

FIRST DIVISION

[G.R. No. 186131, December 14, 2011]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BENJAMIN AMANSEC Y DOÑA, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

For review is the April 15, 2008 Decision^[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 02557, which affirmed the Regional Trial Court's (RTC) August 30, 2006 Decision^[2] in Criminal Case No. Q-03-118187,^[3] wherein accused-appellant Benjamin Amansec y Dona (Amansec) was found guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. 9165.

On June 18, 2003, Amansec was charged before the Quezon City RTC, Branch 95 of violation of Sections 11 and 5, Article II of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002. The pertinent portions of the Informations^[4] are as follows:

Crim. Case No. Q-03-118186

The undersigned accuses **BENJAMIN AMANSEC Y DONA of violation of Section 11, Art. II, R.A. 9165 (Comprehensive Dangerous Drugs Act of 2002), committed as follows:**

That on or about the **15th day of June, 2003** in Quezon City, Philippines, the said accused, not being authorized by law to possess or use any dangerous drug, did and there willfully, unlawfully and knowingly have in his/her possession and control **zero point zero nine (0.09) gram of white crystalline substance containing Methamphetamine Hydroc[h]loride otherwise known as "SHABU"** a dangerous drug.^[5]

Crim. Case No. Q-03-118187

The undersigned accuses **BENJAMIN AMANSEC Y DONA a.k.a. "Benjie"** for violation of Section 5, Article II, R.A. 9165, Comprehensive Dangerous Drugs Act of 2002, committed as follows:

That on or about the **15th day of June, 2003** in Quezon City, Philippines, the said accused, not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then

and there, willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, **zero point zero nine (0.09) gram of white crystalline substance containing Methylamphetamine Hydroc[h]loride otherwise known as "SHABU"** a dangerous drug.^[6]

Amansec pleaded not guilty to both charges upon his arraignment^[7] on August 7, 2003. After the termination of the pre-trial conference^[8] held on October 2, 2003, trial on the merits followed.

The prosecution's first witness was Engineer Bernardino M. Banac, Jr., a forensic chemist from the Philippine National Police (PNP) Crime Laboratory. However, upon agreement by the prosecution and the defense, his testimony was dispensed with, and in lieu thereof, the following stipulations and admissions were made by the parties:

1. That on June 16, 2003, a request for laboratory examination was prepared and sent by La Loma Police Station 1 to the Central Police District Crime Laboratory together with the specimens which were received by the said office on June 16, 2003, as shown in the stamp marked received attached to the said request for laboratory examination;
2. That upon receipt of the said request, a qualitative examination was conducted by the Central Police District Crime Laboratory Office, examined by Engr. Bernardino M. Banac, Jr. and that the specimens were found to be positive to the test for Methylamphetamine Hydrochloride, a dangerous drug which findings conducted contained in Chemistry Report No. D-472-03 dated June 16, 2003;
3. That attached to said Chemistry Report is a small brown envelope which when opened by the Court Interpreter yielded three heat-sealed transparent plastic sachets containing white crystalline substance with markings : A (JR-BA)= 0.09 gram; B (RP-BA)= 0.09 gram; C (RV-JM)= 0.09 gram; [and]
4. That the forensic chemical officer has no personal knowledge leading to the arrest of the accused as well as the source of specimens.^[9]

On July 15, 2004, the RTC granted the prosecution's motion^[10] to try the two cases jointly.

The prosecution's version, which was primarily lifted from the testimonies of two of the operatives involved in the buy-bust operation, is summarized below:

Police Officer (PO) 1 Alfredo Mabutol, Jr. and PO2 Ronald Pascua, members of the PNP assigned at Station Drug Enforcement Unit (SDEU) of the La Loma Police Station, testified that on June 15, 2003, at around 11:00 p.m., while they, along

with PO1 Roderick Valencia and their Officer-in Charge (OIC), Police Inspector Oliver Villanueva were on duty, an informant, whose identity remained confidential, arrived at the station to talk to Villanueva. After talking to the informant, Villanueva formed a team for a buy-bust operation against Amansec, at Santos St., Barangay Damayan, San Francisco Del Monte, Quezon City. The team consisted of Mabutol as the poseur-buyer and Pascua and Valencia as his back-up members. Villanueva then gave Mabutol a one hundred peso (P100.00) bill to be used as his buy-bust money. Mabutol marked this with his initials "JR" on the lower left side portion and listed its serial number in his dispatch book. The team, with their informant, then proceeded to the target area using a white marked vehicle with red plate. As soon as they reached the place, Mabutol and the informant moved ahead to the house of Amansec at Santos St., corner Caragay St., while the rest of the team positioned themselves at a strategic location, keeping Amansec within viewing distance. The informant then introduced Mabutol to Amansec as a drug addict, in dire need of drugs. Mabutol had just told Amansec that he was going to purchase one hundred pesos worth of shabu when another buyer, later identified as Jerome Pintis, came up to Amansec to also buy *shabu*. Amansec then showed both Pintis and Mabutol three plastic sachets containing crystalline substance. Pintis gave a one hundred peso bill to Amansec who in return, let him pick one of the three plastic sachets. After Pintis left, Amansec continued his transaction with Mabutol, and gave Mabutol another of the remaining two plastic sachets after receiving the buy-bust money. Mabutol thereafter examined the plastic sachet he obtained from Amansec, and suspecting it to be shabu, scratched the right side of his head with his right hand to signal his team to approach the target. Valencia immediately arrested Pintis and recovered from the latter one plastic sachet, while Pascua went after Amansec, who, upon seeing Pintis' arrest, tried to run away. Pascua thereafter frisked Amansec and retrieved the buy-bust money that Mabutol had given Amansec, and another plastic sachet. The team then brought Pintis and Amansec to the Station Investigator. The team also marked with their initials the plastic sachets that they had recovered and turned them over to their Investigator. They later brought the plastic sachets to the Crime Laboratory to have their contents examined for the presence of shabu.^[11]

