

THIRD DIVISION

[G.R. No. 234048, April 23, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. MALOU ALVARADO Y FLORES, ALVIN ALVAREZ Y LONQUIAS AND RAMIL DAL Y MOLIANEDA, ACCUSED-APPELLANTS.

D E C I S I O N

GESMUNDO, J.:

This is an appeal from the May 19, 2017 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 07568 which affirmed the March 1, 2015 Decision^[2] of the Regional Trial Court (RTC) of Parañaque City, finding accused-appellant Malou F. Alvarado (*Malou*) guilty beyond reasonable doubt for violating Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, while Alvin L. Alvarez (*Alvin*) and Ramil M. Dal (*Ramil*) [collectively referred to as appellants] were found guilty beyond reasonable doubt of violating Section 5, Article II of R.A. No. 9165.

The Antecedents

In Criminal Case No. 11-0124, Malou was charged with Violation of Section 11, Article II of R.A. No. 9165. The accusatory portion of the Information states:

That on or about the 26th day of January 2011, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully, unlawfully and feloniously have in her possession and under her control and custody four (4) pieces of small heat-sealed transparent plastic sachets containing white crystalline substance weighing 0.01 gram each or a total of 0.04 gram, marked as "RB-1" to "RB-4", which when tested was found to be positive for Methylamphetamine Hydrochloride, a dangerous drug.^[3]

In a separate Information, docketed Criminal Case No. 11-0125, Malou, Alvin and Ramil were charged with Violation of Section 5, Article II of R.A. No. 9165, the accusatory portion of which states:

That on or about the 26th day of January 2011, in the City of Parañaque, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and all of them mutually helping and aiding one another, 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) heat-sealed transparent plastic sachet containing white crystalline substance weighing 0.01 gram, marked as "RB", to Police Poseur PO2 ROLLY BURGOS, which content of the said

plastic sachet when tested was found to be positive for Methylamphetamine Hydrochloride, a dangerous drug.^[4]

In another Information, docketed as Criminal Case No. 11-0123, Beata E. Lonquias (*Beata*) was also charged with violation of Section 12, Article II of R.A. No. 9165 or illegal possession of drug paraphernalia.

When arraigned, appellants pleaded not guilty. Trial ensued.

From the evidence presented at the trial court, the CA summarized the respective versions of the parties, as follows:

Version of the Prosecution

The prosecution presented Forensic Chemist Police Inspector Richard Mangalip (P/Insp. Mangalip), PO3 Eric Sarino, PO2 Rolly Burgos, and PO3 Edwin Plopinio and from their testimonies, the following events were gathered:

On 26 January 2011, around 2:00 o'clock in the afternoon, an Informant reported to the Parañaque City Police Station Anti-Illegal Drug Special Operations Task Group (SAIDSOTG) about the illegal drug activity of certain [*Betsy*] and *Malou* at Sampaloc Site, Barangay BF Homes, Parañaque City. The police immediately formed a team, headed by Senior Inspector Roque Tome (P/Sr. Insp. Tome), to conduct a buy-bust operation against the suspects, with PO2 Rolly Burgos (PO2 Burgos) as *poseur* buyer and PO3 Eric Sarino (PO3 Sarino), and PO3 (Edwin] Plopinio as back-up. The Team Leader provided PO2 Burgos with [buy]-bust money consisting of 5 pieces of P100.00 bills, which were marked with "RB" on the upper left portion of the bills. After coordinating with the Philippine Drug Enforcement Agency (PDEA), the team, together with the Informant, proceeded to Sampaloc Site, Barangay BF Homes, Parañaque City to conduct a buy-bust operation. Upon reaching the target area, PO3 Sarino and PO3 Plopinio strategically positioned themselves as perimeter back-up officers while PO2 Burgos and the Informant went ahead and when they reached Chico Street, the Informant and PO2 Burgos spotted two men and a woman in blue blouse standing at the side of the street. The Informant identified the woman in blue blouse as Malou Alvarado, their target, while the two men were identified as Alvin Alvarez (the live-in partner of Malou) and Ramil Dan (Ramil), their runner. Ramil approached them and offered them *shabu* from Malou, who he boasted had ample supply (of drugs). PO2 Burgos handed the five P100.00 bills to Ramil to buy P500.00 worth of *shabu*. Ramil gave the money to Alvin and then approached Malou, who handed him a small plastic sachet, containing white crystalline substance suspected to be *shabu*, which he (Ramil) handed to PO2 Burgos, who immediately executed the pre-arranged signal of throwing his cigarette to alert the rest of the team that the transaction was consummated. PO2 Burgos introduced himself as a police officer and then arrested Ramil and Malou, from whom he confiscated a canister containing four (4) sachets of suspected *shabu*. Meanwhile, Alvin immediately ran away but PO3 Plopinio chased and apprehended him inside the house of Beata Lonquias *alias* Betty (the subject of the buy-bust operation and later identified as Alvin's mother).

