 2012. The trial court denied the motion in its Order of even date. Upon arraignment, appellant entered separate pleas of not guilty to the charges against him.

The facts are as follows:

Gary M. Pagaduan (Pagaduan), an Operative of the Makati Anti-Drug Abuse Council (MADAC), testified that MADAC assisted the Philippine Drug Enforcement Agency (PDEA) and the Station Anti-Illegal Drugs Special Operations Task Group (SAIDSOTG) (collectively referred to as the team) in a buy-bust operation they conducted against appellant on 19 August 2011. Pagaduan was assigned as the poseur-buyer, with PO1 Michelle Gimena (Gimena) as his back-up companion.

On 19 August 2011 at around 4:45 p.m., the team arrived at Kasoy Street, Barangay Rizal, Makati City. The team was accompanied by a confidential informant who introduced Pagaduan to appellant. The confidential informant asked appellant, "*meron ba?*" Appellant asked for P300.00. Pagaduan gave the money to appellant. In turn, appellant gave Pagaduan a sachet containing *shabu*. Pagaduan gave the pre-arranged signal to the team. Gimena, together with the MADAC operatives, rushed to the scene. Pagaduan held appellant to prevent him from escaping and asked him to sit down. Pagaduan ordered appellant to empty his pockets. Appellant took from his pocket a red toothbrush case which contained two sachets of *shabu*.

Pagaduan testified that a lot of people started swarming the street because of the commotion. The team secured the specimens and took appellant to the barangay hall which was about 30 meters away from Kasoy Street. The inventory of the items seized took place in the barangay hall, witnessed by Chairperson Wenefreda Ureña (Ureña). From the barangay hall, the team went back to their office for the preparation of the request for laboratory examination of the sachets seized and for the medical and urine testing of appellant. PS/Insp. Anamelisa Bacani (Bacani) received the three sachets, conducted a laboratory examination, and issued a Physical Science Report that the specimens contained in the three sachets tested positive for the presence of methamphetamine hydrochloride (*shabu*). The parties stipulated on and dispensed with the testimony of Bacani.

For the defense, appellant claimed that between 4:00 p.m. to 5:00 p.m. of 19 August 2011, he was inside his house watching a television show. The only person with him was his sleeping seven-year old niece. Appellant heard a commotion outside his house. He turned off the television and went outside. He saw a person wearing a civilian attire and carrying a firearm standing inside their terrace, accompanied by one female and two male persons. The person in civilian attire

asked him where his companion ran. Appellant answered that his niece was his only companion in the house. The two male persons handcuffed appellant, while the person wearing civilian attire and his female companion entered his house.

These four persons brought appellant to the barangay hall. Ureña, who was surprised to see him at the barangay hall, asked him what happened. Appellant could not give any explanation. Appellant alleged one of the persons placed a toothbrush (case) and two sachets on the table. He asked appellant to face the items and took his picture.

Mark Jonil Aquino<sup>[5]</sup> (Aquino), appellant's nephew, testified that he was inside his room at the second floor of the house when he heard a commotion. He peeked through the window and saw his uncle with four persons. His uncle was handcuffed. One of the four persons looked up and saw him. Fearing that he would be pursued, Aquino went to his grandmother's house.

### **The Decision of the Trial Court**

In its 5 May 2014 Decision, the trial court found appellant guilty of violation of Sections 5 and 11, Article II of RA 9165 but acquitted him for violation of Section 15 thereof.

The trial court ruled that the prosecution was able to establish all the elements of illegal possession of dangerous drugs, *i.e.*, that (1) the accused is in possession of an item or object which is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed said drug. The trial court held that the buy-bust team was able to preserve the integrity and evidentiary value of the items seized from appellant. The trial court rejected appellant's defense of *alibi* as a common and standard defense ploy in most cases involving violation of RA 9165.

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. 11-2601, finding the accused Gerardo Labini y Grajo, GUILTY of the charge for violation of Section 5, Article II of RA 9165 and sentencing him to life imprisonment and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00) without subsidiary imprisonment in case of insolvency; and
2. In Criminal Case No. 11-2602, finding the accused Gerardo Labini y Grajo, GUILTY of the charge for violation of Section 11, Article II of RA 9165 and sentencing him to an indeterminate penalty of twelve (12) years and one (1) day to fifteen (15) years of imprisonment and to pay a fine of FOUR HUNDRED THOUSAND PESOS (Php400,000.00) without subsidiary imprisonment in case of insolvency.
3. In Criminal Case No. 11-2603, finding the accused Gerardo Labini y Grajo NOT GUILTY of the charge for violation of Section 15 of RA 9165.

SO ORDERED.<sup>[6]</sup>

Appellant filed a notice of appeal from the trial court's decision.

### **The Decision of the Court of Appeals**

In its 2 December 2015 Decision, the Court of Appeals denied the appeal for lack of merit and affirmed the trial court's decision.

The Court of Appeals ruled that the prosecution was able to establish the chain of custody. The Court of Appeals ruled that while a perfect chain is not always the standard as it is almost always impossible to obtain an unbroken chain, what is important is the preservation of the integrity and evidentiary value of the items seized. In this case, the prosecution sufficiently established the evidentiary value of the *corpus delicti* and proved that the sachets containing *shabu* that were bought and recovered from appellant were the same ones presented before the trial court.

The Court of Appeals ruled that the prosecution explained why the inventory of the items seized was not done in the place where the buy-bust operation took place. The Court of Appeals ruled that Kasoy Street is an *eskinita* or a secondary road, and a lot of people congregated in the area when the buy-bust operation took place. According to the Court of Appeals, the fact that the marking of the evidence seized was done in the barangay hall did not affect their admissibility. The Court of Appeals further ruled that the inventory was made in the presence of the appellant and Chairperson Ureña.

The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, premises considered, the appeal is DENIED for lack of merit. The Decision dated 05 May 2014 of the Regional Trial Court of Makati City, Branch 64 finding accused-appellant Gerardo Labini y Grajo @ Jerry guilty beyond reasonable doubt for violations of Sections 5 and 11, Article II of Republic Act No. 9165 and sentencing him to suffer the penalty of life imprisonment and to pay a fine in the amount of Php500,000.00 without subsidiary imprisonment in case of insolvency in *Criminal Case No. 11-2601*, and the indeterminate penalty of imprisonment of twelve (12) years and one (1) day to fifteen (15) years of imprisonment and to pay a fine of Php400,000.00 without subsidiary imprisonment in case of insolvency in *Criminal Case No. 11-2602* are AFFIRMED.

SO ORDERED.<sup>[7]</sup> (Italicization in the original)

Appellant appealed from the Court of Appeals' decision.

### **The Issue**

The only issue in this case is whether the guilt of appellant has been proven beyond reasonable doubt.

### **The Ruling of this Court**