

SECOND DIVISION

[G.R. No. 223713, January 07, 2019]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RODELINA
MALAZO Y DORIA, APPELLANT.**

D E C I S I O N

CARPIO, ACTING C.J.:

The Case

This is an appeal to reverse the 27 January 2014 Decision^[1] of the Court of Appeals in CA-G.R. CR-HC No. 05371 which affirmed the 3 November 2011 Joint Decision^[2] of the Regional Trial Court of Dagupan City, Branch 44 (RTC), in Criminal Case Nos. 2008-0225-D and 2008-0226-D, finding appellant Rodelina Malazo y Doria^[3] (Malazo) guilty of violating Sections 5 and 11, Article II of Republic Act No. 9165 (RA 9165) or the Comprehensive Dangerous Drugs Act of 2002.

The Charge

In an Information dated 29 April 2008, Malazo was charged with illegal sale of the drug Methamphetamine Hydrochloride (shabu). The accusatory portion of the Information reads:

That on or about the 28th day of April, 2008, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused RUBELINA MALAZO Y DORIA, did then and there, willfully, unlawfully and criminally, sell and deliver to a customer Shabu contained in one (1) heat-sealed plastic sachet, weighing more or less 0.15 gram, without authority to do so.

Contrary to Article II, Section 5, R.A. 9165.^[4]

Another Information was filed on the same date indicting Malazo for illegal possession of shabu. The accusatory portion reads:

That on or about the 28th day of April, 2008, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, RUBELINA MALAZO Y DORIA, did then and there, willfully, unlawfully and criminally, have in [her] possession, custody and control Shabu contained in three (3) heat-sealed plastic sachets, weighing more or less 0.190 gram, without authority to possess the same.

Contrary to Article II, Section 11, R.A. 9165.^[5]

During her arraignment on 13 May 2009, Malazo pleaded not guilty. A pre-trial was conducted on 7 October 2009. A trial on the merits of the two cases ensued thereafter.

The prosecution presented the testimonies of the following witnesses: (1) Police Inspector Joel Cabaddu (P/Insp. Cabaddu), a member of the Philippine National Police (PNP) Dagupan City, who was designated as the duty investigator and poseur-buyer during the buy-bust operation; and (2) Police Officer 2 Angelita Canilang (PO2 Canilang), a member of the PNP Dagupan City Police Station, who prepared the certification for the police blotter entries pertaining to the buy-bust operation.

Upon the admission of Malazo's counsel that (1) Police Senior Inspector Myrna C. Malojo (P/SInsp. Malojo) is an expert witness and was the forensic chemist who received and examined the specimen submitted to their office, and who prepared a report indicating that the seized items yielded a positive result for shabu; and (2) Police Officer 3 Christian Carvajal (PO3 Carvajal) submitted the confiscated items to the chemical laboratory for examination, the testimonies of these two witnesses were dispensed with.^[6]

The defense adduced in evidence Malazo's own testimony and that of her mother, Marcelina Doria.

Version of the Prosecution

On 28 April 2008, P/Insp. Cabaddu received a report from a civilian asset that Malazo and her mother were drug peddlers. A buy-bust team was then formed with P/Insp. Cabaddu as leader and some police officers of the Dagupan City Police Station as other team members. The buy-bust team prepared, recorded, and photocopied five One Hundred Peso bills with serial numbers LD138437, TY181177, NS59446, UG357642, and CJ951433 to be used in the operation.

At around 4:00 in the afternoon on the same date, P/Insp. Cabaddu together with the confidential asset arrived in front of Malazo's house in Pantal District, Dagupan City. Thereafter, the confidential asset approached Malazo and told Malazo that P/Insp. Cabaddu wanted to buy some shabu. Malazo immediately brought out one (1) heat-sealed plastic sachet and handed the same to P/Insp. Cabaddu. In exchange, P/Insp. Cabaddu gave Malazo the marked five pieces of One Hundred Peso bills.

