

SECOND DIVISION

[G.R. No. 215344, June 10, 2019]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
EVANGELINE GARCIA Y SUING, ACCUSED-APPELLANT.**

D E C I S I O N

CAGUIOA, J:

Before the Court is an ordinary appeal^[1] filed by the accused-appellant Evangeline Garcia y Suing (Garcia), assailing the Decision^[2] dated May 30, 2014 (assailed Decision) of the Court of Appeals^[3] (CA) in CA-G.R. CR H.C. No. 05950, which affirmed the Decision^[4] dated November 26, 2012 rendered by the Regional Trial Court of San Fernando City, La Union, Branch 29 (RTC) in Criminal Case No. 8258 entitled *People of the Philippines v. Evangeline Garcia y Suing*, finding Garcia guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act No. (RA) 9165,^[5] otherwise known as "The Comprehensive Dangerous Drugs Act of 2002," as amended.

The Facts and Antecedent Proceedings

On January 26, 2009, an Information^[6] was filed against Garcia, the accusatory potion of which reads as follows:

That on or about the 8th day of January 2009 in the City of San Fernando, Province of La Union, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, **for and in consideration of the sum of P500.00** did then and there wilfully, unlawfully and feloniously, sell and deliver **one (1) plastic sachet containing ZERO POINT ZERO ONE HUNDRED FORTY NINE (0.0149) gram of Methamphetamine hydrochloride**, a dangerous drug, to **IO1 LANIBELLE C. ANCHETA** who posed as [a] buyer thereof using marked money, **ONE (1) piece of FIVE HUNDRED [P]eso bill bearing a [S]erial No. XW759507** without the necessary authority or permit from the proper government authorities.

CONTRARY TO LAW.^[7] (Emphasis supplied)

Upon arraignment on February 17, 2009, Garcia pleaded not guilty to the charge.^[8] On May 11, 2009, the prosecution filed a Motion for Leave of Court to Amend the Information and Admit Amended Information,^[9] alleging that there was a typographical error in the Information, with the alleged incident occurring on January 9, 2009 and not January 8, 2009. On May 21, 2009, the RTC issued an Order^[10] granting the aforesaid Motion, allowing the amendment of the Information to adjust the date of the commission of the crime from January 8, 2009 to January

9, 2009. Thereafter, the pre-trial and trial ensued. The prosecution's version, as summarized by the CA, is as follows:

The evidence for the prosecution as culled from the testimonies of IO1 Lanibelle Ancheta (IO1 Ancheta) and IO2 Jojo Gayuma (IO2 Gayuma) [,] both members of the PDEA, formerly assigned at the PDEA Regional Office I, Camp Diego Silang, Carlatan, San Fernando, La Union, is as follows: On January 8, 2009[,], at about 8:00 P.M., a confidential informant (CI) went to their Office and reported to IO1 Ricky Ramos [(IO1 Ramos)], the duty officer, about the illegal drug activity of one [Garcia] in Ilocanos Norte, San Fernando City, La Union. The CI further told them that [Garcia] sells drugs only during midnight and that he could accompany their agents to the house of [Garcia]. Their Regional Director[,], Roberto S. Opena[,], was informed about the presence of the CI and upon verification from the Intelligence Section that [Garcia] is listed in their Order of Battle, organized a team to conduct a buy-bust operation with IO1 Ancheta as the *poseur* buyer, IO[2] Gayuma as her back-up, and five (5) other members as perimeter back-up. IO1 Ancheta prepared the buy-bust money consisting of a P500 bill marked it with her initials 'LCA' which stands for Lanibelle C. Ancheta (Exhibits 'C' and 'C-1'), photocopied it and recorded it in their logbook.

