

## THIRD DIVISION

[ G.R. No. 186419, April 23, 2010 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
DARLENE QUIGOD Y MIRANDA, ACCUSED-APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

This is an appeal from the October 13, 2008 Decision of the Court of Appeals (CA) in CA G.R. CR-H.C. No. 00279-MIN entitled *People of the Philippines v. Darlene Quigod y Miranda* which affirmed the August 6, 2004 Decision of the Regional Trial Court (RTC), Branch 4 in Butuan City in Criminal Case No. 9584 for Violation of Section 5, Article II of Republic Act No. 9165 (RA 9165), otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

#### **The Facts**

The charge against accused-appellant stemmed from the following Information:

The undersigned accuses DARLENE QUIGOD y MIRANDA of the crime of Violation of Sec. 5, Article II of R.A. 9165, committed as follows:

That on or about 4:30 o'clock in the afternoon of September 6, 2002 at Ong Yiu, Butuan City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell, deliver two (2) sachets of methamphetamine hydrochloride, otherwise known as shabu, weighing zero point four six seven zero (0.4670) grams, to SPO2 Antonio Paloma Jamila (acting as poseur-buyer), which is a dangerous drug.

CONTRARY TO LAW: (Violation of Sec. 5, Art. II of R.A. No. 9165)

Butuan City, Philippines, September 7, 2002.<sup>[1]</sup>

On January 3, 2003, the accused-appellant pleaded not guilty to the charge. After the pre-trial conference, trial on the merits ensued.

During the trial, the prosecution presented as their witnesses, SPO2 Antonio Jamila (SPO2 Jamila) and Police Inspector Cramwell Tanquiamco Banogon (P/Insp. Banogon). On the other hand, the defense presented as its witnesses, Darlene Quigod, the accused-appellant herself, and Manuel Vergara, Jr.

## Version of the Prosecution

The facts, according to the prosecution, are as follows:

In the morning of September 6, 2002, the Philippine Drug Enforcement Agency (PDEA) Office, Region 13 received confidential information from a police informant that accused-appellant was selling "shabu" at Purok 7, Ong Yiu, Butuan City.<sup>[2]</sup> Acting on the said information, a team, composed of SPO2 Jamila, PO1 Ronnie Morales (PO1 Morales) and the police informant, was formed to conduct a buy-bust operation. SPO2 Jamila was to act as the poseur-buyer.

At around 4:30 p.m., the team was dispatched to the designated area, particularly the area near the basketball court of Purok 7, Ong Yiu, Butuan City.<sup>[3]</sup> Thereafter, the police informant contacted accused-appellant upon instruction of SPO2 Jamila, and introduced the latter as a buyer of *shabu*. After agreeing to the price of *shabu* at PhP 1,000 per sachet, SPO2 Jamila ordered two (2) sachets. Accused-appellant left to get the *shabu* and asked them to wait for her.<sup>[4]</sup>

Shortly thereafter, accused-appellant came back with the two (2) sachets of *shabu* and demanded immediate payment for them from SPO2 Jamila who, in turn, carefully examined the articles. When he already had the two (2) sachets of *shabu*, SPO2 Jamila gave the pre-arranged signal to PO1 Morales, who was only about 10 to 15 meters away. The latter, along with other police officers, rushed towards accused-appellant, identified themselves as PDEA agents, and arrested her.<sup>[5]</sup>

The team, together with accused-appellant, immediately proceeded to their office for booking, documentation and filing of the case against her.<sup>[6]</sup> The 2 articles seized, respectively marked as RPM1 and RPM2, were under the initial custody of SPO2 Jamila.<sup>[7]</sup>

At about 6:35 p.m., SPO2 Jamila, together with PO1 Morales and accused-appellant, submitted the seized articles to the PNP Regional Crime Laboratory, Camp Rafael Rodriguez, Libertad, Butuan City, for qualitative examination.<sup>[8]</sup>

P/Insp. Banogon, a forensic chemist, conducted a qualitative examination on the specimen weighing 0.1821 gram (RPM1) and 0.2849 gram (RPM2), respectively. The specimen gave positive result to the tests for Methamphetamine Hydrochloride, a dangerous drug. This was indicated in Chemistry Report No. D-126-2002<sup>[9]</sup> issued by P/Insp. Banogon after conducting the afore-mentioned qualitative examination. The urine sample taken from accused-appellant also gave a "positive" result for the presence of the same drug,<sup>[10]</sup> as indicated in Chemistry Report No. and DT-070-2002.<sup>[11]</sup>

## Version of the Defense

On the other hand, accused-appellant interposed the defense of denial.

She testified that she was a fish vendor who looked after her family's *carenderia* before she got arrested. She resided at Mangachupoy St., Bayugan, Agusan del Sur, but later moved to Doongan, Butuan City, particularly in the house of a certain Toto

Maravilla, a policeman. Accused-appellant identified herself as a police asset whose task is to conduct surveillance on persons suspected of selling illegal drugs in Ong Yiu, Butuan. According to her, she has worked with Toto Maravilla as a police asset since 2001. [12]

Accused-appellant recounted that on September 6, 2002, she was instructed to conduct surveillance on a certain Jamil Osman Manua, who was suspected of engaging in illegal drug trade activities, at Purok 7, Ong Yiu. In the course of the surveillance, SPO2 Jamila arrested accused-appellant and brought her to the PDEA Office for investigation. When accused-appellant identified herself as a police asset, SPO2 Jamila did not believe her. [13] Accused-appellant vehemently denied that she was selling *shabu* and was caught in a buy-bust operation. Also, she claimed that no marked money was given to her during the alleged buy-bust operation. [14]

Manuel Vergara, Jr., the second witness for the defense, testified that accused-appellant was indeed a police asset of a certain Toto Maravilla. He stated that he knew this because he allegedly was also a police asset and they had worked together in 2000 during buy-bust operations conducted in Bayugan and in RTR, Agusan del Norte. [15] However, he did not know of the incident that transpired on September 6, 2002, which led to accused-appellant's arrest.

