

FIRST DIVISION

[G.R. No. 191396, April 17, 2013]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARILYN AGUILAR Y MANZANILLO, ACCUSED-APPELLANT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

For review is the November 26, 2009 Decision^[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 01984, which affirmed the August 19, 2005 Decision^[2] of the Regional Trial Court (RTC) in Criminal Case Nos. 04-2962-CFM and 04-2963-CFM, wherein accused-appellant Marilyn Aguilar y Manzanillo (Aguilar) was found guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drug Act of 2002."

On December 1, 2004, two separate Informations were filed against Aguilar in the Pasay City RTC, Branch 116 charging her with violation of Sections 5 and 11, respectively, of Article II of Republic Act No. 9165. The pertinent portions of the Informations read as follows:

Criminal Case No. 04-2962-CFM:

That on or about the 30th day of November, 2004, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Marilyn Aguilar y Manzanillo, without authority of law, did then and there willfully, unlawfully and feloniously have in her possession, custody and control [of] 0.31 gram of Methamphetamine Hydrochloride (shabu), a dangerous drug.^[3]

Criminal Case No. 04-2963-CFM:

That on or about the 30th day of November, 2004, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Marilyn Aguilar y Manzanillo, without authority of law, did then and there willfully, unlawfully and feloniously sell and deliver to another 0.45 gram of Methamphetamine Hydrochloride (shabu), a dangerous drug.^[4]

Aguilar pleaded not guilty to both charges when arraigned on January 10, 2005.^[5] During the pre-trial conference^[6] on February 16, 2005, Aguilar and her counsel

admitted the genuineness and due execution of the Letter Request for Drug Test, Initial Laboratory Report, Request for Laboratory Examination, and photocopy of the marked money in evidence. Counsel for Aguilar also admitted Aguilar's identity as the one arrested by the police officers on November 30, 2004, as indicated in the Informations. The parties also agreed that among the issues to be resolved by the RTC were the validity of Aguilar's arrest and the subsequent search of her person absent the necessary warrants.

Trial then ensued with the prosecution presenting Police Officer 2 (PO2) Roel Medrano, the poseur-buyer who was a member of the Philippine National Police (PNP) assigned at the Anti-Illegal Drugs, Special Operation Task Force of the Southern Police District at Fort Bonifacio in Taguig, Manila. It also presented Police Inspector (P/Insp.) Angel Timario, the Forensic Chemist of the PNP Crime Laboratory in Camp Crame, Quezon City who conducted the examination of the drugs. After the prosecution rested its case, the defense presented Aguilar herself and her niece, Gerolyn A. Lazaro (Lazaro).

Version of the Prosecution

According to PO2 Medrano, a week prior to Aguilar's arrest on November 30, 2004, he had already received some phone calls from "concerned citizens"^[7] regarding the drug-dealing activities of one "Baby Mata" at Pildera, Pasay City. PO2 Medrano verified the information by calling on Eva, his informant, who was also a drug user. Eva confirmed that she personally knew Baby Mata, who was her regular drug-supplier. PO2 Medrano thereafter learned of Baby Mata's residence at Road IV near the *barangay* hall, and that she was plying her trade at Road I. Although he placed Baby Mata under surveillance, PO2 Medrano admitted that he did not actually see her selling drugs to customers.^[8]

On November 30, 2004, a team, led by Senior Police Officer (SPO) 2 Rey Millare, was formed to conduct an entrapment operation against Aguilar. The team submitted a pre-operation report to the Philippine Drug Enforcement Agency (PDEA) and PO2 Medrano was designated as the poseur-buyer. He was provided with two P500.00 bills, the serial numbers of which he noted and thereafter marked with "JG," the initials of P/Supt. Jose Gentiles, the Chief of the District Intelligence and Investigation Branch. At around 6:20 in the evening, the team was in place at Pildera to conduct the buy-bust operation. With Eva, PO2 Medrano went to Road I, where they saw Baby Mata talking to someone. When the person left, Eva approached Baby Mata and after about five minutes, waved at PO2 Medrano to come over. Eva introduced PO2 Medrano as a security guard and a fellow "scorer." Baby Mata then asked how much PO2 Medrano wanted, to which he answered "*isang bulig lang*,"^[9] which was half a gram of *shabu*, worth P1,000.00. Upon Baby Mata's request, PO2 Medrano gave her the two pre-marked P500.00 bills, which she took with her left hand. Baby Mata, with her right hand, thereafter reached for a plastic sachet containing crystalline substance from the right pocket of her jeans, and handed it to PO2 Medrano. After examining the sachet, PO2 Medrano pocketed the *shabu* and pressed the call button of his mobile phone, to signal his team that the sale had been consummated. PO2 Benedicto A. Mendoza (Mendoza), who was then only seven to eight meters away, rushed towards them and arrested Baby Mata. The police officers immediately introduced themselves as such, showed Baby Mata their identification cards, and apprised her of her constitutional rights. PO2

Medrano confiscated the buy-bust money he earlier handed Baby Mata, which were still in her left hand, and another sachet of *shabu*, which turned up after she was ordered to empty her pockets. PO2 Medrano accordingly marked the two sachets of *shabu* with "RM-1" and "RM-2" and thereafter brought Baby Mata to the Southern Police District Station at Fort Bonifacio, Taguig.^[10]

The seized items were brought by PO2 Medrano on the same day to the PNP Crime Laboratory in Camp Crame, Quezon City. They were received and examined by P/Insp. Timario who made the following findings, as embodied in Chemistry Report No. D-1171-04:

SPECIMEN SUBMITTED:

A - One (1) staple-sealed brown envelope with names and signatures containing two (2) heat-sealed transparent plastic sachets each containing white crystalline substance having the following markings and net weights:

A-1 - (RM-1 301104) = 0.45 gram

A-2 - (RM-2 301104) = 0.31 gram

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of dangerous drugs.