The examination made by Engr. Banac on June 16, 2003, yielded the following results, as stated in his Chemistry Report No. D-472-03^[12]:

TIME AND DATE RECEIVED: 1200H 16 JUNE 2003

REQUESTING PARTY/UNIT: OIC, SDEU
PS-1 CPD
Laloma QC

SPECIMEN SUBMITTED:

Three (3) heat-sealed transparent plastic sachets containing white crystalline substance having the following markings and recorded net weights:

A(JR-BA) = 0.09 gram C(RV-JM) = 0.09 gram
B(RP-BA) = 0.09 gram

x x x x

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of dangerous drugs. xxx

FINDINGS:

Qualitative examination conducted on the above-stated specimens gave POSITIVE results to the tests for Methylamphetamine hydrochloride, a dangerous drug. x x x.

CONCLUSION:

Specimens A, B, and C contain Methylamphetamine hydrochloride, a dangerous drug. x x x.

TIME AND DATE COMPLETED: 1400H 16 JUNE 2003

This report, along with the three plastic sachets with white crystalline substance, and the P100.00 bill^[13] recovered from Amansec, were presented in court, and, except for the plastic sachets, were submitted to the court as evidence.

The defense presented Amansec who vehemently denied, on the witness stand, the charges against him. He testified that on June 15, 2003, he was in his residence when two police officers, whom he later came to know as Mabutol and a certain PO1 Lozada, entered his room and thoroughly searched it. He was then brought to the precinct where he was instructed to call somebody who could help him settle his case. As he knew no one who could help him, Mabutol asked him to give a name of a big-time drug seller/pusher who could take his place, or "*pamalit-ulo*."^[14] Since Amansec did not know any big-time drug pusher, reasoning that he had been in his residence for only six months then, the police officers proceeded with the case and he was brought to the Inquest Prosecutor. Amansec averred that he did not file a case against the police officers because he did not know how to go about it.^[15] On cross-examination, he said that he was denying the allegations as the police officers had "no proof [of] what they [were] saying."^[16] Amansec also stated that the first time he saw Mabutol and Pascua was when he was arrested, and he did not know of any grudge or ill motive that they might have against him.^[17]

On August 30, 2006, the RTC rendered its Decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding accused BENJAMIN AMANSEC Y DONA **GUILTY** beyond reasonable doubt as charged in Criminal Case No. Q-03-118187 for violation of Section 5 of Article II of R.A. 9165, (selling of dangerous drugs) and he is hereby sentenced him (sic) to suffer the penalty of Life Imprisonment and to pay a fine of Five Hundred Thousand (Php500,000.00) pesos.

However, in Criminal Case No. Q-03-118186 for violation of Section 11,

Article II of R.A. 9165 (illegal possession of dangerous drugs), the Court finds the accused NOT GUILTY because the prosecution failed to prove his guilt beyond reasonable doubt.

The pieces of evidence [that is the] subject matter of these cases are hereby forfeited in favor of the government and to be disposed of as provided by law.^[18]

In convicting Amansec of violating Section 5, Article II of Republic Act No. 9165, the RTC held that the prosecution was able to establish and satisfy the elements in the sale of illegal drugs. The RTC averred that Amansec failed to prove any ill motive on the part of the police officers whom he admitted to have met only after his arrest. Moreover, the RTC found the testimonies of Mabutol and Pascua to be consistent, clear, direct, positive, and corroborative of the material and significant aspects of what actually transpired.^[19]

However, the RTC acquitted Amansec of the illegal possession of dangerous drugs charge, ratiocinating in this wise:

Anent the second offense, the public prosecutor was able to prove that indeed the accused was caught in possession of illegal drugs known as "shabu" after the entrapment. After the arrest of the accused for selling illegal drugs, PO2 Ronald Pascua was able to recover another plastic sachet containing shabu from the accused. However, the Court is convinced that the second plastic sachet containing shabu (Exhibit "E-2") was intended by the accused to be sold to the buyer at the time of the buy-bust operation. In *People vs. Hindoy* [357 SCRA 692], *possession of marijuana is absorbed in the sale thereof, except where the seller is further apprehended in possession of another quantity of the prohibited drugs not covered by or included in the sale and which are probably intended for some future dealings or use by the seller.* In the case at bar, it is clear from the testimonies of the prosecution witnesses that the second plastic sachet of shabu was shown and offered by the accused during the transaction in the buy-bust operation.^[20]

On September 11, 2006, Amansec filed his Notice of Appeal with the RTC. In his Brief, ^[21] Amansec cited irregularities, which allegedly create a reasonable doubt that a buy-bust operation was conducted. He also questioned the admissibility of the evidence against him.

However, the Court of Appeals was not convinced by Amansec's arguments. The Court of Appeals found the prosecution's evidence to be sufficient to uphold the conviction of Amansec.^[22] The Court of Appeals held that "[n]on-compliance by the apprehending officer with Section 21 of [Republic Act] No. 9165 is not fatal as long as there is justifiable ground therefor, and as long as the integrity and the evidentiary value of the confiscated items, are properly preserved by the apprehending officers. x x x."^[23]