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

After trial, the RTC of Butuan City convicted accused-appellant. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the Court finds accused Darlene Quigod y Miranda guilty beyond reasonable doubt for violation of Section 5, Art. II of Republic Act 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and hereby imposes upon her the penalty of life imprisonment and fine of Five Hundred Thousand (P500,000.00) Pesos.

The confiscated shabu is hereby ordered destroyed in accordance with the provisions of Section 21 of Republic Act 9165.

The accused shall serve her sentence at the Correctional Institute for Women at Mandaluyong, Metro Manila. She shall be entitled to the full benefits of her preventive imprisonment which shall be credited in the service of her sentence according to the provision of Article 29 of the Revised Penal Code, as amended.

SO ORDERED. [16]

On appeal to the CA, accused-appellant questioned the lower court's decision in convicting her despite the failure of the prosecution to prove her guilt beyond reasonable doubt. She raised the issue of whether the chain of custody of the *shabu* allegedly recovered from her was properly established. She argued that SPO2 Jamila failed to properly identify the prohibited drug and that the prosecution was unable to

prove that the drugs presented in court were the same drugs seized from her.

### **Ruling of the Appellate Court**

On October 13, 2008, the CA affirmed the judgment of the lower court. It ruled that all the elements necessary to establish the fact of sale or delivery of illegal drugs were aptly established by the prosecution, including the chain of custody, *to wit*:

During the trial, the prosecution through SPO2 Jamila (as poseur-buyer) was able to establish the consummation of the sale by agreeing to purchase sachets of shabu at P1,000.00 each from appellant, which the latter had voluntarily delivered at the total price of P2,000.00 for two (2) sachets of shabu. SPO2 Jamila personally identified appellant in court as the same person who sold to him the shabu. The two (2) sachets of shabu confiscated from appellant, properly marked as Exhibits "RPM1 and RPM2", were immediately brought to the laboratory for qualitative examination. The result of tests conducted confirmed that the specimen submitted were positive for Methamphetamine Hydrochloride. More so, appellant's urine specimen that was taken by the authorities was found with traces of Methamphetamine Hydrochloride, thus indicating that she had recently "used" shabu.

Tested against the elements necessary to establish the fact of sale or delivery of illegal drugs, i.e., (1) the identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefore, the prosecution was able to establish that appellant is guilty of the crime with which she was charged.<sup>[17]</sup>

The CA also held that in the face of SPO2 Jamila's positive testimony, accused-appellant's denial is self-serving and has little weight in law.

The dispositive portion of the Decision of the CA reads:

**WHEREFORE**, in view of the foregoing, the Decision dated August 16, 2004 (sic) of the trial court appealed from is hereby **AFFIRMED IN TOTO**.

**SO ORDERED.**<sup>[18]</sup>

On November 5, 2008, accused-appellant filed her Notice of Appeal of the Decision dated October 13, 2008 rendered by the CA.<sup>[19]</sup>

In Our Resolution dated March 30, 2009,<sup>[20]</sup> We notified the parties that they may file their respective supplemental briefs, if they so desire, within thirty (30) days from notice. On June 16, 2009, the People of the Philippines manifested that it is no longer filing a supplemental brief as it believes that the Brief for the Appellee dated October 16, 2006 has adequately addressed the issues and arguments in the instant case.<sup>[21]</sup> Accused-appellant, on the other hand, filed her Supplemental Brief on July

## The Issues

Accused-appellant contends in both her *Brief for Accused-Appellant*<sup>[23]</sup> and *Supplemental Brief*<sup>[24]</sup> that:

### I.

the court of appeals erred in CONVICTING accused-appellant DESPITE THE failure OF THE PROSECUTION to prove HER guilt beyond reasonable doubt.

### II.

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN CONVICTING ACCUSED-APPELLANT DESPITE NON-COMPLIANCE WITH THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS UNDER R.A. NO. 9165.

### III.

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION'S EVIDENCE NOTWITHSTANDING ITS FAILURE TO PROVE THE INTEGRITY OF THE SEIZED DRUG.

## Our Ruling

We sustain accused-appellant's conviction.

**Factual finding of the trial court, especially when affirmed by the CA, are generally binding and conclusive upon this Court**

After a careful examination of the records of this case, We are satisfied that the prosecution's evidence established the guilt of accused-appellant beyond reasonable doubt.

In deciding this appeal, the Court once again reiterates the legal aphorism that factual findings of the CA affirming those of the trial court are binding on this Court unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable error.<sup>[25]</sup> Unfortunately, however, accused-appellant failed to show any of these as to warrant a review of the findings of fact of the lower courts.

Furthermore, it is an oft-stated doctrine that factual findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of their probative weight is given high respect if not conclusive effect, unless the trial court ignored,