

SECOND DIVISION

[G.R. No. 194999, February 09, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GLORIA NEPOMUCENO Y PEDRAZA, ACCUSED-APPELLANT.**

R E S O L U T I O N

DEL CASTILLO, J.:

On August 11, 2003, two Informations charging Gloria Nepomuceno y Pedraza (appellant) with violation of Sections 5 (Sale of Dangerous Drugs) and 15 (Use of Dangerous Drugs), Article II of Republic Act (RA) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002, were filed in the Regional Trial Court (RTC) of Makati, Branch 64. The Information in Criminal Case No. 03-2917 charged appellant with violation of Section 5, Article II of RA 9165 in the following manner:

That on or about the 9th day of August, 2003, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, 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 Methylamphetamine Hydrochloride weighing zero point zero three (0.03) gram, a dangerous drug, in consideration of P100.00.

CONTRARY TO LAW.^[1]

On the other hand, the accusatory portion of the Information in Criminal Case No. 04-1407 charged appellant with violation of Section 15, Article II of RA 9165 as follows:

That on or about the 9th day of August, 2003 in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to use dangerous drug, and having been arrested and found positive for the use of Methylamphetamine after a confirmatory test, did then and there, willfully, unlawfully and feloniously use Methylamphetamine, a dangerous drug, in violation of the said law.

CONTRARY TO LAW.^[2]

During arraignment, appellant pleaded not guilty to both charges. After the termination of the pre-trial conference, trial ensued.

The prosecution established that the Chief of the Drug Enforcement Unit (DEU) of the Makati Philippine National Police (PNP) received a report from a confidential informant (CI) that appellant was selling *shabu*. He thus formed a buy-bust team to entrap appellant composed of PO2 Vicente Barrameda (PO2 Barrameda), who was designated as the poseur-buyer and team leader, PO2 Virginio Costa, PO2 Rodrigo Igno, PO1 Alex Inopia, and PO1 Randy Santos (PO1 Santos). The Chief of the DEU conducted a briefing and provided the buy-bust team with two 50-peso bills as marked money. Meanwhile, PO2 Barrameda coordinated the buy-bust operation with the Philippine Drug Enforcement Agency.

On August 9, 2003, at around 2:00 p.m., the buy-bust team deployed itself at the corner of Caton and Zobel Streets, Barangay La Paz, Makati City. The team members positioned themselves in strategic locations while PO2 Barrameda and the CI approached appellant. The CI introduced PO2 Barrameda to appellant as a buyer of *shabu*. PO2 Barrameda told appellant that he needed P100.00 worth of *shabu* and gave her the marked money as payment. Appellant took out from her pocket and turned-over to PO2 Barrameda a small plastic sachet containing white crystalline substance. Upon receipt thereof, PO2 Barrameda lighted a cigarette as the pre-arranged signal that the transaction had been consummated. PO1 Santos rushed to the scene and recovered from the right hand of appellant the buy-bust money. PO1 Barrameda marked the subject plastic sachet with the initials "GPN." Appellant was then arrested and brought to the DEU of Makati where she was turned over to the duty investigator for documentation. Thereafter, appellant and the seized plastic sachet with its contents were taken to the PNP Crime Laboratory for drug testing and laboratory examination, respectively. Specimen of the white crystalline taken from the plastic sachet tested positive for *shabu*.

Appellant denied selling *shabu*. She recalled that on August 9, 2003 at around 1:30 p.m., while she was standing in front of her house in San Andres, Manila, six men in civilian clothes arrested her. They informed her that they were from the DEU of Makati and that she was being arrested for selling them *shabu*. They dragged her away from her house while her husband and son-in-law were inside and unaware of what was happening to her. At the DEU office, appellant was told to empty her pockets and was asked of the whereabouts of a certain Johnny, who was an alleged supplier of illegal drugs in their area.

Rulings of the Regional Trial Court and the Court of Appeals

On April 5, 2006, the RTC rendered a Decision^[3] convicting appellant for illegal sale of *shabu* in Criminal Case No. 03-2917, but acquitting her for illegal use of the same in Criminal Case No. 04-1407 due to insufficiency of evidence. The dispositive portion of the Decision reads:

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

1. In Criminal Case No. 03-2917, for violation of Section 5, Art. II, RA 9165, the accused GLORIA NEPOMUCENO y PEDRAZA, is found GUILTY beyond reasonable doubt and is sentenced to suffer life imprisonment and pay a fine of P500,000.00. The period during which the accused is detained at the Makati City Jail shall be considered in her favor pursuant

to existing rules.

2. In Criminal Case No. 04-1407, for violation of Sec. 15, Art. II, RA 9165, the accused GLORIA NEPOMUCENO y PEDRAZA, is ACQUITTED for insufficiency of evidence.

The Branch Clerk of Court is directed to transmit to the Philippine Drug Enforcement Agency (PDEA) the one (1) piece of plastic sachet of shabu weighing of 0.03 gram subject matter of these cases, for said agency's appropriate disposition.

SO ORDERED.^[4]

Appellant appealed her conviction to the Court of Appeals (CA) where it was docketed as CA-G.R. CR-H.C. No. 02318. The CA denied her appeal in its Decision^[5] dated August 25, 2010. The dispositive portion reads:

WHEREFORE, premises considered, the present appeal is hereby DENIED and challenged Decision of the court *a quo* dated 05 April 2006 STANDS.

SO ORDERED.^[6]

Appellant thus interposed this appeal reiterating that her positive identification by the police officers cannot be relied upon since the police officers were not familiar with her appearance. Thus, there was no assurance that she was the person reported by the CI to be engaged in an illegal drug activity. Appellant insists that the warrantless arrest, search and seizure carried out by the police officers against her were illegal since they merely suspected that she committed a crime.^[7] She continues to argue that the evidence allegedly recovered from her has no evidentiary value for failure of the buy-bust team to photograph the seized *shabu* in the presence of a representative from media, the Department of Justice (DOJ) and any elected public official who shall sign copies of the inventory pursuant to RA 9165.

Our Ruling

The appeal lacks merit.

The Court is satisfied that the prosecution discharged its burden in a prosecution for illegal sale of dangerous drugs, which are: "(1) the identity of the buyer and the seller, the object and consideration; and, (2) the delivery of the thing sold and the payment therefor."^[8] This offense merely requires the consummation of the selling transaction, which occurs the moment the buyer exchanges his money for the drugs of the seller.^[9]

PO2 Barrameda, the police officer who acted as buyer, testified on the buy-bust operation against appellant and positively identified her as the seller of the seized *shabu* that was sold to him for P100.00. PO1 Santos, another police officer and