

## FIRST DIVISION

[ G.R. No. 189806, January 12, 2011 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
FRANCISCO MANLANGIT Y TRESBALLES, ACCUSED-APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

This is an appeal from the August 28, 2009 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03273, which affirmed *in toto* the Decision dated July 12, 2007<sup>[2]</sup> in Criminal Case Nos. 03-4735 and 03-4961 of the Regional Trial Court (RTC), Branch 64 in Makati City. The RTC found accused-appellant Francisco Manlangit y Tresballes guilty of drug-sale and drug-use penalized by Republic Act No. (RA) 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

#### **The Facts**

On November 25, 2003, an information was filed charging Manlangit with violating Section 5, Article II of RA 9165, as follows:

That on or about the 24<sup>th</sup> day of November 2003, in the City of Makati, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized by law, did then and there willfully and feloniously sell, give away, distribute and deliver zero point zero four (0.04) gram of Methylamphetamine Hydrochloride (shabu), which is a dangerous drug.<sup>[3]</sup>

On December 11, 2003, another information was filed against Manlangit for breach of Sec. 15, Art. II of RA 9165, to wit:

That sometime on or before or about the 24<sup>th</sup> day of November 2003, in the City of Makati, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to use dangerous drugs, and having been arrested and found positive for 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.<sup>[4]</sup>

During the arraignment for both cases, Manlangit pleaded not guilty. Afterwards,

the cases were tried jointly.

At the trial of the case, the prosecution adduced evidence as follows:

On November 24, 2003, the Makati Anti-Drug Abuse Council (MADAC) Cluster 4 office received information from an informant that a certain "Negro" was selling prohibited drugs along Col. Santos Street at Brgy. South Cembo, Makati City. The MADAC thereafter coordinated with the Anti-Illegal Drugs Special Operations Task Force (AIDSTOF) and the Philippine Drug Enforcement Agency to conduct a joint MADAC-police buy-bust operation. A team was assembled composed of several members of the different offices, among which Police Officer 2 Virginio Costa was designated as the team leader, with MADAC operative Wilfredo Serrano as the poseur-buyer and Roberto Bayona as his back-up. The team prepared buy-bust money for the operation, marking two (2) one hundred peso (PhP 100) bills with the initials "AAM."

Upon arrival on Col. Santos Street, Brgy. Cembo, Makati City, the team spotted Manlangit standing in front of his house. The informant approached Manlangit and convinced the latter that Serrano wanted to purchase *shabu* from him. Manlangit asked Serrano how much *shabu* he wanted, to which Serrano replied that he wanted two hundred pesos (PhP 200) worth of *shabu*. Manlangit went inside his house and later reappeared with a plastic sachet containing a white crystalline substance. Manlangit handed over the plastic sachet to Serrano who, in turn, gave Manlangit the marked money. Then Serrano gave the pre-arranged signal of lighting a cigarette to indicate to the rest of the team that the buy-bust operation had been consummated. Thus, the rest of the team approached Manlangit and proceeded to arrest him while informing him of constitutional rights and the reason for his arrest. The marked money was recovered from Manlangit's pocket. The plastic sachet was then marked with the initials "FTM" and sent to the Philippine National Police (PNP) crime laboratory in Camp Crame, Quezon City for analysis. The PNP crime laboratory identified the white crystalline substance as Methylamphetamine Hydrochloride in Chemistry Report No. D-1190-03. Manlangit was also brought to the PNP crime laboratory for a drug test, which yielded a positive result for use of Methylamphetamine Hydrochloride.<sup>[5]</sup>

Manlangit denied that such buy-bust operation was conducted and claimed that the recovered *shabu* was not from him. He claimed that he was pointed out by a certain Eli Ballesteros to Serrano and Bayona. Thereafter, he was allegedly detained at the Barangay Hall of Brgy. Pitogo. There, he was allegedly interrogated by Serrano as to the location of the *shabu* and its proceeds, as well as the identity of the drug pushers in the area. He also claimed that whenever he answered that he did not know what Serrano was talking about, he was boxed in the chest. Later on, he said that he was brought to Camp Crame for drug testing.<sup>[6]</sup>

On July 12, 2007, the RTC rendered a Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

- 1) In Criminal Case No. 03-4735, finding accused Francisco

Manlangit y Tresballes GUILTY BEYOND REASONABLE DOUBT of Violation of Section 5, Art II, RA 9165 (drug-sale) and sentencing him to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00. Said accused shall be given credit for the period of his preventive detention.

- 2) In Criminal Case No. 03-4735,<sup>[7]</sup> finding accused Francisco Manlangit y Tresballes GUILTY BEYOND REASONABLE DOUBT of Violation of Section 15, Art II, RA 9165 (drug-use), and sentencing him to undergo rehabilitation for at least six (6) months in a government rehabilitation Center under the auspices of the Bureau of Correction subject to the provisions of Article VIII, RA 9165.