At about 12:45 A.M. of January 9, 2009, the team, together with the CI[,], proceeded to Ilocanos Norte on board their service vehicle. Upon reaching the place, they parked their vehicle along Lete Street and Bonifacio Street, which is about 40 meters away from the house of [Garcia]. IO1 Ancheta and IO[2] Gayuma[,], together with the CI[,], alighted from the vehicle and proceeded to the house of [Garcia]. They saw [Garcia] standing outside her house so they approached her and the CI introduced IO1 Ancheta to her[,], saying in Ilocano: 'Manang Vangie, addatoy dan, gumatang da ti *shabu*,['] meaning - 'Manang Vangie[,], here they are, the interested buyers of *shabu*.['] [Garcia] asked IO1 Ancheta how much she would buy, to which she answered P500 worth of *shabu*.['] [Garcia] asked for the money and after IO1 Ancheta handed her the P500 buy bust money, [Garcia] in turn gave IO1 Ancheta one transparent plastic sachet containing *shabu*. Immediately thereafter, they arrested [Garcia] and apprised her of her constitutional rights. IO1 Ancheta searched [Garcia] and recovered from her the P500 bill. IO1 Ancheta marked the plastic sachet (Exhibit 'B') with the marking A- 1LCA (Exhibit 'B-1') and likewise prepared the Certificate of Inventory (Exhibit 'E') outside the house of [Garcia], in the presence of Rico Valdez [(Valdez)] of DZNL and Danilo Nisperos [(Nisperos)], a Barangay Kagawad of Sevilla, San Fernando City who affixed their signatures on the document (Exhibits 'E-2' and 'E-3'). They took photographs of the evidence (Exhibits 'F' and 'F-1') then proceeded to their office at Camp Diego Silang, Carlatan, San Fernando City, La Union[,], where IO1 Ancheta prepared the Booking Sheet and Arrest Report (Exhibit 'D') and a Request for Laboratory Examination (Exhibit 'G') which was signed by Atty. Marvin Tabares, he being the higher ranking officer in their office. After preparing their Affidavit of Arrest (Exhibit 'H'), they brought the confiscated items to the PNP Crime Laboratory where the items were received by the duty officer PO1 Nilo as shown by his signature on the request (Exhibit 'G-1'). The

result of the laboratory examination given to them by the said office was that the specimen yielded positive result for the presence of methamphetamine hydrochloride. x x x [11]

On the other hand, the version of the defense, as likewise summarized by the CA, is as follows:

The evidence for the accused anchors mainly on the testimonies of [Garcia] herself and Gil Garado, a nephew of [Garcia's] husband.

[Garcia] identified the Counter-Affidavit with Motion to Dismiss she executed in relation to this case (Exhibit '1'). She denied the allegations of the prosecution witness that a buy bust operation was conducted in their house on January 9, 2009. Her version of the incident is as follows: She lives in the house of her in-laws at [N]o. 327 Ilocanos Norte[,], San Fernando City, La Union[,], which is a 2-storey house with 4 rooms downstairs and 5 rooms upstairs. Among the occupants of the house are Catherine Garcia, Freddie Garcia and the other siblings of her husband. On January 9, 2009 at 1:00 P.M., she was sleeping inside one of the rooms downstairs when 5 armed male members of the PDEA barged into their room and searched their *dura box* and other belongings. There was no female person in the group. They asked them what they were searching for but they did not answer. Her 3 [c]hildren were with her at that time but they were locked up by the PDEA agents in one of the rooms. The other occupants of the house went out of their rooms but whenever they peep[ed], they were threatened by the PDEA agents with their guns. The search lasted for five minutes but the searchers did not find anything. After the search, she was dragged outside the house and was boarded into a van[,], then brought to Camp Diego Silang. There is no truth to the claim that she was selling *shabu* after midnight because in their barangay, strangers are not allowed to enter beyond 8:00 P.M. and the place is totally secured.

x x x x

Gil Garado testified that [Garcia] is his aunt because his mother and the husband of [Garcia] are siblings. He and his family live on the second floor of the house where [Garcia] also lives. On January 9, 2009, at 1 o'clock A.M., he and his sisters Charlene Garado and Christine Joy Oyando were inside their room when he heard a noise coming from the first floor and when he peeped, he saw [Garcia] being dragged from her room to the door of the house by two male PDEA agents. They were about 5 to 7 male persons then who were wearing shirts with the markings PDEA on the front. [Garcia] was shouting [and] asking for help but they were afraid to get near them because they were armed. He immediately went up because he was afraid to get involved. He identified the Joint Affidavit which he and his sister Charlene May Garado executed (Exhibit '2'). [12]

The Ruling of the RTC

After trial on the merits, in its Decision dated November 26, 2012, the RTC convicted Garcia of the crime charged. The dispositive portion of the said Decision

reads:

WHEREFORE, finding the accused Evangeline Garcia y Suing GUILTY beyond reasonable doubt of the crime charged, she is hereby sentenced to life imprisonment and to pay a fine of five hundred thousand pesos (PHP500,000.00) without subsidiary imprisonment in case of insolvency. The period of detention of the accused should be given full credit.

x x x x

SO ORDERED.^[13]

