

## SECOND DIVISION

[ G.R. No. 227854, October 09, 2019 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. ROMELO DORIA Y PEREZ, ACCUSED-APPELLANT.**

### D E C I S I O N

**CAGUIOA, J:**

The Court is not oblivious to the great evils brought about by the proliferation of illegal drugs. The Court recognizes the necessity of adopting a decisive and resolute stance against the scourge of illegal drugs. Nevertheless, the need to eradicate the spread of illegal drugs in our society can never justify the subversion of the people's constitutional right against the presumption of innocence. Otherwise, in eradicating one societal disease, a deadlier and more sinister one is cultivated - the trampling of the people's sacred and fundamental rights under the Constitution. The State's steadfastness in eliminating the drug menace must be equally matched by its determination to uphold the law.

On this note, once again, the Court holds with utmost emphasis that the mandatory requirements imposed under Section 21 of Republic Act No. (RA) 9165 cannot simply be ignored and swept aside by the police without any justifiable reason. Otherwise, Section 21 is reduced to an inutile provision of law. Unrecognized and unjustified violations of Section 21 inevitably lead to the acquittal of the accused.

#### The Case

Before the Court is an ordinary appeal<sup>[1]</sup> filed by the accused-appellant Romelo Doria y Perez (Doria), assailing the Decision<sup>[2]</sup> dated June 16, 2015 (assailed Decision) of the Court of Appeals<sup>[3]</sup> (CA) in CA-G.R. CR-HC No. 06375, which affirmed the Decision<sup>[4]</sup> dated July 26, 2013 rendered by the Regional Trial Court of Dagupan City, Branch 42 (RTC) in Criminal Case Nos. 2008-0021-D and 2008-0022-D, entitled *People of the Philippines v. Romelo Doria*, finding Doria guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165,<sup>[5]</sup> otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," as amended.

#### The Facts and Antecedent Proceedings

As narrated by the CA in the assailed Decision, and as culled from the records of the instant case, the essential facts and antecedent proceedings of the instant case are as follows:

[Doria] was charged in two (2) sets of Information both dated January 16, 2008 for violation of Sections 5 (Illegal Sale of Dangerous Drugs), and 11 (Illegal Possession of Dangerous Drugs) of Article II of Republic Act No. 9165 ("R.A. No. 9165" for brevity), allegedly committed as follows:

"That on or about the 15th day of January 2008, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ROMELO DORIA Y PEREZ, did then and there, willfully, unlawfully and criminally, sell and deliver to a customer Shabu contained in two (2) heat-sealed plastic sachets, weighing more or less 0.12 gram, without authority to do so."

and

"That on or about the 15th day of January 2008, in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ROMELO DORIA Y PEREZ, did then and there, willfully, unlawfully and criminally, have in his possession, custody and control Shabu contained in three (3) heat sealed plastic sachets, weighing more or less 0.27 gram, without authority to possess the same."

Upon arraignment, [Doria] pleaded "NOT GUILTY" to both charges.

Pre-trial conference was held on February 7, 2008, and the parties stipulated only the identity of [Doria].

On February 15, 2008, [Doria] filed a Motion to Grant Bailbond with Motion for Reinvestigation, which was opposed by the prosecution.

On August 11, 2008, the [RTC] issued an Order denying [Doria's] motion. Trial on the merits then ensued.

During the trial, the prosecution presented the testimonies of PO2 Michael De Vera [(PO2 De Vera)], PO3 Jeffrey Tajon [(PO3 Tajon)], SPO1 Romeo Velasquez [(SPO1 Velasquez)], and Police Senior Inspector Emelda Besarra-Roderos [(PSI Besarra-Roderos)]. The prosecution also offered the following evidence: 1) Chemistry Report No. D-011-2008-U; 2) Initial Laboratory Report; 3) Request for Laboratory Examination; 4) five (5) subject sachets containing white crystalline substance; 5) small transparent containers with empty plastic sachets; 6) five (5) pieces of Php100.00 bill marked money; 7) two (2) pieces of Php100.00 bill; 8) Confiscation Receipt; 9) pictures of [Doria] and the seized items; 10) Certification of the Police Blotter; 11) Joint Affidavit of PO2 De Vera and POI Romulo B. Lavarias, Jr.; and 12) the Post Operation Report.

