

[G.R. No. 219592, August 17, 2016]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARTHUR PARCON Y ESPINOSA, ACCUSED-APPELLANT.**

D E C I S I O N

Before this Court is an appeal^[1] from the Resolutions^[2] dated 20 December 2012 and 17 November 2014 of the Court of Appeals in CA-G.R. CR-H.C. No. 01342, which dismissed the appeal of (accused-appellant) Arthur Parcon y Espinosa of the Regional Trial Court, Branch 36, Iloilo City, finding him guilty of the illegal sale and possession of *shabu* or *methamphetamine hydrochloride*, a dangerous drug, and illegal possession of equipment, instrument, apparatus and other paraphernalia for Dangerous Drugs, in violation of Section 5, 1st paragraph, Section 11, 3rd paragraph of Article 11 and Section 12 of Republic Act No. 9165 (R.A. No. 9165), otherwise known as The Comprehensive Dangerous Drugs Act of 2002.

On 6 June 2005, three (3) sets of information were filed against accused-appellant, as follows:

In Criminal Case No. 05-61023 (Violation of Section 5, R.A. No. 9165):

That, on or about the 20th day of April, 2005, in the City of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, said accused, with deliberate intent and without any justifiable motive, did, then and there wilfully, unlawfully and criminally sell, distribute and deliver to a PNP poseur buyer PO2 June Esporas one (1) small heat-sealed transparent bag containing 0.070 gram of methamphetamine hydrochloride [*shabu*], a dangerous drug, in consideration of [P] 100.00 without the authority to sell and distribute the same; that one (1) piece One Hundred peso bill with Serial Number BJ 788630, of the buy-bust money were recovered from the possession and control of the said accused, that the accused has been convicted by final judgment in Criminal Case No. 01-53439 last June 22, 2001 for Violation of Sec. 15, Art. III. R.A. 6425, then the law in effect penalizing drug related offenses.^[3]

In Criminal Case No. 05-61024 (Violation of Section 12, R.A. No. 9165):

That, on or about the 20th day of April, 2005, in the City of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, herein accused, with deliberate intent and without any justifiable motive, did, then and there wilfully, unlawfully and feloniously have in his possession and control the following, to wit: one (1) improvised tooter, two (2) alcohol lamp, one (1) electric sealer, one (1) disposable lighter, and one (1) scissor, all paraphernalia/equipment fit and intended for administering, consuming and introducing into the body methamphetamine hydrochloride [*shabu*], a dangerous drug, without

authority to possess the same, that the accused has been convicted by final judgment in Criminal Case No. 01-53439 last June 22, 2001 for Violation of Sec. 15, Art. III, R.A. 6425, then the law in effect penalizing drug related offenses.^[4]

In Criminal Case No. 05-61025 (Violation of Section 11, R.A. No. 9165):

That, on or about the 20th day of April, 2005, in the City of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, herein accused, with deliberate intent and without any justifiable motive, did then and there wilfully, unlawfully and feloniously have in his possession and control fifteen (15) plastic sachets containing a total weight of 3.339 grams of methamphetamine hydrochloride [*shabu*] without the authority to possess the same, that the accused has been convicted by final judgment in Criminal Case No. 01-53438 last June 22, 2001 for Violation of Sec. 15, Art. III, R.A. 6425, then the law in effect penalizing drug related offenses.^[5]

Upon arraignment on 7 June 2005, the accused-appellant pleaded not guilty to the offenses charged.^[6]

After trial on the merits ensued, the trial court held that the prosecution successfully discharged the burden of proof in three offenses charged. Convinced that the accused-appellant sold and delivered the shabu to the police acting as poseur-buyer, the trial court relied on the credible and positive declaration of the two police officers as against the denial and allegation of frame-up of the accused-appellant. The court found that the accused-appellant was in possession of several sachets of shabu and of equipment and other paraphernalia for administration and consumption of *shabu* without any authority to possess the same. Finding them guilty, the dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered as follows:

1. Finding accused Arthur Parcon y Espinosa Guilty beyond reasonable doubt of violation of Section 5, Article II of Republic Act No. 9165 in Criminal Case No. 05-61023 and sentencing him to suffer the penalty of life imprisonment and to pay the fine of Five Hundred Thousand (P500, 000.00) Pesos;
2. Finding accused Arthur Parcon y Espinosa Guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165 in Criminal Case No. 05-61025 and sentencing him to suffer an indeterminate penalty of imprisonment ranging from Twelve (12) Years and One (1) Day, as minimum to Fourteen (14) Years, as maximum and to pay fine the fine of Three Hundred Thousand (P300, 000.00) Pesos;
3. Finding accused Arthur Parcon y Espinosa Guilty beyond reasonable doubt of violation of Section 12, Article II of Republic Act No. 9165 in Criminal Case No. 05-61024 and sentencing him to suffer an indeterminate penalty of imprisonment ranging from Six (6) Months

and One (1) Day, as minimum to Two Years, as maximum and to pay fine of Ten Thousand (P10, 000.00) Pesos.^[7]

Upon appeal, the appellate court directed the accused-appellant, through his counsel Atty. Edeljulio R. Romero (Atty. Romero), to file an appellant's brief within thirty (30) days from receipt of such notice or until 7 August 2011. However, after several motions for extension of time to file the required brief during the period from 7 August 2011 to 1 July 2012, or a total of three hundred and thirty (330) days, no appellant's brief was filed by the accused-appellant. As a result, the Court of Appeals on 20 December 2012 *motu proprio* dismissed the appeal for failure to file the required appellant's brief within the time prescribed by the Rules of Court and the additional period prayed for in his motions for extension.^[8]

On 28 December 2012, the accused-appellant finally submitted his required brief which was received by the Court of Appeals on 28 January 2013. On 7 February 2013, a Motion^[9] was filed for reconsideration of the 20 December 2012 Resolution dismissing the appeal and to admit the submitted appellant's brief. On 5 November 2013, the Court of Appeals, without giving due course to the motion, required the People, through the Office of the Solicitor General (OSG), to submit a Comment.^[10]

On 20 December 2013, the OSG, by way of compliance, submitted its Comment and argued primarily that the Court of Appeals acted in accordance with the Rules of Court since it was exercised pursuant to the provisions of Section 8, Rule 124. It further argued that a client is bound by the mistakes of his counsel even in the realm of procedural technique. Any act or omission of his counsel within this authority is considered as an act or omission of the client himself.^[11]

On 17 November 2014, the Court of Appeals through a Resolution denied the Motion for Reconsideration.^[12]

Elevating the case to the Supreme Court, a notice of appeal was filed by the accused-appellant on 15 December 2014.^[13] In a manifestation, the accused-appellant adopted his appellant's brief as his supplemental brief before this Court.^[14]

From the foregoing, the issue rests on whether the appeal of the accused-appellant can still be allowed despite his failure to file his appellant's brief within the required time.

On his part, the accused-appellant insisted on his willingness to submit his Brief, but understandably, he lacks the technical knowledge to prepare the pleading, in addition to the fact that the preparation is not within his immediate control as he is presently detained in the National Bilibid Prison in Muntinlupa. On the other hand, Atty. Romero tried to justify his delay in view of the past yuletide season and preparation of pleadings in his other cases.

We dismiss the appeal.

We find that the Court of Appeals acted in accord with paragraph 1, Section 8 of Rule 124 of the Rules of Court when it dismissed the motion for reconsideration by reason of delay in the filing of the appellant's brief. The rule states that: