

EIGHTH DIVISION

[CA-G.R. CR-H.C. NO. 05960, March 31, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MICHAEL MANAOAT Y VIRAY, ACCUSED-APPELLANT.**

D E C I S I O N

REYES, JR., J.C., J.:

On appeal is the December 11, 2012 Judgment (Records, pp. 70-84) of the Regional Trial Court of Lingayen, Pangasinan, Branch 69 convicting herein accused-appellant Michael Manaoat y Viray of Violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the "Comprehensive Drugs Act of 2002".

The facts:

In an Information dated January 24, 2012, accused-appellant Michael Manaoat y Viray was charged with the crime of violating Sections 5, Article II of Republic Act No. 9165 otherwise known as "The Comprehensive Dangerous Drugs Act of 2002". The accusatory portions of which reads:

"That on or about 5:00 o'clock in the afternoon of January 23, 2012, at Brgy. Gayaman, Binmaley, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously sell two (2) transparent heat-sealed plastic sachets containing methamphetamine hydrochloride known as "Shabu", an illegal drug, weighing 0.008 and 0.063 grams, to poseur-buyer PO1 Jhonny C. Tomagos without lawfully authority to do so." (Records, p.1)

On February 28, 2012, accused-appellant pleaded NOT GUILTY to the charge against him. (Records, p.18)

Trial on the merits ensued where the prosecution presented PO2 Jhonny C. Tomagos (PO2 Tomagos) and Police Inspector Myrna Malojo-Todeño (P/Insp. Todeño) as witnesses while accused-appellant served as witness for the defense. SPO1 Dennis Quinantoto (SPO1 Quinantoto) and Rommel Sembrano testified for the prosecution however, their testimonies were dispensed with.

The Prosecution revealed that on January 23, 2012, a briefing for a buy-bust operation against accused-appellant was headed by Police Inspector Rommel Sembrano (P/Insp. Sembrano) and Chief of Police Frankie Candelario. PO2 Tomagos acted as poseur buyer so the marked money worth five hundred (Php 500.00) pesos was handed to him. The team coordinated with the Philippine Drug Enforcement Agency (PDEA) and the Barangay Officials of Brgy. Gayaman.

Thereafter, PO2 Tomagos, SPO1 Jimmy Vaquilar and P/Insp. Sembrano headed to the public market of Binmaley to meet with their asset. Meanwhile, the rest of the

team stayed at Olegario Furniture which is ten (10) meters away from them. Shortly before accused-appellant arrived, their asset left so as not to be identified with them.

As soon as accused-appellant arrived, PO2 Tomagos asked for his identity and in doing so, they were able to proceed with their transaction. PO2 Tomagos handed the marked money to accused-appellant who in turn handed a plastic sachet of the alleged shabu. Thus, PO2 Tomagos held the hand of accused-appellant, as it was the pre-arranged signal.

Accused-appellant was then apprehended by the team and brought to the Gayaman Barangay Hall. After the seized items were marked and inventoried in the presence of the Barangay Officials, accused-appellant was brought to Binmaley Police Station. The alleged shabu was turned over to SPO1 Quinantoto, who brought the letter request for Laboratory Examination of the alleged drug to P/Insp. Todeño, Forensic Chemist Officer of Pangasinan Provincial Crime Laboratory. The Final and Initial Laboratory Reports yielded positive results for Shabu.

On the other hand, accused-appellant denies the charge against him. He stated that on said date, he was at home with his family until 4:30 o' clock in the afternoon. Later, he called his friend Darvin to borrow money as his child was sick during that time. They met at the City Mall of Lucao so accused-appellant can get the money. On his way home, he took the tricycle of his barangaymate to save money.

Accused-appellant, on board the tricycle of his barangaymate, was ordered to pullover at the side of the road by the police officers behind them. When they alighted the tricycle, accused-appellant was frisked by the police officers and informed him that they were conducting a buy-bust operation to which he allegedly was unfamiliar with. Afterwards, they were ordered to board the police mobile. Accused-appellant avers that nothing was seized from him during the search.

Upon reaching the Barangay Hall, accused-appellant was ordered to enter the place while the tricycle driver was ordered to go home. Among the items shown to accused-appellant placed on top of a table such as two plastic sachets of shabu, P740.00 and aluminum foil, he revealed that only the P240.00 belonged to him. He claims that all the rest were implanted since nothing was taken from him during the search. The Barangay Kagawad who arrived told the police officers to send accused-appellant home since the items on the table does not belong to him.

The police officers who did not even inform accused-appellant of his constitutional rights then brought him to the PNP Binmaley Police Station. Accused-appellant took a drug test which yielded a negative result. During his one month and a half stay in jail of the said police station, accused-appellant declared that a police officer by the name of Willy Cristobal even violated him by covering his mouth and nose prior to slapping him the following day. He was also informed by Jimmy Bacquilao that there was a mistaken identity.

The RTC ruled against accused-appellant stating that he was caught in flagrante delicto and his defense of denial and frame up had no basis. It rendered its Decision on December 11, 2012 which reads:

"WHEREFORE, premises considered, the court finds the accused Michael Manaoat GUILTY beyond reasonable doubt of the crime of Violation of Section 5 or Art. II of RA 9165 and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand (Php 500,000.00) Pesos.

SO ORDERED."

Dissatisfied, accused-appellant filed an appeal before this Court with the following assigned errors:

I

THE COURT A QUO GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE IMPROBABLE AND INCONSISTENT TESTIMONY OF THE PROSECUTION WITNESS.

II

THE COURT A QUO GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANT'S TESTIMONY.

III

THE COURT A QUO GRAVELY ERRED IN NOT FINDING THE ACCUSED-APPELLANT'S WARRANTLESS ARREST AS ILLEGAL.

IV

THE COURT A QUO GRAVELY ERRED IN NOT APPLYING THE 'FRUIT OF THE POISONOUS TREE' DOCTRINE WITH RESPECT TO THE ALLEGEDLY CONFISCATED SHABU.

V

THE COURT A QUO GRAVELY ERRED IN NOT FINDING THAT ACCUSED-APPELLANT'S RIGHTS UNDER REPUBLIC ACT NO. 7438 (AN ACT DEFINING CERTAIN RIGHTS OF PERSON ARRESTED, DETAINED OR UNDER CUSTODIAL INVESTIGATION AS WELL AS THE DUTIES OF THE ARRESTING, DETAINING AND INVESTIGATING OFFICERS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF) WERE VIOLATED.

VI

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY DESPITE NON-COMPLIANCE WITH SECTION 21 OF REPUBLIC ACT NO. 9165 AND ITS IMPLEMENTING RULES AND REGULATIONS.

VII

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-