

THIRD DIVISION

[G.R. No. 212195, February 21, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
NAMRAIDA ALBOKA Y NANING @ "MALIRA," ACCUSED-
APPELLANT.**

DECISION

MARTIRES, J.:

This resolves the appeal of Namraida Alboka y Naning @ "Malira" (*Alboka*) from the Decision^[1] of the Court of Appeals (CA), Seventeenth Division, in CA G.R. CR-H.C. No. 04918 which affirmed the Judgment^[2] of the Regional Trial Court (RTC), Branch 204, Muntinlupa City, in Criminal Case Nos. 07-904 and 07-905 finding her guilty of Violation of Section (Sec.) 5 in relation to Sec. 26 and Sec. 11, both of Article (Art.) II of Republic Act (R.A.) No. 9165.

THE FACTS

Accused-appellant Alboka was charged before the RTC of Muntinlupa with two counts of violation of R.A. No. 9165, viz:

Crim. Case No. 07-904^[3]

(For Violation of Sec. 5 in relation to Sec. 26, Art. II of R.A. 9165)

That on or about the 1st day of December 2007, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating, and mutually aiding one another, not being authorized by law, did then and there wilfully and unlawfully sell, trade, deliver, and give away to another one (1) piece of heat sealed transparent plastic sachet containing Methylamphetamine Hydrochloride, a dangerous drug, weighing 0.05 grams, in violation of the above-cited law.

CONTRARY TO LAW.

Crim. Case No. 07-905^[4]

(For Violation of Sec. 11, Art. II of R.A. No. 9165)

That on or about the 1st day of December 2007 in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there wilfully and unlawfully have in her possession, custody and control two (2) pieces of heat sealed transparent plastic sachets each containing

Methylamphetamine Hydrochloride, a dangerous drug weighing 0.05 gram each, in violation of the above-cited law.

CONTRARY TO LAW.

When arraigned, accused-appellant pleaded not guilty to the charges against her.^[5] Joint trial of the cases thereafter proceeded.

The Version of the Prosecution

The prosecution tried to establish its cases against the accused-appellant through the testimony of Gerald Marion Lagos (*Lagos*) and Rommel Turingan (*Turingan*), both members of the Philippine National Police (*PNP*) assigned to the Narcotic Operatives of the District Anti-Illegal Drugs, Special Operations Team, Southern Police District (*SPD*), Taguig City.

On 1 December 2007, the SPD received information from its informant that a certain alias "Bobby" was involved in drugs; hence, the SPD sent thru fax a coordination form^[6] and a pre-operation report^[7] to the Philippine Drug Enforcement Agency (*PDEA*), which in turn issued a certificate of coordination.^[8] On the one hand, commanding officer Adolfo Samala gave Lagos the buy-bust money consisting of two (2) two hundred pesos^[9] bearing the marking "AS" representing his initials.^[10]

During the briefing, Lagos and Turingan were assigned as poseur buyer and back-up, respectively. It was agreed that Lagos would wink at the informant, who in turn would light his cigarette as a pre-arranged signal that the transaction was already consummated. After the briefing, the informant called Bobby and introduced Lagos as the buyer of the shabu.

Thereafter, the team, consisting of Lagos, Turingan, PSI Gollod, SPO3 Mallari, SPO3 de Lima, PO2 Boiser, PO2 Antonino, and the informant, proceeded to the Gospel Church along San Guillermo St., Putatan, Muntinlupa City. When they arrived there at around 9:30 p.m., the informant received a call from Bobby informing him that the item he ordered had been passed on to a certain Malira. Bobby told the informant that he and Lagos should proceed to the residence of one alias "Monta" at 302 San Guillermo St. and Monta would bring them to Malira.^[11]