The evidence of the prosecution established that on January 15, 2008, members of the Philippine National Police (PNP) of Dagupan City conducted a conference meeting about having a buy-bust operation against a certain Marcelina Doris ("Marcelina" for brevity) who was a known drug peddler, and was reportedly residing in the house of Spouses Samuel and Melody Erguiza ("Sps. Erguiza" for brevity) in Pantal District, Dagupan City. The team leader, Police Inspector Leo Llamas ("PI Llamas" for brevity), instructed the police officers to form a buy-bust team. The team was composed of PI Llamas, PI George Sali-em, PO1 Romulo Lavarias [(PO1 Lavarias)], and PO2 De Vera. PO2 De Vera was designated as the poseur-buyer, who was to use five (5) pieces of One Hundred peso

bills, which bore the markings, "MCV". PO1 Lavarias was tasked as PO2 De Vera's immediate back-up. The buy-bust operation and the serial numbers of the marked money were then recorded in the Police Blotter Book of the Dagupan City Police Station. The team then proceeded to the area of operation. At about fifty (50) meters away from the target place, PO2 De Vera alighted from the vehicle and walked towards the house of Sps. Erguiza. According to PO2 De Vera, he saw a male person, who would later be identified as [Doria], standing in front of Sps. Erguiza's house. PO2 De Vera approached [Doria] and looked for Marcelina who was also known as Mamang. [Doria] replied that Marcelina was not around and suddenly told PO2 De Vera in Pangasinan dialect, "Siak lay pangaliwan mo", which means "Just buy it from me". Surprised, PO2 De Vera brought out the marked money, and said that he wanted to buy shabu worth Five Hundred pesos. [Doria] then introduced himself as Romelo Doria. After PO2 De Vera handed to [Doria] the marked money, the latter brought out two (2) plastic sachets of suspected shabu. As a result, PO2 De Vera signaled to PO1 Lavarias in order to arrest [Doria]. [Doria], however, resisted the arrest and ran inside the house of Sps. Erguiza. PO2 De Vera and PO1 Lavarias chased [Doria] inside the house. They were able to arrest [Doria]. Afterwards, PO2 De Vera and PO1 Lavarias conducted a bodily search on [Doria]. They were able to recover another three (3) plastic sachets of suspected shabu, two (2) empty plastic sachets, one (1) small scissor, one (1) disposable lighter, and the marked money.

According to PO2 De Vera, he informed [Doria] of his constitutional rights. PO2 De Vera then called PI Llamas and the police officers made a confiscation receipt of the items recovered from [Doria] at the place of the incident. Later, [Doria] was brought to Dagupan City Police Station for recording and disposition. PO2 De Vera marked the five (5) plastic sachets of suspected shabu with, "MCV-1" to "MCV-5". PO2 De Vera said that he could not remember if he marked the other seized items, but the police officers took photographs of the items and of [Doria]. A Request for Laboratory Examination of the seized items was prepared and signed by PI Llamas. The Request for Laboratory Examination, together with the five (5) plastic sachets of suspected shabu, were submitted by PO2 De Vera to the PNP Crime Laboratory in Urdaneta City, Pangasinan. The Request for Laboratory Examination and the seized items were received by the duty receiving officer, PO3 Tajon, on January 16, 2008. PO3 Tajon then delivered it to the Forensic Chemist, PSI Besarra-Roderos. Afterwards, PSI Besarra-Roderos subjected the seized items to laboratory examination. She found all the items to be positive for the presence of methamphetamine hydrochloride, a dangerous drug, as stated in the Chemistry Report No. D-011-2008-U28 that she prepared.