PO3 Plopinio recovered the buy-bust money from Alvin. Beata likewise ran and was chased and apprehended by PO3 Sarino, who confiscated from her a small plastic container containing numerous aluminum foil strips, which he did not bother to count. P/Sr. Insp. Tome contacted the barangay authorities and thus, in the presence of *Barangay Kagawad* Noel Azarcon and the four suspects, PO2 Burgos placed markings on the seized items at the scene of the arrest - *RB* on the plastic sachet subject of the sale, *RB-5* on the white canister and *RB-1* to *RB-4* on the [four] 4 sachets inside said canister. Meanwhile, PO3 Sarino marked the plastic container of aluminum foils with *ES* and placed his initials thereon. While SPO2 Burgos was preparing the inventory of the seized item, PO2 Julaton took photographs of the arrested suspects and the seized items. Thereafter, the team brought the accused-appellants to the police station for documentation and to submit the confiscated items to the PNP Crime Laboratory for examination.

After a request for laboratory examination was made by PO2 Julaton, PO2 Burgos personally brought the confiscated specimens to the PNP Crime Laboratory for examination. Forensic Chemist P/Insp. Richard Mangalip found the sachets (in the possession of Malou) and the sachets subject of the sale positive for *methamphetamine hydrochloride* or *shabu*. However, the aluminum foils inside the plastic canister seized from Beata E. Lonquias alias Betty were found negative of *shabu*.^[5]

Version of the Accused

Malou Alvarado and her common-law husband Alvin Alvarez were at their house at Chico Street, Sampaloc Site, Sucat, Parañaque City at around 3 o'clock in the afternoon of 26 January 2011. Alvin was watching television when PO2 Burgos kicked open their door and together with Police Officers Sarino and Plopinio entered and searched their house without any warrant and without their consent. PO2 Burgos poked a gun at Alvin and though the police found nothing, they proceeded to handcuff the accused-appellants and brought them outside. While outside, Malou saw her mother-in-law Beata and a man (Ramil) she did not know, who was also handcuffed. Then they saw PO2 Burgos brought out from a black bag small plastic sachets and money. Subsequently, their pictures were taken and they were forced to board a police mobile that brought them to Manila Memorial Park. The police officers then told them to alight from the vehicle and demanded P30,000.00 from each of them to settle their case. When they told them that they had no money, the police officers brought them to the police station. At the police station, they were ordered to call their relatives so that they could bring the money. When they were brought for inquest, they admitted that they did not tell the prosecutor that the police were extorting money from them. They claimed that they did not file any case against the police officers who apprehended them because they had no money.

Ramil, who testified on 18 December 2014, declared that he was on his way to a friend's house at Sampaloc Site, for possible employment in a construction project, when he met six men (who turned out to be police officers), one of whom (PO3 Plopinio) poked a gun at him and told him to face the wall. When he did not follow, he was hit on the stomach and

handcuffed. Thereafter, he saw a man (Alvin), a woman (Malou) and an elderly woman (whom he later identified as Beata) coming from an alley. Then the four of them were gathered together and they were made to sign a document. He saw a police officer handed to PO2 Burgos several plastic sachets and five P100.00 bills from his small bag. Thereafter, they were photographed, accused of selling illegal drugs and made to board a vehicle. They were brought to Manila Memorial Park, where policemen asked them to produce P30,000.00 each but they were not able to give them any money. Consequently, the police brought them to the police station, where they were detained.

Beata testified that: on 26 January 2011, she was alone in her house when several men forcibly entered their house, searched it and then arrested her; the police did not have any warrant with them and she did not know why they arrested and detained her; Malou was just a neighbor.

[6]

Ruling of the RTC

On March 1, 2015, the RTC rendered its decision finding appellants guilty as charged. It, however, acquitted Beata based on reasonable doubt.