After the transaction was consummated, P/Insp. Cabaddu dialed the cellphone number of Police Inspector Leo Llamas (P/Insp. Llamas), the head of the Dagupan Police Station, as this was their pre-arranged signal. P/Insp. Cabaddu proceeded to arrest Malazo, but Malazo tried to escape by running towards her house. P/Insp. Cabaddu chased Malazo and upon getting hold of her, P/Insp. Cabaddu searched Malazo's pockets, and he found and confiscated three more heat-sealed plastic sachets of shabu.

After the arrest, P/Insp. Cabaddu prepared a Confiscation Receipt with a note that states that Malazo and her mother refused to sign the same. P/Insp. Cabaddu marked the confiscated items. The confiscated items, Malazo, her mother, and a barangay kagawad were all photographed.

Subsequently, Malazo and her mother were brought to the police station where P/Insp. Cabaddu immediately prepared the affidavit of arrest, the letter to the Dangerous Drugs Board and the letter-request to the crime laboratory upon arrival. P/Insp. Cabaddu personally turned over the confiscated items to PO3 Carvajal and instructed PO3 Carvajal to submit the same to the crime laboratory for examination.

P/SInsp. Malojo, the forensic chemist, confirmed that the substance was indeed Methamphetamine Hydrochloride or shabu, a dangerous drug. This was shown in Chemistry Report No. D-027-08L P/SInsp. Malojo prepared.

Version of the Defense

On 28 April 2008 at around 4:00 in the afternoon, Malazo was with two of her children and her mother in their carinderia, a small store which was part of their kitchen. Malazo saw four men alight from a tricycle. One of them was Lucas Salonga (Salonga), a police officer.

Salonga entered Malazo's carinderia and asked her what her name was Malazo retorted, asking Salonga what he wanted from her. Salonga told her to remain seated.

Afterwards, the police officers instructed Malazo to get a basin. When Malazo returned with the basin, he saw that her mother was in an argument with the police officers. One of the men placed her mother's wallet inside the basin.

The police officers asked: Malazo to come with them to the police station. Malazo refused the invitation as she alleged that she had not done anything wrong. She was thereafter handcuffed and was made to board the police vehicle, together with her mother. They were both brought to the police station.

At the police station, the police officers photocopied some pieces of peso bills, crumpled them and threw a piece of paper in the garbage can.

According to Malazo, the police officers were only making fun of her and there was no buy-bust operation. Malazo added that the police officers were only retaliating against her because she had once turned down a previous request of P/Insp. Llamas. She further went on to allege that there was an incident where P/Insp. Llamas served her with a fake warrant of arrest just to harass her and force her to divulge the names of big-time drug pushers in their area.

Malazo's testimony was corroborated by her mother who likewise narrated that on even date, Police Officer Salonga and other men wearing civilian clothes and Muslim hats alighted from a tricycle in front of their house. The men proceeded to their house and instructed them to stay put while they waited for P/Insp. Llamas.

When P/Insp. Llamas arrived, he asked Malazo's mother what was inside her pocket. Malazo's mother answered that it was money that she collected. Malazo's mother was ordered to put all her money inside a basin. Her money amounting to PhP 1,150.00 consisted of the following: two Five Hundred Peso (PhP 500.00) bills; one One Hundred Peso (PhP 100.00) bill; and coins totalling P50.00. The police officers compared the confiscated bills from Malazo's mother with the photocopied bills and confirmed that they matched.

Malazo and her mother were then dragged to the police station and when Malazo resisted, stating that nothing was confiscated from her, the police officers pointed a gun at her and her child.

At the police station, the police officers crumpled a piece of paper which was the photocopy of the bills and threw it afterwards in the garbage can. As a replacement, the confiscated bills from Malazo's mother were reproduced.

Malazo's mother alleged that P/Insp. Llamas was implicating them in the crime merely because they refused to cooperate when P/Insp. Llamas asked them to give the names of the big-time drug pushers in their area.

