

## SECOND DIVISION

[ G.R. No. 195774, February 23, 2015 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LARRY BASILIO Y HERNANDEZ, ACCUSED-APPELLANT.**

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

**DEL CASTILLO, J.:**

Challenged in this final recourse is the August 26, 2010 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03358 which affirmed the April 3, 2008 Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Manila, Branch 35 in Criminal Case No. 06-248048, convicting appellant Larry Basilio y Hernandez (appellant) of Violation of Section 5, Article II of Republic Act (R.A.) No. 9165<sup>[3]</sup> and sentencing him to suffer the penalty of life imprisonment and to pay a fine of P500,000.00.

#### ***Factual Antecedents***

Pursuant to an information he received the day before, Police Senior Inspector (PSI) Julian T. Olonan (PSI Olonan) organized in the morning of November 2, 2006 a team to conduct a "buy-bust" operation against a certain "Kagi" who was said to be active in the illegal sale of drugs. The team was composed of SPO1 Teresito Cabanganan, PO3 Renato Jimenez (PO3 Jimenez), PO2 Richard Nieva, PO2 Ferdinand Manlapaz and SPO1 Federico Chua (SPO1 Chua). SPO1 Chua was designated as the poseur-buyer and was thus provided with a P100-bill as purchase money, while the rest of the team would serve as back-ups.

At about 10:00 p.m., the team proceeded to the target area in San Gabriel, Old Sta. Mesa, Manila. Together with the informer, SPO1 Chua approached "Kagi," later identified as the appellant, who was sitting on the street pavement and told the latter that he was going to score. Appellant asked SPO1 Chua "*magkano*" and the latter replied "*piso lang*." Appellant got the money from SPO1 Chua and in turn handed to the latter a small heat-sealed transparent plastic sachet containing white crystalline substance. Whereupon, SPO1 Chua scratched the back of his head signifying to the back-up members that the sale had been consummated. Forthwith, SPO1 Chua arrested appellant, informed him of his constitutional rights, and brought him and the seized item to the police station. Thereat, SPO1 Chua placed the marking "LBH" on the plastic sachet and turned over the same to their investigator, PO3 Jimenez. A request for laboratory examination of the seized item was thereafter prepared<sup>[4]</sup> which, together with the seized item, was delivered by PO3 Jimenez to the Manila Police District (MPD) Crime Laboratory and was received by Forensic Chemical Officer PSI Elisa G. Reyes (PSI Reyes). PSI Reyes then conducted a qualitative examination of the specimen which weighed 0.083 gram and tested positive for Methamphetamine Hydrochloride, a dangerous drug.<sup>[5]</sup>

Appellant denied the accusation against him. He averred that on the night of November 2, 2006, he was on his way home when five police officers in civilian attire who were looking for an alias "Peter" suddenly accosted him. When he asked the officers why they were arresting him, he received no reply and was instead hit in the mouth by one of them. Appellant surmised that the reason why he was charged with dealing in illegal drugs is his failure to give information about alias "Peter."

### ***Ruling of the Regional Trial Court***

In its April 3, 2008 Decision,<sup>[6]</sup> the RTC found all the elements of illegal sale of dangerous drugs to have been clearly established by the prosecution. Moreover, it gave full faith and credence to the testimonies of the apprehending police officers for being positive, categorical and straightforward. And there being no showing of bad faith on their part, the RTC upheld the presumption of regularity in the performance of duty in their favor. On the other hand, it rejected appellant's unsubstantiated defense of denial. Ultimately, the RTC ruled, *viz*:

IN VIEW OF ALL THE FOREGOING, the Court finds the accused, Larry Basilio y Hernandez, GUILTY beyond reasonable doubt of the offense charged and hereby sentences him to suffer the penalty of life imprisonment; to pay a fine of Five Hundred Thousand (P500,000.00) Pesos, and the cost of suit.

x x x x

SO ORDERED.<sup>[7]</sup>

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

On appeal to the CA, appellant questioned the police officers' non-compliance with the requirements set forth under Section 21 of R.A. No. 9165. The CA, however, aside from not finding any violation of the said provision, agreed that all the elements of the offense charged were duly established. It held in its August 26, 2010 Decision,<sup>[8]</sup> as follows:

WHEREFORE, in the light of the foregoing, the appealed DECISION dated April 3, 2008 of the Regional Trial Court (RTC) of Manila, Branch 35, finding herein accused-appellant Larry H. Basilio guilty beyond reasonable doubt of the crime charged, in Criminal Case No. 06-248048, is hereby AFFIRMED.

SO ORDERED.<sup>[9]</sup>

Hence, this appeal.

### **Issue**

Whether the lower courts correctly convicted appellant of the offense of illegal sale