

SPECIAL EIGHTH DIVISION

[CA-G.R. SP No. 126515, March 18, 2015]

**CRESENCIA SIBUG Y DE LA CRUZ, ACCUSED-PETITIONER, VS.
HON. JEAN MARIE A. BACORRO-VILLENA, PRESIDING JUDGE,
RTC BRANCH 28, MANILA, AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS**

DECISION

LANTION, J.A.C., J.:

This *Petition for Certiorari*^[1] under Rule 65 of the Rules of Court seeks to annul and set aside the Joint *Decision*^[2] dated 15 December 2010 of the Regional Trial Court of Manila, Branch 28, in Criminal Case Nos. 98-165220 and 98-165221, as well as the *Resolution*^[3] dated 5 July 2012 denying the *Motion for New Trial and/or Reconsideration* thereof. The dispositive portion of the Joint *Decision* dated 15 December 2010 reads:

"WHEREFORE, in view of the foregoing, the Court finds the accused **CERESENCIA SIBUG y DE LA CRUZ**, guilty beyond reasonable [doubt] of the offense charged in both informations and hereby sentences as follows:

1. In Criminal Case No. 98-165220, to serve the indeterminate penalty of six (6) months of *arresto mayor*, as minimum to four (4) years and two (2) months of *prision correccional*, as the maximum penalty; and
2. In Criminal Case No. 98-165221, to serve the indeterminate penalty of six (6) months of *arresto mayor*, as minimum to four (4) years and two (2) months of *prision correccional*, as the maximum penalty.

Cost against the accused.

The Branch Clerk of Court is hereby directed to turn-over the subject specimens to the Philippine Drug Enforcement Agency for proper disposition.

SO ORDERED."^[4]

THE FACTS (As culled from the Records)

Accused-Petitioner Cresencia Sibug y De La Cruz (***Accused-Petitioner***) was charged under two (2) separate Informations^[5] for violation of Section 15, Article III^[6] of Republic Act No. 6425 (The Dangerous Drugs Act of 1972) as amended by Presidential Decree No. 1683^[7], and by R.A. 7659^[8].

When arraigned,^[9] Accused-Petitioner, assisted by her counsel, pleaded "not guilty" to the charges leveled against her.

After the Pre-trial conference, trial on the merits ensued. The Prosecution presented its witnesses,^[10] and rested its case. Accused-Petitioner thereafter filed a Demurrer to Evidence, but the same was denied by the court *a quo*, through then Presiding Judge Nina Antonio-Valenzuela, for lack of merit. Since then, Accused-Petitioner did not attend the trial. The notices of hearing sent to Accused-Petitioner's given address were all returned unserved.^[11]

On 20 September 2010, counsel for Accused-Petitioner - Atty. Napoleon B. Cabrejas - manifested that Accused-Petitioner had already stopped communicating with him and was already nowhere to be found.^[12] Thus, the court *a quo* proceeded to hear the case on the basis of the evidence for the Prosecution.

On 15 December 2010, the court *a quo* rendered the herein assailed *Decision* finding Accused-Petitioner guilty of illegal sale of prohibited drugs.

Petitioner filed a *Motion for New Trial and/or Reconsideration*^[13] of the assailed *Decision*, but the same was denied by the court *a quo* in its Resolution dated 5 July 2012. On 16 July 2012, Accused-Petitioner received a copy of the said Resolution denying her *Motion for New Trial and/or Reconsideration*.

Thus, the instant *Petition*.

I S S U E

I

THE TRIAL JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION, AND CONTRARY TO LAW AND SETTLED JURISPRUDENCE WHEN SHE DENIED FOR LACK OF MERIT THE MOTION FOR NEW TRIAL AND/OR RECONSIDERATION, ETC., SPECIFICALLY, THE TRIAL JUDGE BRUSHED ASIDE THE ABSENCE OF EFFECTIVE NOTICE THAT IS PREJUDICIAL TO THE SUBSTANTIAL RIGHTS OF SIBUG.

R U L I N G

Prefatorily, this Court emphasizes that where the accused in a criminal case files from a judgment of conviction a motion for new trial or reconsideration, the accused is given 15 days (from his receipt of the resolution denying such motion) under Rule 41 of the Rules of Court to file a notice of appeal from such judgment of conviction.^[14]

In this case, Accused-Petitioner filed a *Motion for New trial and/or Reconsideration* of the court *a quo*'s judgment finding her guilty of illegal sale of prohibited drugs. On 16 July 2012, Accused-Petitioner received a copy of the *Resolution* denying her *Motion*. Instead of filing a notice of appeal within fifteen (15) days from her receipt of the said *Resolution* (until 31 July 2012), Accused-Petitioner filed the instant