On the other hand, the defense presented the lone testimony of [Doria]. [Doria] testified that on January 15, 2008, he was in the house of his wife in Calasiao. At around 3:00 in the afternoon of the same day, [Doria] went to Brgy. Pantal, Dagupan City in the house of his brother-in-law, Sammy Enriquez, to borrow money. Enriquez lent [Doria] Php1,000.00 consisting of ten (10) pieces of One Hundred peso bill. After staying in Enriquez's house for an hour, [Doria] asked permission to

leave. While waiting for a tricycle along the highway, about two (2) meters away from the house of Enriquez, two (2) women approached [Doria] and asked for Mamang, referring to Marcelina Doria who is [Doria's] mother. [Doria] replied that he did not know where his mother was. Afterwards, five (5) persons alighted from a tricycle. One of them immediately poked a gun at [Doria]. When [Doria] asked what was his offense, they told him, "Don't asked (sic) us, it is only us who has the right to asked (sic) you." Suddenly, they boxed [Doria] on his stomach, restrained his hands, and handcuffed him. They then grabbed [Doria's] shirt and forced him to ride in the patrol car. [Doria] narrated that he was brought to the police station in Perez, Dagupan City. Upon their arrival, [Doria] was placed in the investigation room. Inside the room, the police officers said, "never mind, we did not caught (sic) Mamang, anyway, we were able to caught her son". Again, the police officers hurt [Doria]. [Doria] stated that the police officers brought him to Region I Medical Center for medical examination. After he was checked by a doctor if he was drunk, [Doria] was brought back to the police station. A police blotter was recorded, and [Doria] was put in jail. The following day, or on January 16, 2008, [Doria] was again placed inside the investigation room. There, the police officers showed him some pieces of evidence, which were the alleged sachets of shabu. [Doria] told the police officers that those items were not his. Despite telling them that the items were not owned by him, the police officers still asked him to point at the evidence, and took photographs of him. [Doria] further testified that the police officers confiscated his wallet and cellular phone. After several days, [Doria's] wallet was returned to him without the money he borrowed from Sammy, while [Doria's] cellular phone was returned to his wife. [Doria] said that PO2 De Vera was not present during the incident, and added that PO2 De Vera is familiar to him because [Doria] is a resident of Dagupan City.<sup>[6]</sup>

### **The Ruling of the RTC**

On July 26, 2013, the RTC rendered its Decision convicting Doria on both charges. The dispositive portion of the RTC's Decision reads:

**WHEREFORE**, premises considered, the court finds the accused **ROMELO DORIA GUILTY** beyond reasonable doubt of the crime of **Violation of Section 5 of Article II of RA 9165 in Criminal Case No. 2008-0021-D** and accordingly, he is hereby sentenced to suffer the penalty of **LIFE IMPRISONMENT** and to pay a fine in the amount of FIVE HUNDRED THOUSAND (P500,000.00) PESOS;

Accused **ROMELO DORIA** is also found **guilty** beyond reasonable doubt of the crime of **Violation (sic) Section 11 of Article II, RA. 9165 in Criminal Case No. 2008-0022-D** and is hereby imposed with the penalty of **Twelve (12) years, One (1) day to Twenty (20) years** and to pay a fine of THREE HUNDRED THOUSAND (P300,000.00) PESOS.

SO ORDERED.<sup>[7]</sup>

Feeling aggrieved, Doria filed an appeal before the CA.

## **The Ruling of the CA**

In the assailed Decision, the CA affirmed the RTC's conviction of Doria. The dispositive portion of the assailed Decision reads:

**WHEREFORE**, the Appeal is **DENIED**. The Decision dated July 26, 2013 of the Regional Trial Court of Dagupan City, Branch 42 is hereby **AFFIRMED**.

**SO ORDERED.**<sup>[8]</sup>

According to the CA's assessment, "[i]n the present case, the evidence on record showed the presence of all the elements for the crimes charged against [Doria]."<sup>[9]</sup>

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 Doria for violating Sections 5 and 11, Article II of RA 9165.

### **The Court's Ruling**

The appeal is *meritorious*. The Court *acquits* Doria for failure of the prosecution to prove his guilt beyond reasonable doubt.

#### *Essential Elements of Illegal Sale and Possession of Dangerous Drugs*

Doria was charged with the crime of illegal sale and possession of dangerous drugs, defined and penalized under Sections 5 and 11, respectively, of 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.<sup>[10]</sup>

On the other hand, illegal possession of dangerous drugs under Section 11, Article II of RA 9165 has the following elements: (1) the accused is in possession of an item or object, which is identified to be a prohibited or regulated drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the drug.<sup>[11]</sup>

#### *Establishing the Corpus Delicti of the Crime: Strict Compliance with Section 21 of RA 9165*

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.<sup>[12]</sup> While it is true that a buy-bust operation is a legally effective and proven