It is further ordered that the plastic sachet containing shabu, subject of Criminal Case No. 03-4735, be transmitted to the Philippine Drug Enforcement Agency (PDEA) for the latter's appropriate action.

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

From such Decision, Manlangit interposed an appeal with the CA.

In his Brief, accused-appellant Manlangit claimed that the prosecution failed to prove his guilt beyond reasonable doubt. To support such contention, accused-appellant claimed that there was no buy-bust operation conducted. He pointed out that he was not in the list of suspected drug pushers of MADAC or of the AIDSTOF. He further emphasized that the buy-bust operation was conducted without first conducting a surveillance or test buy to determine the veracity of the report made by the informant. He assailed the fact that despite knowledge of his identity and location, the buy-bust team failed to secure even a search warrant.

Accused-appellant also raised the issue that the buy-bust team failed to comply with the procedure for the custody and control of seized prohibited drugs under Sec. 21 of RA 9165. He argued that the presumption of regularity in the performance of official function was overturned by the officers' failure to follow the required procedure in the conduct of a buy-bust operation, as well as the procedure in the proper disposition, custody, and control of the subject specimen.

On August 28, 2009, the CA rendered the decision which affirmed the RTC's Decision dated July 12, 2007. It ruled that contrary to accused-appellant's contention, prior surveillance is not a prerequisite for the validity of a buy-bust operation. The case was a valid example of a warrantless arrest, accused-appellant having been caught *in flagrante delicto*. The CA further stated that accused-appellant's unsubstantiated allegations are insufficient to show that the witnesses for the prosecution were actuated by improper motive, in this case the members of the buy-bust team; thus, their testimonies are entitled to full faith and credit. After examining the testimonies of the witnesses, the CA found them credible and found no reason to disturb the RTC's findings. Finally, the CA found that chain of evidence was not broken.

Hence, the instant appeal.

In a Manifestation (In lieu of Supplemental Brief) dated February 22, 2010, accused-appellant expressed his desire not to file a supplemental brief and reiterated the same arguments already presented before the trial and appellate courts.

### **The Issues**

The issues, as raised in the Brief for the Accused-Appellant dated September 29, 2008, are:

1. The Court a quo gravely erred in convicting the accused-appellant despite the prosecution's failure to prove his guilt beyond reasonable doubt.<sup>[9]</sup>
2. The Court a quo gravely erred in finding that the procedure for the custody and control of prohibited drugs was complied with.<sup>[10]</sup>

### **The Ruling of the Court**

The appeal is bereft of merit.

#### **First Issue:**

#### **Accused-appellant's guilt was proved beyond reasonable doubt**

The first paragraph of Sec. 5 of RA 9165 punishes the act of selling dangerous drugs. It provides:

*Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.*<sup>3/4</sup>**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.** (Emphasis supplied.)

While Sec. 15, RA 9165 states:

*Section 15. Use of Dangerous Drugs.*<sup>3/4</sup>**A person apprehended or arrested, who is found to be positive for use of any dangerous drug, after a confirmatory test, shall be imposed a penalty of a minimum of six (6) months rehabilitation in a government center**

**for the first offense, subject to the provisions of Article VIII of this Act.** If apprehended using any dangerous drug for the second time, he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00): Provided, That this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided for under Section 11 of this Act, in which case the provisions stated therein shall apply. (Emphasis supplied.)

*People v. Macatingag*<sup>[11]</sup> prescribed the requirements for the successful prosecution of the crime of illegal sale of dangerous drugs, as follows.

The elements necessary for the prosecution of illegal sale of drugs 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. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.

The pieces of evidence found in the records amply demonstrate that all the elements of the crimes charged were satisfied. The lower courts gave credence to the prosecution witnesses' testimonies, which established the guilt of accused-appellant for the crimes charged beyond reasonable doubt. The testimonies--particularly those of the police officers involved, which both the RTC and the CA found credible--are now beyond question. As the Court ruled in *Aparis v. People*:<sup>[12]</sup>

As to the question of credibility of the police officers who served as principal witnesses for the prosecution, settled is the rule that prosecutions involving illegal drugs depend largely on the credibility of the police officers who conducted the buy-bust operation. It is a fundamental rule that findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds an even more stringent application where said findings are sustained by the Court of Appeals, as in the present case.

Moreover, accused-appellant's defense of denial, without substantial evidence to support it, cannot overcome the presumption of regularity of the police officers' performance of official functions. Thus, the Court ruled in *People v. Llamado*:<sup>[13]</sup>