The RTC held that all the elements of the crimes of illegal possession and illegal sale of *shabu* were clearly established by the prosecution. It gave credence to the testimonies of police officers who composed the buy-bust team, particularly PO2 Burgos who testified on the conduct of the buy-bust operation that resulted in the arrest of the appellants. As to the failure of the arresting officers to strictly comply with the requirements under Section 21 of R.A. 9165, it was noted that a *barangay kagawad* was present during the inventory and hence there was substantial compliance with the law and that the integrity of the drugs seized from appellants was preserved.

On the other hand, the defenses of denial and frame-up failed to convince the RTC, which noted that none of the appellants filed a complaint against the police officers who allegedly arrested them on false charges and even tried extorting money from them.

However, the RTC ruled that the prosecution failed to establish its case against accused Beata who was not involved or present during the conduct of the buy-bust. Also, none of the 114 aluminum foils allegedly found in her possession was marked by PO3 Sarino who searched her person after he spotted her leaving the house of Malou.

The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered the court renders judgement as follows:

1. In *Criminal Case No. 11-0123 for Violation of Sec. 12, Art. II, RA 9165*, the court finds accused BEATA ESCUADRA LONQUIAS is hereby ACQUITTED on ground of reasonable doubt;

2. In *Criminal Case No. 11-0124 for Violation of Sec. 11, Art. II, RA 9165*, the court finds accused MALOU FLORES ALVARADO, GUILTY beyond reasonable doubt and is hereby sentenced to Imprisonment of

twelve (12) years and one (1) day as minimum to seventeen (17) years and four (4) months as maximum and to pay a fine of Php 300,000.00 and;

3. In *Criminal Case No. 11-0125 for Violation of Sec. 5, Art. II, RA 9165*, the Court finds accused MALOU FLORES ALVARADO, ALVIN LONQUIAS ALVAREZ and RAMIL MOLIANEDA DAL, GUILTY beyond reasonable doubt and are hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Php 500,000.00 each;

It appearing that the accused MALOU FLORES ALVARADO, ALVIN LONQUIAS ALVAREZ and RAMIL MOLIANEDA DAL are detained at the Parañaque City Jail and considering the penalty imposed, the OIC Branch Clerk of Court is directed to prepare the *Mittimus* for the immediate transfer of accused ALVIN LONQUIAS ALVAREZ and RAMIL MOLIANEDA DAL from the Parañaque City Jail to the New Bilibid Prisons, Muntinlupa City and the transfer of accused MALOU FLORES ALVARADO from the Paranaque City Jail to the Women's Correctional Facility in Mandaluyong City.

The bail bond posted by accused BEATA ESCUADRA LONQUIAS is hereby cancelled.

The specimens consisting of five (5) sachets of shabu marked "RB" to "RB-4" each weighing 0.01 gram for a total of 0.05 gram, as well as the one hundred fourteen (114) pieces of aluminum foil strips placed inside a plastic container marked as "ES", are forfeited in favor of the government and the OIC-Branch Clerk of Court is likewise directed to immediately turn over the same to the Philippine Drug Enforcement Agency (PDEA) for proper disposal pursuant to Sec. 21 of RA 9165 and Supreme Court OCA Circular No. 51-2003.

SO ORDERED.^[7]

Ruling of the CA

On appeal, the CA affirmed the decision of the RTC. It held that based on the totality of the evidence, the prosecution was able to prove that the illegal sale of *shabu* took place, and that Malou then had in her possession *shabu* contained in four (4) heat-sealed transparent plastic sachets. The appellate court likewise concluded that there was compliance with the chain of custody rule which clearly showed that the drug specimens presented in court were the same items in the possession of Malou at the time of the buy-bust operation. On the other hand, appellants failed to show that the *shabu* seized from Malou, were tampered with, or switched before they were delivered to the PNP Crime Laboratory for examination.

The appellate court observed that the appellants "repeatedly harped on the absence of [sic] the accused, media and DOJ representatives during the inventory of the seized items." Citing *People v. Salvador*,^[8] the CA ruled that failure to strictly comply with Section 21 of R.A. 9165 was not fatal.

As to appellants' defense of denial, the CA said that aside from being self-serving, the same was unsupported and unsubstantiated by clear and convincing evidence. Even their testimonies regarding the incident were found conflicting.