The Ruling of the RTC

In its Joint Decision dated 3 November 2011, the RTC found Malazo guilty beyond reasonable doubt of violating Sections 5 and 11 of Article II of RA 9165. The dispositive portion reads:

WHEREFORE, judgement is hereby rendered in:

1. Crim. Case No. 2008-0225[-D] finding accused Rodelina Malazo y Doria GUILTY beyond reasonable doubt with Violation of Art. [II], Sec. 5 of RA 9165 otherwise known as the Dangerous Drugs Act of 2002 and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine in the amount of Five Hundred Thousand (PhP 500,000.00) Pesos; and,

2. Crim. Case No. 2008-0226[-D] finding accused Rodelina Malazo y Doria GUILTY beyond reasonable doubt with Violation of Art. [II], Sec. 11 of RA 9165 otherwise known as the Dangerous Drugs Act of 2002 and is hereby sentenced to suffer imprisonment ranging from twelve (12) years and one (1) [day] to twenty (20) years and a fine of Three Hundred Thousand Pesos (PhP 300,000.00).

The subject four (4) plastic sachets of shabu are hereby ordered disposed of in accordance with law.

SO ORDERED. ^[7]

The RTC held that the prosecution, through the testimony of P/Insp. Cabaddu, was able to establish positively the events that took place on 28 April 2008. Furthermore, the qualitative examination conducted by P/SInsp. Malojo on the contents of the subject bur heat-sealed plastic sachets "gave POSITIVE results to the tests for the presence of Methamphetamine Hydrochloride, a dangerous drug."

^[8] Between P/Insp. Cabaddu's positive testimony and Malazo's bare denial, the RTC found the former more credible.

As for Malazo's mother, Marcelina Doria, she admitted during her testimony that she was acquitted in the first case in the sale and delivery of dangerous drugs. In the second case, regarding the possession of dangerous drugs, the case was dismissed

by the Office of the Prosecutor.

The Ruling of the Court of Appeals

In its Decision dated 27 January 2014, the Court of Appeals held that the elements of sale and delivery of dangerous drugs under Section 5, Article II of RA 9165, and possession of dangerous drugs under Section 11, Article II of the same law were duly established by the evidence offered and submitted by the prosecution.

Furthermore, the Court of Appeals held that the procedural rule laid down in Section 21 of RA 9165 is not an iron-clad rule and that nonobservance of the said rule does not automatically translate into an acquittal. The Court of Appeals held:

An astute perusal of the records of the instant case would affirm that there was substantial compliance with the law and the integrity of the drug seized from accused-appellant was preserved. Contrary to accused-appellant's claim, there was no broken chain in the custody of the seized item, found to be shabu, from the time when P/Insp. Cabaddu seized the shabu up to the time when it was turned over to the Forensic Chemist of the PNP Crime Laboratory Office for laboratory examination.^[9]

The dispositive portion of the Court of Appeals' Decision reads:

WHEREFORE, in view of the foregoing premises, judgement is hereby rendered by us DENYING the appeal filed in this case. The Joint Decision dated November 3, 2011 rendered by Branch 44 of the Regional Trial Court in Dagupan City in Criminal Case Nos. 2008-0225-D and 2008-0226-D is hereby AFFIRMED.

SO ORDERED.^[10]

The Issue

Whether or not Malazo is guilty of violating Sections 5 and 11, Article II of RA 9165.

The Ruling of this Court

The appeal is meritorious. The prosecution failed to prove the guilt of Malazo beyond reasonable doubt.

Malazo alleged that the Court of Appeals "failed to take into account the glaring lapses which the prosecution witnesses committed from the time the alleged illegal drugs were seized from [Malazo] up to the time the same were presented in court, thereby resulting in a broken chain of custody."^[11]

The recent case of *People v. Lim*^[12] discussed the importance of the chain of custody rule which adheres to the principle that "real evidence must be authenticated prior to its admission into evidence."^[13] This is in accordance with Section 21(1), Article II of RA 9165, as amended by Section 1 of Republic Act No. 10640.^[14] However, the original provision of Section 21(1) still applies to this case because the alleged crime was committed in 2008 prior to the amendment of the law in 2014. Section 21(1) thus reads: