

SECOND DIVISION

[G.R. No. 238334, July 03, 2019]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROSELINE KASAN Y ATILANO AND HENRY LLACER Y JAO,
ACCUSED-APPELLANTS.**

DECISION

LAZARO-JAVIER, J.:

The Case

This appeal assails the Decision^[1] dated September 29, 2017 of the Court of Appeals in CA-G.R. CR HC No. 08530 entitled "*People of the Philippines v. Roseline Kasany Atilano and Henry Llacer y Jao*," affirming the conviction of Roseline Kasan and Henry Llacer for violation of Section 5 of Republic Act (RA) No. 9165,^[2] and Henry Llacer for violation of Section 11 of RA 9165.

The Proceedings Before the Trial Court

The Charge

By Information^[3] dated December 11, 2015, in Criminal Case No. 15-3938, appellants Roseline Kasan and Henry Llacer were charged with violation of Section 5 of RA 9165, viz:

On the 10th day of December 2015, in the City of Makati, the Philippines, accused, conspiring and confederating together and both of them mutually helping and aiding one another, without the necessary license or prescription and without being authorized by law, did then and there willfully, unlawfully, and feloniously sell, deliver, and give away Methamphetamine Hydrochloride weighing zero point eighteen (0.18) gram, a dangerous drug, in consideration of Php500.

CONTRARY TO LAW.

By separate Information^[4] dated December 14, 2015, in Criminal Case No. 15-3939, appellant Henry Llacer was also charged with violation of Section 11 of RA 9165, thus:

On the 10th day of December 2015, in the City of Makati, the Philippines, accused, not being lawfully authorized to possess or otherwise use any dangerous drug and without the corresponding license or prescription, did then and there willfully, unlawfully, and feloniously have in his possession, direct custody and control of zero point zero nine (0.09) gram of Methamphetamine Hydrochloride, a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.

The cases were both raffled to Regional Trial Court, Branch 65, Makati City.

In Criminal Case No. 15-3938, appellants Roseline Kasan and Henry Llacer, when arraigned, pleaded "not guilty."^[5]

In Criminal Case No. 15-3939, appellant Henry Llacer, when arraigned, also pleaded "not guilty."^[6]

The Prosecution's Evidence

SPO1 Mike Lester Pacis and SPO2 Rommel Ladiana, both police officers assigned at Station Anti-Legal Drugs Special Operation Task Group (SAIDSOTG), Makati Police Station, identified and confirmed^[7] the contents of their Joint Affidavit of Arrest^[8] dated December 10, 2015. According to them, on December 10, 2015, about 1 o'clock in the morning, they arrested appellants for illegal sale and possession of dangerous drugs. Before the incident, they were briefed by their team leader that per report of the confidential informant, a certain "alias Bakulaw" and "alias Penny" of JB Roxas St., Brgy. Olympia, Makati were engaged in illegal drug activities in the area.^[9]

Consequently, they coordinated with the Philippine Drug Enforcement Agency (PDEA) for narcotics operation^[10] and formed a buy-bust team with SPO1 Pacis as designated poseur buyer and SPO2 Ladiana, as immediate back-up. SPO1 Pacis received the P500-bill (marked money) with Serial No. WN785257 and with initials "MLP" on its upper-right portion. They agreed on the pre-arranged signal: SPO1 Pacis will tap the shoulder of the suspect.^[11]

SPO1 Pacis took a motorcycle and proceeded to the corner of Osmeña and JB Roxas Sts., Brgy. Olympia, Makati City to meet with the informant. The rest of the team rode a privately-owned vehicle going to the area. There, SPO1 Pacis, together with the informant, walked toward the spot where "Bakulaw" and "Penny" were allegedly selling drugs.^[12] SPO1 Pacis saw a woman, wearing shorts and a gray blouse, casually standing in front of a house. The informant told him that the woman was "Penny." SPO2 Ladiana covertly followed SPO1 Pacis and strategically positioned himself close by. The informant introduced PO1 Pacis to "Penny" (later identified as appellant Roseline Kasan), telling her that PO1 Pacis wanted to buy shabu.^[13]

"Penny" asked SPO1 Pacis "*Magkano kailangan mo? (How much do you need?)*," to

which the latter replied "*Limang daan, Ate (Five hundred pesos, miss).*" "*Akin na (Give it to me)*" said "Penny." "Bakulaw" (later identified as appellant Henry Llacer) approached and asked "*Magkano (How much?)*" "Penny" replied "*Lima (Five).*" "Bakulaw" took out one plastic sachet of shabu and handed it to SPO1 Pacis. "Eto (Here)." SPO1 Pacis took the plastic sachet (later marked "MLP") and slid it in his right pocket.^[14]

Thereupon, SPO1 Pacis tapped "Bakulaw's" shoulder and grabbed him and "Penny." He introduced himself to them as a police officer. As soon as, SPO2 Ladiana saw the pre-arranged signal, he immediately closed in. SPO1 Pacis apprised "Bakulaw" and "Penny" of their constitutional rights. He also frisked "Bakulaw" and recovered from the latter's right pocket one small plastic sachet of shabu (later marked "MLP-1"). SPO1 Pacis further retrieved from "Penny's" right hand the buy-bust money.^[15]

For security reasons, they brought petitioners and the seized items to the barangay hall of Brgy. Olympia, Makati City. Since there was no available barangay official there, the team proceeded, instead, to the barangay hall of Brgy. West Pembo, Makati City. There, they conducted the inventory in the presence of Barangay Kagawad Rodrigo Neri. They also photographed petitioners and the seized items. The seized items were subsequently turned over to case investigator PO3 Roque Carlo Paredes II, then to the crime laboratory.^[16]

The prosecution and the defense stipulated on the testimonies of the other prosecution witnesses as borne in the trial court's Order^[17] dated January 21, 2016, viz:

The prosecution and the defense likewise stipulated on the subject matter of the testimonies of PO3 Roque Carlo M. Paredes, PSI Rendielyn Sahagun and Brgy. Kagawad Rodrigo Neri, to wit: 1) that PO3 Paredes is the police investigator on (the) case who prepared the Investigation Report as well as the requests to the PNP Crime Laboratory Office for the laboratory examination of the items allegedly recovered and the drug test on the persons of the accused; 2) that PSI Sahagun was the forensic chemical officer who prepared Chemistry Report No. D-1297-2015 pursuant to the Request for Laboratory Examination; 3) the qualification of PSI Sahagun as an expert witness in preparing Chemistry Report No. D-1297-2015; 4) that Brgy. Kagawad Neri acted as independent witness during the inventory of the items allegedly recovered; and 5) that they had no personal knowledge as to the circumstances regarding the alleged confiscation of the items from the persons of the accused. Hence, their testimonies in open court were already dispensed with.^[18]

The prosecution submitted the following documentary and object evidence: 1) SAID-SOTG Case Referral and Final Investigation Report;^[19] 2) petty cash voucher and the marked P500-bill;^[20] 3) PDEA Coordination Form and Pre-Operation Report both bearing Control No. 10001-122015-0155;^[21] 4) Inventory Receipt^[22] dated December 10, 2015; 5) PDEA Spot Report^[23] dated December 10, 2015; 6)

Request for Drug Test^[24] dated December 10, 2015; 7) Request for Laboratory Examination^[25] dated December 10, 2015; 8) Chemistry Report No. D-1297-15;^[26] 9) Chain of Custody Form;^[27] 10) plastic sachet marked "MLP"; 11) plastic sachet marked "MLP-1"; 12) SAID-SOTG Custody Form^[28] dated December 10, 2015; 13) photographs taken during the inventory and marking of evidence;^[29] 14) mug shots of appellants;^[30] 15) appellants' medical certificates;^[31] 16) Joint Affidavit of Arrest^[32] dated December 10, 2015 of SPO1 Mike Lester Pacis and SPO2 Rommel Ladiana; and 17) Affidavit of Undertaking^[33] dated December 10, 2015 of PO3 Roque Carlo Paredes II.

