

## SECOND DIVISION

[ G.R. No. 200797, January 12, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MANOLITO OPIANA Y TANAEL, ACCUSED-APPELLANT.**

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

#### **DEL CASTILLO, J.:**

Appellant Manolito Opiana y Tanael was charged with the crimes of violations of Section 5 (sale of illegal drugs; 0.05 gram) and Section 11 (possession of dangerous drugs; 0.74 gram), both of Article II, Republic Act No. 9165 (RA 9165) or the Comprehensive Dangerous Drugs Act of 2002.

The facts of the case showed that on April 8, 2008, the Makati police officers and Makati Anti-Drug Abuse Council (MADAC) operatives conducted an entrapment/buy-bust operation on appellant who was reportedly engaged in illegal drug trade in *Brgy. Guadalupe Viejo*, Makati City. MADAC operative Sherwin Sydney Serrano (Serrano) acted as poseur-buyer. After having been introduced by the informant as a "scorer" of *shabu*, appellant and Serrano negotiated for the sale of P300.00 worth of *shabu*. Serrano gave appellant the P300 marked money and in exchange, appellant handed to Serrano a heat-sealed sachet containing white crystalline substance. After making the pre-arranged signal, appellant was apprehended and when bodily frisked, 19 heat-sealed sachets were recovered from his possession. Laboratory examination revealed that all 20 heat-sealed sachets yielded positive results for *shabu*.

Appellant denied the charges against him. He claimed that on April 8, 2008, he was repairing a vehicle in front of his house when a green van arrived and three (3) men alighted. When he affirmatively answered to their query whether he is "Noli," he was immediately arrested. He asserted that the police officers mistook him as the "Noli" who was known to be a drug peddler in their area. He argued that he is known in their place as "Noli Mekaniko," and not the drug peddler.

#### ***Ruling of the Regional Trial Court (RTC)***

In a Decision dated May 26, 2009, the Regional Trial Court of Makati City, Branch 65, convicted appellant of violations of Sections 5 (sale of illegal drugs) and 11 (possession of dangerous drugs), Article II of RA 9165. It ratiocinated thus:

In order to successfully prosecute an accused for illegal sale of dangerous drugs, the prosecution must be able to prove the following elements: (1) identities of the buyer and seller, the object, and the consideration; and 2) the delivery of the thing sold and the payment therefor. x x x The delivery of the illegal drugs subject of the sale and the receipt of the marked money consummate the buy-bust transaction between the

entrapping officers and the accused. It is therefore important to prove only that the transaction or sale actually took place, coupled with the presentation in court of the dangerous drugs. x x x

x x x x

After a prudent consideration, the court finds that the prosecution succeeded in proving the guilt of the accused for the crime of violation of Section 5, Article II of Republic Act No. 9165 beyond reasonable doubt. Indeed, the collective evidence presented during the trial by the prosecution adequately established that a valid buy-bust operation was conducted by the operatives of the MADAC as well as the SAID-SOTF, Makati City on April 8, 2008 after proper coordination with the PDEA was made x x x. During the operation, 0.05 gram of shabu x x x was purchased by MADAC operative Serrano from accused Manolito Opiana in consideration of P300.00. The results of the laboratory test confirmed that the item contained in the said plastic sachet which was bought from the accused was indeed methylamphetamine hydrochloride or shabu x x x. There can be no gainsaying the credibility of the forensic chemist who conducted the laboratory examination on the specimen. In fact, nothing was adduced or intimated that the said prosecution witness had reason to fabricate or concoct her findings.

Likewise, there can be no question about the identity of the *corpus delicti* in the instant case for sale of illegal drugs. The small plastic sachet containing shabu marked as "WIN" which was brought to and identified in court was found to be the same plastic sachet of shabu which the prosecution witness, MADAC operative Serrano, purchased from the accused during the buy-bust operation. Brgy. Capt. Ernesto Bobier testified and confirmed having signed the inventory sheet x x x of the items seized from the accused in his presence. Therefore, the integrity and evidentiary value of the items confiscated and/or purchased from the accused had been well safeguarded as to be reliable. Needless to state, the identity of the accused was positively established in open court by the witnesses for the prosecution who pointed to him as the same person who was apprehended during the buy-bust operation.

Moreover, the prosecution adequately established the existence of all the elements for the offense of illegal possession of dangerous drugs under Section 11, Article II of the same Act, to wit: (1) the accused is in possession of the object identified as a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the said drug x x x.

It has been ruled that there can be no conviction for the subject offense unless the prosecution shows that the accused knowingly possessed the prohibited articles in his person, or that *animus possidendi* is shown to be present together with his possession or control of such article x x x. Based on the testimony of the prosecution witnesses, however, it was clearly shown that nineteen (19) plastic sachets containing shabu x x x were recovered from the accused. The contents thereof were later examined at the PNP Crime Laboratory and were found to be in fact

methylamphetamine hydrochloride or shabu. The accused had no authority to possess or otherwise use said dangerous drugs; neither did he have any license or prescription to possess the same. The intention of the accused to possess the said plastic sachets containing shabu was patent considering that these were found in his person after a routine body search was conducted. It is also beyond cavil that he possessed the said plastic sachets containing shabu freely and consciously.

The inventory of the items seized from the accused and the testimony in open court of Brgy. Capt. Ernesto Bobier, an elected official, bolstered the claim of the prosecution that a buy-bust operation was conducted by operatives of the MADAC as well as SAID-SOTF, Makati City, which operation resulted in the arrest of the accused. It is settled that in cases involving violations of the Comprehensive Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. x x x<sup>[1]</sup>

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. 08-542, the court finds the accused, MANOLITO OPIANA y TANAEL, GUILTY beyond reasonable doubt of the charge for violation of Section 5, Article II, R.A. No. 9165 and sentences him to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00);

2. In Criminal Case No. 08-543, the court finds the same accused, MANOLITO OPIANA y TANAEL, GUILTY beyond reasonable doubt of the charge for violation of Section 11, Article II, R.A. No. 9165 and sentences him to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum to fourteen (14) years and eight (8) months as maximum and to pay a fine of Three Hundred Thousand Pesos (P300,000.00).

The period of detention of the accused should be given full credit.

Let the dangerous drugs subject matter of these cases be disposed of in the manner provided by law.

SO ORDERED.<sup>[2]</sup>

### ***Ruling of the Court of Appeals***

Aggrieved, appellant appealed to the Court of Appeals (CA). In his Brief, appellant alleged that the buy-bust team did not observe the proper procedure governing the handling, custody and disposition of the illegal drugs. In particular, he contended