After Lagos and the informant told Monta their purpose in coming to his house, Monta brought them to a store located ten meters away. At the store, Malira and Monta conversed. Malira asked Lagos and the informant if they were the persons contacted by Bobby. When they answered in the affirmative, Malira told them that Bobby had given her the item they had ordered which was worth four hundred pesos (P400.00) each, and then inquired how much they would need. Malira added that one of the items she was selling was shabu. Lagos answered that P400.00 worth of shabu would be enough. Malira asked for the payment and Lagos handed her the buy-bust money. Upon her receipt of the money, Malira handed a sachet to Lagos who, after checking the item, winked at the informant who in turn lit his cigarette.^[12]

Seeing that Turingan was already approaching the store, Lagos introduced himself to Malira as a police officer and told her she was being arrested for selling drugs. When

he frisked Malira, Lagos was able to recover the marked money and two pieces of plastic sachets of shabu. Turingan did not find anything when he frisked Monta but he was able to recover one (1) plastic sachet of shabu on top of a display rack at the store. Both Monta and Malira were informed of their constitutional rights. Lagos placed the respective markings "GL-1-011207,"^[13] "GL-2-011207,"^[14] "GL-3-011207,"^[15] and "GL-4-011207"^[16] on the sachet of shabu handed to him by Malira and on the three other sachets recovered. The markings represented the initials of Lagos and the date, month, and year the crime happened. Monta and Malira were then brought to the SPD where their respective identities were determined as Montasir Satol (*Satol*) and Namraida Alboka. Lagos was in possession of the seized items and the marked money from the time that he left the scene of the crime until he reached the SPD.^[17]

On that same night, Lagos turned over the seized items to SPO3 Salvio de Lima (*De Lima*) for the preparation of the request for laboratory examination.^[18] A request was likewise prepared for the drug testing^[19] of Satol and the accused-appellant. Lagos and Turingan brought the seized items to the SPD crime laboratory on 2 December 2007 at 4:25 a.m. The laboratory report^[20] showing that the seized items were positive for methamphetamine hydrochloride was released on the same day.^[21]

The team prepared the booking and information sheet^[22] of accused-appellant and a spot report^[23] to inform the PDEA of the result of the operation. Lagos and Turingan also executed their joint affidavit of arrest^[24] detailing the conduct of the buy-bust operation.^[25]

The testimony of Police Senior Inspector Richard Allan Mangalip (*Mangalip*), the forensic chemist of the SPD Crime Laboratory Office, was dispensed with after the parties made the following admissions during the pre-trial conference, to wit:

That PS/Insp. Richard Allan B. Mangalip is a forensic chemist connected with the SPD Crime Laboratory, Makati City as of December 2, 2007 and that he is an expert in forensic chemistry;

That pursuant to the Request for Laboratory Examination, he conducted laboratory examination on the specimen which consists of one (1) small brown envelope containing: one (1) small heat-sealed transparent plastic sachet with white crystalline substance; two (2) small heat-sealed transparent plastic sachets containing white crystalline substance; and one (1) small heat-sealed transparent plastic sachet containing white crystalline substance, and which tested positive for Methamphetamine Hydrochloride.^[26]

The Version of the Defense

To prove her innocence, the accused-appellant testified.

On 1 December 2007 at around 7:00p.m., while the accused-appellant was at her store carrying her six-month-old child, a man suddenly entered her store and poked his gun at her: She ran towards the billiard hall located about 10 meters from her

store but another man arrived and likewise poked his gun at her. Thereafter, she was handcuffed and made to board a vehicle. Her shouts for help caught the attention of the lady owner of the house where her store was. The owner asked the two men what they were doing to the accused-appellant and her child but the men told her to just get the child as she might also get involved.^[27]

While inside the vehicle, the accused-appellant cried and asked the two men what crime she had committed. The men and their companions insisted that she lead them to the location of a person they were looking for. When she replied that she did not know that person, she was told that she would be charged; one of the men hit her on the head with a comb while another hit her on the forehead with a cellphone. She remained silent as she was afraid.^[28]

