

## THIRD DIVISION

[ G.R. No. 214503, June 22, 2016 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICO ENRIQUEZ Y CRUZ, ACCUSED-APPELLANT.**

### R E S O L U T I O N

**PEREZ, J.:**

Before us for review is the Decision<sup>[1]</sup> of the Court of Appeals in C.A.-G.R. CR HC No. 05441 dated 14 February 2014, which denied the appeal of appellant Rico Enriquez Cruz and affirmed the Decision<sup>[2]</sup> dated 15 September 2010 of the Regional Trial Court (RTC) of the City of Makati, Branch 64 in Criminal Case Nos. 06-1802 and 06-2124, finding appellant guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.

Appellant was charged with violation of Sections 5 and 15 of Article II of R.A. No. 9165, to wit:

#### CRIMINAL CASE NO. 06-1802

That on or about the 13<sup>th</sup> day of September 2006, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, give away, distribute, and deliver to another, a zero point zero three (0.03) grain of Methylamphetamine hydrochloride which is a dangerous drug in exchange of Five Hundred Pesos (Php500.00).<sup>[3]</sup>

#### CRIMINAL CASE NO. 06-2124

That on or about the 13<sup>th</sup> day of September 2006, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully and feloniously found positive after, a confirmatory test, of using a Methylamphetamine hydrochloride (*shabu*) which is a dangerous drug in violation of the above-cited law.<sup>[4]</sup>

At his arraignment, appellant pleaded not guilty to the offenses charged. Joint trial ensued.

The essential facts, based on the records, are summarized as follows:

On 13 September 2006, the Station Anti-Illegal Drugs Special Operations Task Force of the Makati Police Station received information that an alias Rico Enriquez was engaged in illegal drug activities. In their watchlist, this alias Rico had been recorded both as a user and pusher. Thus, Colonel Angel Sumulong (Col. Sumulong) immediately created a buy-bust team in coordination with the Philippine Drug Enforcement Agency (PDEA).<sup>[5]</sup> Police Officer 2 Estero Ruiz was appointed as team leader and gave five (5) One Hundred Peso (P100.00) bills to Police Officer 2 Victoriano Cruz, Jr. (PO2 Cruz), the *poseur buyer*.<sup>[6]</sup>

Around 5:40 p.m. that day, the buy-bust team proceeded to the target area. The buy-bust team strategically positioned themselves while the informant and PO2 Cruz proceeded to the location at Pateros corner Hormiga Streets. The informant singled out *alias* Rico, appellant, who was in an alley conversing with his male companions, and approached him at which point these male companions left. Appellant and the informant went over to where PO2 Cruz remained standing. The informant introduced PO2 Cruz to appellant as a friend in need of *shabu*. Appellant asked how much he needed and PO2 Cruz replied, "*kasang kinyentos lang*" or P500.00. Appellant asked them to wait, withdrew into an alley, and returned shortly to hand PO2 Cruz a heat-sealed plastic sachet containing a white crystalline substance believed to be *shabu*. After giving appellant five (5) pieces of One Hundred Peso (P100.00) bills in exchange for the item, PO2 Cruz lit a cigarette, the previously arranged signal for the buy-bust team to effect arrest upon consummation of the transaction. PO2 Cruz grabbed appellant's shirt, identified himself as a police operative and informed appellant of the nature of his arrest.<sup>[7]</sup> PO2 Cruz marked the plastic sachet with "COY," and prepared an inventory thereof together with the buy-bust money and other cash recovered from appellant. The inventory<sup>[8]</sup> was signed by PO2 Cruz along with another Makati drug operative Hermina Facundo, Police Senior Inspector Joefel Siason (PSI Siason) and *Barangay* Captain Vic del Prado as witnesses. Appellant, however, refused to sign the same. The seized items were likewise photographed. Thereafter, the police officers, along with the appellant, returned to the police station. PO2 Cruz turned over the seized items to PO1 Randy Santos, while PSI Siason prepared the necessary documentation to request the Philippine National Police (PNP) Crime Laboratory for analysis and examination of the contraband, and to conduct a drug test on appellant.<sup>[9]</sup> The custody of the seized sachet of *shabu* and of appellant was then turned over to PO2 Castillo who brought both to PO1 Cavia and eventually Forensic Chemical Officer Richard Allan Mangalip (Forensic Officer) of the PNP Crime Laboratory. After examination, Forensic Officer Mangalip found the specimen submitted positive for Methylamphetamine hydrochloride.<sup>[10]</sup> The examination of appellant's urine sample also yielded positive findings for the presence of the dangerous drug.<sup>[11]</sup>

Appellant and his wife, Marilyn Enriquez, testified for the defense.

Appellant denied the charges against him. He countered that on the date and time of the alleged entrapment operation, he was at his house having a snack with his family when four armed civilian clothes entered their house. Appellant was placed under arrest and handcuffed in his family's presence without being informed of the reasons therefor. He was then brought to the armed men's office in Makati City where he was allegedly mauled but had no bodily bruises as proof. He was taken to the laboratory to give out a urine sample for testing; and to the *Ospital ng Makati*,

also for testing.<sup>[12]</sup>

Appellant's wife, Marilyn Enriquez, corroborated appellant's defenses of denial and frame-up. She averred that the men who entered their house, pointed a gun to her husband, handcuffed him and had allegedly told him that he was being invited to the police station for questioning. When she followed his husband and the men at the police station, she was informed that her husband had been arrested for selling illegal drugs.<sup>[13]</sup>

On 15 September 2010, finding that the prosecution established all the elements of the crime charged, the RTC rendered judgment finding appellant guilty beyond reasonable doubt of illegal sale of drugs. The dispositive portion of the RTC Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused RICO ENRIQUEZ y CRUZ, GUILTY of the charge for violation of Section 5, Article II of RA 9165 and is sentenced to life imprisonment and to pay a fine of FIVE HUNDRED THOUSAND PESOS (Php500,000.00).

Having been found positive for the use of methamphetamine, accused is likewise directed to undergo rehabilitation for at least six (6) months in a Government Rehabilitation Center subject to the provisions of Article VIII of RA 9165.<sup>[14]</sup>

On 14 February 2014, the Court of Appeals affirmed the RTC decision. The Court of Appeals gave credence to the consistent testimonies of the prosecution to support the presumption that the police officers regularly performed the buy-bust operation. The Court of Appeals also noted that the appellant failed to substantiate his defenses.

Hence, this final review.

In our Resolution<sup>[15]</sup> dated 19 November 2014, we required the parties to file their respective supplemental briefs. Both parties manifested that they had already exhausted their arguments before the Court of Appeals and, thus, would no longer file any supplemental brief.<sup>[16]</sup>

We perused the arguments raised by the parties and find them the same as those that were before the appellate court. We reach the same conclusion. We sustain the judgment of conviction against appellant. We agree that the prosecution has proven beyond reasonable doubt that appellant was selling dangerous drugs without lawful authority, in violation of Section 5, Article II of R.A. No. 9165.

The presence of the following elements required for all prosecutions for illegal sale of dangerous drugs has been duly established in the instant case: (1) proof that the transaction or sale took place; and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence.<sup>[17]</sup> Appellant was apprehended, indicted and convicted by way of a buy-bust operation, a form of entrapment whereby ways and means are resorted to for the purpose of trapping and capturing the lawbreakers in the execution of their criminal plan.<sup>[18]</sup> The commission of the offense of illegal sale