According to the RTC, "[a]fter carefully assessing the testimonies of the witnesses for the prosecution and the defense, the court finds the testimonies of the prosecution witnesses credible. IO1 Ancheta and IO2 Gayuma testified convincingly that there was indeed a buy bust operation conducted by them on January 9, 2009 outside the residence of [Garcia] in Ilocanos Norte, San Fernando City, La Union. On the other hand[,] the accused failed to present any convincing evidence to overturn the presumption that the arresting officers regularly performed their duties. The allegation of the accused that IO1 Ancheta was not present at the time of her arrest and instead pointed to one PO3 Abang and one Major De Vera as her arresting officers cannot be given credence in the absence of any showing on the part of IO1 Ancheta and IO2 Gayuma of any ill motive in falsely testifying against her or x x x against PO3 Abang and Major De Vera for arresting her without any case at all. These are serious accusations which could not have been ignored if indeed true."^[14]

Aggrieved, Garcia filed an appeal before the CA.

The Ruling of the CA

In the assailed Decision, the CA affirmed the RTC's conviction of Garcia.

The CA held that the RTC "did not err in finding that the prosecution amply proved all the elements of the sale of the subject drugs. As borne by the records, all the above-mentioned elements were clearly, positively and unequivocally testified upon by the PDEA agent who acted as a *poseur-buyer*, [IO1 Ancheta], and her back-up, [IO2 Gayuma]."^[15]

The CA stressed on the presumption of regularity on the part of the Philippine Drug Enforcement Agency (PDEA) agents who conducted the supposed buy-bust operation, holding that "credence is given to prosecution witnesses who are police officers for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary in suggesting ill-motive on the part of the police officers or deviation from the regular performance of their duties. In this case, there was no evidence showing that the prosecution witnesses[,], IO1 Ancheta and IO[2] Gayuma[,], were impelled by improper motive in testifying against [Garcia] or that they deviated from the regular performance of their duties."^[16]

Hence, the instant appeal.

Issue

Stripped to its core, for the Court's resolution is the issue of whether the RTC and CA erred in convicting Garcia for violating Section 5, Article II of RA 9165.

The Court's Ruling

The appeal is meritorious. The Court acquits Garcia for failure of the prosecution to prove her guilt beyond reasonable doubt.

Garcia was charged with the crime of illegal sale of dangerous drugs, defined and penalized under Section 5, Article II of RA 9165. In order to convict a person charged with the crime of illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution is required to prove the following elements: (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 therefor.^[17]

In cases involving dangerous drugs, the State bears not only the burden of proving these elements, but also of proving the *corpus delicti* or the body of the crime. In drug cases, the dangerous drug itself is the very *corpus delicti* of the violation of the law.^[18] While it is true that a buy-bust operation is a legally effective and proven procedure, sanctioned by law, for apprehending drug peddlers and distributors,^[19] the law nevertheless also requires **strict compliance** with procedures laid down by it to ensure that rights are safeguarded.

In all drugs cases, therefore, compliance with the chain of custody rule is crucial in any prosecution that follows such operation. Chain of custody means the duly recorded authorized movements and custody of seized drugs or controlled chemicals from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction.^[20] The rule is imperative, as it is essential that the prohibited drug confiscated or recovered from the suspect is the very same substance offered in court as exhibit; and that the identity of said drug is established with the same unwavering exactitude as that required to make a finding of guilt.^[21]

In this connection, Section 21, Article II of RA 9165,^[22] the applicable law at the time of the commission of the alleged crime, lays down the procedure that police operatives must follow to maintain the integrity of the confiscated drugs used as evidence. The provision requires that: (1) **the seized items be inventoried and photographed immediately after seizure or confiscation**; and (2) **the physical inventory and photographing must be done in the presence of (a) the accused or his/her representative or counsel, (b) an elected public official, (c) a representative from the media, and (d) a representative from the Department of Justice (DOJ), all of whom shall be required to sign the copies of the inventory and be given a copy thereof.**

This must be so because with "the very nature of anti-narcotics operations, the need for entrapment procedures, the use of shady characters as informants, the ease with which sticks of marijuana or grams of heroin can be planted in pockets of or hands of unsuspecting provincial hicks, and the secrecy that inevitably shrouds all drug deals, the possibility of abuse is great."^[23]

Section 21 of RA 9165 further requires the apprehending team to conduct a physical inventory of the seized items and the photographing of the same **immediately after seizure and confiscation**. The said inventory must be done **in the presence of the aforementioned required witness, all of whom shall be required to sign the copies of the inventory and be given a copy thereof**.