

TWELFTH DIVISION

[CA-G.R. CR NO. 36262, November 18, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MICHAEL GARCIA Y BERTUDEZ AND ORLANDO SANTOS Y BASA @
LANDO, ACCUSED,**

MICHAEL GARCIA Y BERTUDEZ, ACCUSED-APPELLANT.

DECISION

DIMAAMPAO, J.:

Impugned in this *Appeal* is the *Decision*^[1] dated 18 July 2013 of the Regional Trial Court of Manila, Branch 53, for violation of Section 11(3), Article II, Republic Act (RA) No. 9165,^[2] in Criminal Case Nos. 07-252586 and 07-252587. The court *a quo* disposed, as follows:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered—

1. In Criminal Case No. 07-252586, finding accused MICHAEL GARCIA y BERTUDEZ **GUILTY** beyond reasonable doubt of the crime of Violation of Sec. 11 (3), Article II, Republic Act 9165, and is hereby sentenced to suffer imprisonment of **Twelve (12) years and one (1) day** as minimum to **Fifteen (15) years** as maximum, and to pay fine in the amount of **P300,000.00**.
2. And, in Criminal Case No. 07-252587, finding accused ORLANDO SANTOS y BASA @ Lando **GUILTY** beyond reasonable doubt of the crime of Violation of Sec. 11 (3), Article II, Republic Act 9165, and is hereby sentenced to suffer imprisonment of **Twelve (12) years and one (1) day** as minimum to **Fifteen (15) years** as maximum, and to pay fine in the amount of **P300,000.00**.

Cost against the accused.

SO ORDERED."^[3]

The *Informations* inculpatng accused-appellant Michael Garcia y Bertudez (GARCIA) and co-accused Orlando Santos y Basa (Santos) for violation of Section 11 (3), Article II, R.A 9165 set forth the following accusatory averments:

Criminal Case No. 07-252586:

"The undersigned accuses **MICHAEL GARCIA y BERTUDEZ** of a (sic) Violation of **Section 11 (3), Article II, R.A 9165**, committed as follows:

That on or about April 19, 2007, in the City of Manila, Philippines, the said accused, without being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control white crystalline substance contained in one (1) **heat-sealed transparent plastic sachet with 0.018** (ZERO POINT ZERO ONE EIGHT) gram containing methylamphetamine hydrochloride, known as "SHABU", a dangerous drug.

CONTRARY TO LAW."^[4]

Criminal Case No. 07-252586:

"The undersigned accuses **ORLANDO SANTOS Y BASA @ "LANDO"** of a (sic) Violation of **Section 11 (3), Article II, R.A 9165**, committed as follows:

That on or about April 19, 2007, in the City of Manila, Philippines, the said accused, without being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession and under his custody and control white crystalline substance contained in one (1) heat-sealed transparent plastic sachet with 0.019 (ZERO POINT ZERO ONE NINE) gram containing methylamphetamine hydrochloride, known as "SHABU", a dangerous drug.

CONTRARY TO LAW."^[5]

Arraigned, GARCIA and Santos pled not guilty to the charge.^[6] During the trial, Santos jumped bail and remained at large.

The prosecution endeavored to demonstrate the inculpatory averments in this wise:

On 19 April 2007, PO2 Reynaldo Mallari (PO2 Mallari) received a call from a concerned citizen about a commotion at Benita Street, Tondo, Manila. After reporting the matter to the Chief of Station Anti-Illegal Drugs (SAID), PO2 Mallari and PO2 Cornelio Vicente (PO2 Vicente) were dispatched to the reported place to verify the incident. Upon arriving at the target area, both officers, accompanied by the informant, did not notice any commotion but the latter recognized a woman who was allegedly the wife of a drug pusher, talking to GARCIA and Santos. Upon a spot surveillance, at a distance of 10 meters, PO2 Mallari saw the woman hand a plastic sachet to GARCIA. In turn, GARCIA handed the same to Santos. PO2 Mallari and PO2 Vicente approached them but GARCIA immediately ran away. PO2 Mallari pursued GARCIA and eventually caught him. When GARCIA was asked to empty his pockets, PO2 Mallari recovered from his possession one plastic sachet. PO2 Mallari