

FIRST DIVISION

[G.R. No. 189327, February 29, 2012]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EMILY MENDOZA Y SARTIN, ACCUSED-APPELLANT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

On appeal^[1] is the July 21, 2009 **Decision**^[2] of the Court of Appeals in **CA-G.R. CR.-H.C. No. 02725**, which affirmed the Regional Trial Court's (RTC) March 20, 2007 Decision^[3] in **Criminal Case No. 03-214163**, wherein accused-appellant Emily Mendoza y Sartin (Mendoza) was found guilty beyond reasonable doubt of violating **Section 5, Article II of Republic Act No. 9165**, or the "Comprehensive Dangerous Drugs Act of 2002."

On May 23, 2003, Mendoza was charged before the RTC, Branch 23 of the City of Manila, of violating Section 5, Article II of Republic Act No. 9165. The accusatory portion of the Information provides:

The undersigned accuses EMILY MENDOZA Y SARTIN of a Violation of Section 5, of Republic Act 9165, committed as follows:

That on or about May 12, 2003, in the City of Manila, Philippines, the said accused, not being lawfully authorized by law to sell, trade, deliver or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell ZERO POINT ONE FIVE NINE (0.159) gram of white crystalline substance commonly known as SHABU, containing methylamphetamine hydrochloride, a dangerous drug.^[4]

Mendoza pleaded not guilty upon her arraignment^[5] on June 4, 2003.

On August 5, 2003, the pre-trial conference was terminated without any stipulations or markings,^[6] as the parties jointly manifested that they will mark their respective documentary and physical evidence during the course of the trial.^[7] Thus, trial on the merits immediately followed, with the prosecution calling as witness Police Inspector Judycel Macapagal (Macapagal), the forensic chemist of the Western Police District (WPD), United Nations Avenue, Manila, who examined the specimen, which is the subject matter of this case.^[8] Her testimony was dispensed with after the defense admitted to the following:

1. That Macapagal was an expert in the field of science;^[9]

2. That there is a letter dated May 12, 2003,^[10] requesting for the laboratory examination of one heat-sealed small, transparent, plastic sachet containing white crystalline substance, marked as "SOG-1";
3. That Macapagal, after examining the contents of the plastic sachet, placed such sachet in a small brown envelope, which she signed, dated, and sealed with a staple wire;
4. That the contents of the plastic sachet, as retrieved from the brown envelope, weighed 0.159 grams; and
5. That a qualitative examination of the white crystalline substance in the plastic sachet yielded positive for presence of methylamphetamine hydrochloride, as shown in Chemistry Report No. D-1058-03, issued by Macapagal.^[11]

The prosecution then presented their version of the events, as stated in the Affidavit of Apprehension,^[12] which was executed by Police Inspector Israel Mangilit (Mangilit), Police Officer (PO) 3 Randy Ching (Ching), and PO2 Gerardo Talusan; and testified to by Mangilit^[13] and Ching,^[14] summarized as follows:

At around 12:20 p.m. of May 12, 2003, the Special Operations Group (SOG) of the WPD, U.N. Avenue, Manila received information from a confidential informant that one Emily Mendoza, a pregnant woman, was selling shabu in Gagalangin, Tondo, Manila. Acting on this information, Mangilit immediately formed a buy-bust operation team, with Ching as the poseur-buyer. Mangilit gave Ching a five-hundred-peso (P500.00) bill, the serial number of which was noted, to be used as the buy-bust money. The team, composed of Mangilit, Ching, and Talusan, together with the informant, first coordinated with the *Barangay* Chairman of Gagalangin, Tondo, before proceeding to Benita St., where Mendoza was to be found. Mangilit and Talusan placed themselves at a viewing distance, while Ching and the informant approached Mendoza. The informant introduced Ching to Mendoza as a buyer, and in return, Mendoza asked how much he would buy. After Ching told her that he would be buying P500.00 worth of *shabu*, Mendoza handed him one plastic sachet containing white crystalline substance. Ching then gave her the P500.00 bill, and executed the pre-arranged signal to inform his team of the completed transaction. Thereafter, the team read Mendoza her constitutional rights and the nature of the accusation against her before arresting her. In the meantime, Ching marked the plastic sachet he bought from Mendoza with "SOG-1," while Talusan recovered the P500.00 bill from Mendoza's coin purse. Afterwards, Ching brought the Request for Laboratory Examination^[15] and the specimen to the chief of the WPD Crime Laboratory. The results of the laboratory examination, as stated in Chemistry Report No. D-1058-03, and as testified to by Macapagal, are as follows:

TIME AND DATE RECEIVED: 1520H 12 May 2003

REQUESTING PARTY/UNIT: Chief, CHISRU Branch
SOG=City Hall, Manila

SPECIMEN SUBMITTED:

A – One (1) heat-sealed transparent plastic sachet with marking "SOG-1" containing 0.159 gram of white crystalline substance. x x x.

PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of dangerous drugs. x x x.

FINDINGS:

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

CONCLUSION:

Specimen A contains Methylamphetamine hydrochloride, a dangerous drug. x x x.

REMARKS:

TIME AND DATE COMPLETED: 1720H 12 May 2003^[16]

After the prosecution rested its case, the defense presented Mendoza to refute and disprove the material allegations made against her. Mendoza denied that she sold *shabu* to Ching. She alleged that she was in front of her house, waiting for her aunt, when a man, whom she had never seen before, and whom she had not seen during the trial, asked her about the owner of a video game. She told the man that it was her neighbor. The man inquired further about the pusher of *shabu*, to which she claimed lack of knowledge. The man then asked if she could be invited to the precinct. Mendoza said she asked the man why she was being invited, but the man allegedly told her to just explain at the precinct. She tried to resist but the man reportedly forced her to go with him to the SOG, Manila City Hall, via a sidecar. Upon reaching the police station, she was subjected to an inquest when she refused to give the man fifty thousand pesos (P50,000.00).^[17]

On March 20, 2007, the RTC rendered its Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the court hereby finds the accused, **GUILTY**, of the crime charged against her, beyond reasonable doubt, and is hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (P500,000.00).

The *shabu*, subject of this case, is hereby forfeited in favor of the State and ordered destroyed pursuant to existing Rules.^[18]

In convicting Mendoza of violating Section 5 of Republic Act No. 9165, the RTC held

that the prosecution was able to establish and prove the elements in the sale of illegal drugs. The RTC said that the prosecution's version of the events was "positive, probable, and in accord with human experience."^[19] The RTC also applied the presumption of regularity in the performance of official duties, as Mendoza failed to show that Mangilit and Ching, in testifying against her, "were motivated by reasons other than the duty to curb the sale of dangerous drugs."^[20] Finally, the RTC averred that Mendoza's denial and cry of frame-up deserve no merit as not only was she unable to present any sufficient evidence to support them, but they are also weak defenses disfavored by this Court.^[21]

On March 29, 2007, Mendoza filed her Notice of Appeal^[22] with the RTC. Mendoza anchored her appeal on the following errors:

I

THE TRIAL COURT GRAVELY ERRED FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED BEYOND REASONABLE DOUBT.

II

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE ON THE EVIDENCE OF THE PROSECUTION AND DISREGARDING ACCUSED-APPELLANT'S DEFENSE.^[23]

On July 21, 2009, the Court of Appeals promulgated its Decision, affirming the RTC's judgment of conviction, to wit:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The assailed Decision dated March 20, 2007 of the Regional Trial Court, Branch 23, Manila in Crim. Case No. 03-214163 is hereby **AFFIRMED**.^[24]

The Court of Appeals found Mendoza's appeal bereft of merit as the prosecution was able to establish the elements of the charge against her. It deemed as waived Mendoza's argument that the police officers failed to establish the identity of the *corpus delicti* as it was raised for the first time on appeal.^[25] The Court of Appeals further agreed with the RTC that absent a showing of ill motive on the part of the police officers, their testimonies deserve full faith and credit and the presumption that they regularly performed their duties must be upheld.^[26]

Undeterred, Mendoza elevated her case to this Court, with the same issues she raised before the Court of Appeals.^[27]

Discussion

Mendoza was charged and convicted for selling methylamphetamine hydrochloride, more popularly known as *shabu*, in violation of Section 5, Article II of Republic Act

No. 9165 or the Dangerous Drugs Law, which provides:

Section 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

Mendoza posits that her guilt was not proven beyond reasonable doubt as the prosecution failed to establish the identity of the dangerous drug with certainty. She