FINDINGS:

Qualitative examination conducted on the above-stated specimens gave POSITIVE result to the tests for Methylamphetamine hydrochloride, a dangerous drug.

CONCLUSION:

Specimens A-1 and A-2 contain Methylamphetamine hydrochloride, a dangerous drug.

x x x x

REMARKS:

TIME AND DATE COMPLETED:

0120H 01 December
2004

EXAMINED BY:

(SGD.)
ANGEL C.
TIMARIO
Police Inspector

Version of the Defense

Aguilar contradicted the prosecution and denied the charges against her. She claimed that on November 30, 2004, at around 10:00 a.m., while she and her niece, Lazaro, were waiting for a *jeepney* to Baclaran along NAIA Road, PO2 Medrano and PO2 Mendoza accosted and handcuffed her without any explanation. When she asked why she was being apprehended, she was simply told to explain at the station. Lazaro in the meantime remained quiet so as not to reveal her identity as Aguilar's companion. Aguilar was then boarded in a yellow car and while she was being driven around Nayong Pilipino, PO2 Medrano allegedly told her that they needed money and requested for her cooperation by giving up "Lilit,"^[12] a drug-pusher. At the station, the same police officers demanded that she produce the amount of P100,000.00 and asked her to call her relatives for the money.^[13]

Aguilar argued that there could have been no buy-bust operation as she was already in detention at the station at the time such operation was supposedly conducted. She averred that while she was once a resident of Pasay City, she no longer lived there and that she would only go there to visit her mother. As to her nickname, Aguilar explained that she had always been called as such.^[14]

Lazaro corroborated Aguilar's testimony but could not provide certain details such as where the car was headed or at which precinct Aguilar was taken when they received the call from the police informing them of Aguilar's arrest. She also said that Aguilar already resided in Bulacan and she was known as "Baby Mata" because of her big eyes.^[15]

Ruling of the RTC

On August 19, 2005, the RTC gave credence to the prosecution's version and found Aguilar guilty beyond reasonable doubt in both cases, to wit:

WHEREFORE, in x x x light of the foregoing premises and considerations, judgment is hereby rendered as follows:

1) In Criminal Case No. 04-2962-CFM, this Court finds the accused Marilyn Aguilar y Manzanillo GUILTY beyond reasonable doubt of committing the crime of Violation of Section 11, sub-paragraph (3), Article II of R.A. No. 9165 and she is hereby sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day to fourteen (14) years and four (4) months and to pay a fine of P300,000.00, plus costs; and

2) In Criminal Case No. 04-2963-CFM, this Court likewise finds the said accused GUILTY beyond reasonable doubt of committing the crime of Violation of Section 5, Article II of R.A. No. 9165 and she is hereby sentenced to suffer the penalty of Life Imprisonment and to pay a fine of

P500,000.00, plus costs.

The two (2) 0.31 and 0.45 gram of Methamphetamine hydrochloride or shabu involved in these cases are hereby declared confiscated in favor of the Government and ordered to be turned over to the Philippine Drug Enforcement Agency (PDEA) for proper and appropriate disposition in accordance with the provisions of the law.^[16]

Aguilar's denial and theory of frame-up, the RTC held, cannot be accepted over the prosecution's case, which was not only clear and convincing, but also amply supported by the evidence.

Aguilar appealed^[17] the RTC's decision to the Court of Appeals and the case was docketed as CA-G.R. CR.-H.C. No. 01984.

Ruling of the Court of Appeals

Finding that the prosecution has proven Aguilar's guilt of the two crimes beyond reasonable doubt, the Court of Appeals affirmed the RTC's Decision on November 26, 2009.

Issues

Aggrieved, Aguilar elevated^[18] the above ruling to this Court, assigning the same errors she assigned before the Court of Appeals,^[19] viz:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF VIOLATION OF SECTIONS 5 AND 11, ARTICLE II [OF] REPUBLIC ACT [NO.] 9165.

II

THE COURT A QUO GRAVELY ERRED IN NOT GIVING WEIGHT AND CREDENCE TO ACCUSED-APPELLANT'S DEFENSE OF DENIAL AND FRAME-UP.^[20]

In the main, Aguilar argues that the RTC erred in convicting her as the prosecution failed to establish her guilt beyond reasonable doubt. In support of such assertion, Aguilar points out the fact that the police officers failed to follow the protocol in the custody and control of seized items due to the absence of an inventory and photographs of the confiscated drugs as required by Republic Act No. 9165 and its implementing rules and regulations.

Aguilar further posits that she should be acquitted because "without the instigation of the informant the alleged transaction involving the sale of *shabu* would not have