The Defense's Evidence

Appellant Roseline Kasan claimed she and Henry Llacer were framed-up. She testified that on December 9, 2015, around 3:30 o'clock in the afternoon, she was inside her room, sleeping with her daughter, when two men suddenly barged in. She reacted with a slew of curses directed against these men. She asked what they were doing inside her room. The men then took hold of her, causing her daughter to wake up. Her daughter asked the men why they were taking her mother. Her daughter hugged her but the men pulled her daughter away.^[34]

The men asked her about a person she did not know. She shouted and cursed. The men then dragged her to the ground floor and slapped her. They continued dragging her out of the house toward a parked motorcycle. A lot of people witnessed the incident.^[35]

They brought her to the barangay hall where the police officers showed her an illegal drug, claiming it belonged to her. She never possessed or used illegal drugs. She was a massage therapist earning P800 per session. The father of her daughter, an American-Indian based in Las Vegas gave them support. She got arrested on December 9 and not December 10, 2015.^[36] Henry Llacer was her *kumpare*. The police asked P20,000.00 from each of them in exchange for their release.^[37]

Henry Llacer denied ever selling or being in possession of dangerous drugs. On December 9, 2015, around 3 o'clock in the afternoon, he was inside his room on the second floor of his residence. Three armed men in civilian clothes went up to his room. They did not show him any search warrant. One of them poked a gun on him, asking him if he was "Olan." He replied that "Olan" was in another house. They forcibly handcuffed and hurt him because he was resisting. He asked "*Bakit n'yo po ako inaaresto, wala naman po akong kasalanan?*" (Why are you arresting me? I am not at fault)." They replied "*Sumama ka na lang doon ka na lang magpaliwanag*" (Just come with us. You can explain yourself later)."^[38]

He was taken to the police station. After a few minutes, SPO1 Pacis told him and Roseline that they could call and ask their relatives to produce P20,000.00 for each of them in exchange for their liberty. They were given until midnight to raise the money otherwise they would be charged. There were four others, aside from him and Roseline, who were also arrested. These four were released because they were able to pay the police officers.^[39] They were first detained at the police station, and around midnight, they were taken to Brgy. Palanan for medical examination.^[40]

From Brgy. Palanan, they were brought to Brgy. West Pembo where they arrived around 4 o'clock in the morning of December 10, 2015. At West Pembo, SPO1 Pacis brought out two plastic sachets and a P500-bill and laid these out on a table. SPO1 Pacis asked Barangay Kagawad Rodrigo Neri to sign something.^[41]

The Trial Court's Ruling

By Decision^[42] dated June 29, 2016, the trial court found both Roseline Kasan and Henry Llacer guilty of violation of Section 5 of RA 9165 in Criminal Case No. 15-3938; and Henry Llacer also guilty of violation of Section 11 of RA 9165 in Criminal Case No. 15-3939.

The trial court held that the collective evidence of the prosecution proved there was a valid buy-bust operation which resulted in the purchase of 0.18 gram of shabu (marked "MLP") from both appellants and the subsequent recovery from Henry Llacer of 0.09 gram (marked "MLP-1"). The prosecution was able to prove that the integrity and identity of the *corpus delicti* were preserved. Thus, the trial court decreed:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. 15-3938, the court finds both accused Roseline Kasan y Atilano and Henry Llacer y Jao GUILTY beyond reasonable doubt of the crime of violation of Section 5, Article II, R.A. No. 9165 and sentences them to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00)
2. In Criminal Case No. 15-3939, the court finds accused Henry Llacer y Jao GUILTY beyond reasonable doubt of the crime of violation of Section 11, Article II, R.A. No. 9165 and sentences him to suffer the penalty of imprisonment of twelve (12) years and one (1) day as minimum to fourteen (14) years and eight (8) months as maximum, and to pay a fine of Three Hundred Thousand Pesos (P300,000.00)

The period of detention of both accused should be given full credit.

The Branch Clerk of Court is directed to transmit the plastic sachets containing shabu subject matter of these cases to the PDEA for said agency's appropriate disposition.

Let the dangerous drugs subject matter of these cases be disposed of in the manner provided for by law.

SO ORDERED.^[43]