It was about 2:00 a.m. the following day that she was brought to Makati where her urine sample was taken. She was asked whether she was hurt but she remained silent because the men who brought her there made her hide her bruises. Later, she was brought to Fort Bonifacio where she was told to shell out P300,000.00 for her release; because she did not have the amount, she was charged with the crimes.^[29]

The Ruling of the RTC

In Crim. Case No. 07-904, the RTC ruled that the testimony of Lagos and Turingan were direct, unwavering, and consistent on material points that leave no doubt as to their truthfulness; and that the police officers had no reason to concoct the charges against the accused-appellant; while the accused-appellant simply denied that the buy-bust operation occurred.^[30]

In Crim. Case No. 07-905, the RTC held that the accused-appellant was caught *in flagrante delicto* selling shabu, an overt act which justified Lagos to search for and seize the illegal items in her possession. The RTC noted that while Lagos was not able to prepare the certificate of inventory of the items which were seized and subsequently identified in court, he nonetheless took steps not to compromise the purity and integrity of the items: by marking them at the place of arrest and having the custody thereof throughout the operation until these were delivered and received by the crime laboratory for examination. The RTC concluded that Lagos had substantially complied with the requirements provided for under Sec. 21, Art. II of R.A. No. 9165 and its implementing rules and regulations.^[31] Thus, the RTC resolved the charges against the accused-appellant as follows:

WHEREFORE, finding accused GUILTY beyond reasonable doubt of Violation of Sec. 5, Art. II of R.A. No. 9165 in Criminal Case No. 07-907, NAMRAIDA ALBOKA y NANING is sentenced to LIFE IMPRISONMENT and to pay a fine of Php500,000.00; and of Violation of Sec. 11, Art. II of R.A. No. 9165 in Criminal Case No. 07-905, she is sentenced to an indeterminate penalty of imprisonment of twelve (12) years and one (1) day as minimum to fourteen (14) years as maximum and to pay a fine of Php300,000.00.

The subject drug items are ordered transmitted to the Philippine Drug Enforcement Agency for proper disposition.

The preventive imprisonment undergone by the accused shall be credited in her favour.

SO ORDERED.^[32]

The Ruling of the CA

Feeling aggrieved with the resolution of the RTC on the charges against her, the accused-appellant appealed to the CA which found the appeal to be without merit.

The CA noted that the accused-appellant did not assail the chain of custody of the evidence albeit she raised the issue on the failure of the buy-bust team to conduct an inventory of the seized items at the crime scene. The CA ruled, however, that even if the procedural requirements in Sec. 21 of R.A. No. 9165 were not faithfully observed, as long as the chain of custody remains unbroken, the guilt of the accused would not be affected. Moreover, it held that the accused-appellant failed to overcome the presumption that the police officers handled the seized items with regularity.^[33]

According to the CA, the accused-appellant was caught *in flagrante delicto* and that the prosecution was able to prove all the elements for the crime of illegal sale of dangerous drugs. The crime was consummated with the police officer going through the operation as a buyer, whose offer was accepted by the accused-appellant, followed by the delivery of the dangerous drugs to the buyer.^[34]

On the charge of illegal possession of shabu, the CA held that after the lawful arrest of the accused-appellant resulting from the buy-bust operation, two more plastic sachets suspected to contain shabu were recovered in her possession. The CA observed that the record was bereft of any showing that the accused-appellant had the authority to possess these two plastic sachets which actually contained shabu.^[35]

The dispositive portion of the CA decision reads:

WHEREFORE, premises considered, the present appeal is **DENIED** for lack of merit. The assailed decision dated January 28, 2011, rendered by the Regional Trial Court, Branch 204, Muntinlupa City, is hereby **AFFIRMED in toto.**^[36]

ISSUE

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FACT THAT HER GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

OUR RULING

The appeal is meritorious.

The general rule that the findings of the trial court and the appellate court as to the credibility of the prosecution witnesses are binding upon the Court, does not apply to the present case.