

## FIRST DIVISION

[ G.R. No. 194836, June 15, 2011 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ARNOLD CASTRO Y YANGA, ACCUSED-APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

This is an appeal from the July 21, 2010 Decision <sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03800 entitled *People of the Philippines v. Arnold Castro y Yanga* which affirmed the January 6, 2009 Decision <sup>[2]</sup> in Criminal Cases Nos. Q-04-125048-9 of the Regional Trial Court (RTC), Branch 103 in Quezon City. The RTC found accused Arnold Castro y Yanga (Castro) guilty of violating Sections 5 and 11, Article II of Republic Act No. (RA) 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

#### **The Facts**

Criminal Case No. Q-04-125048 pertains to the Information filed against Castro for violation of Section 5, Article II of RA 9165, the accusatory portion of which reads:

That on or about the 26<sup>th</sup> day of February, 2004 in Quezon City, Philippines, the said accused not being authorized by law to sell, dispense, deliver, transport or distribute any dangerous drug, did, then and there, wil[l]fully, and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, 0.03 (zero point zero three) gram of white crystalline substance containing Methylamphetamine Hydrochloride[,], a dangerous drug.

CONTRARY TO LAW. <sup>[3]</sup>

On the other hand, in Criminal Case No. Q-04-125049, Castro was charged with violation of Section 11, Article II of RA 9165, as follows:

That on or about the 26<sup>th</sup> day of February, 2004 in Quezon City, Philippines, the said accused not being authorized by law to possess or use any dangerous drug, did, then and there, wil[l]fully, unlawfully and knowingly have in his/her possession and control 0.07 (zero point zero seven) gram of white crystalline substance containing Methylamphetamine Hydrochloride[,], a dangerous drug.

CONTRARY TO LAW. [4]

On arraignment, Castro pleaded "not guilty" to both charges. [5] Thereafter, trial on the merits ensued.

During trial, the prosecution presented the testimonies of two (2) police witnesses, namely: P/Insp. Jaime Armenta (P/Insp. Armenta) and PO2 Napoleon Zamora (PO2 Zamora). [6] On the other hand, the defense presented the testimonies of Amalia Infante, Amor Castro, and the accused himself. [7]

### **The Prosecution's Version of Facts**

On February 26, 2004, at around 1:00 a.m., P/Insp. Armenta and PO2 Zamora, members of the Galas Police Station, received a report from a male informant that a certain *alias* "Idol" had been illegally selling drugs along Cordillera and Ramirez Streets in Brgy. San Isidro, Quezon City. [8] P/Insp. Armenta immediately relayed the said report to their chief, Col. Robert Razon (Col. Razon). [9]

Consequently, Col. Razon formed a buy-bust operation team, composed of more than four (4) policemen, which included P/Insp. Armenta and PO2 Zamora. [10] P/Insp. Armenta was designated as the poseur-buyer and was given a one hundred peso bill as the buy-bust money, which he marked with his initials "JA". [11] P/Insp. Armenta was also the one who prepared and sent a Pre-Operation Report [12] to the Philippine Drug Enforcement Agency (PDEA) for proper coordination. [13]

The buy-bust team was dispatched in two (2) private vehicles to Brgy. San Isidro, Quezon City. [14] It arrived at the area of operation at around 2:00 a.m. Both P/Insp. Armenta and the confidential informant walked towards an *eskinita* with a distance of more than ten (10) meters. [15] PO2 Zamora saw them talk to another person, who turned out to be Castro, near a lighted Meralco post. [16]

The confidential informant introduced P/Insp. Armenta to Castro as a prospective buyer of *shabu*. [17] Thereafter, Castro asked P/Insp. Armenta how much, to which the latter responded "piso", which meant Php100.00. [18] P/Insp. Armenta then handed the one hundred peso buy-bust money to Castro. [19] The latter, in turn, gave him a transparent plastic sachet containing white crystalline substance that he pulled out from his pocket. [20]

Afterwards, P/Insp. Armenta scratched his head to signal to his team members that the transaction was already consummated. [21] Accordingly, the buy-bust team immediately closed in and arrested Castro. PO2 Zamora informed Castro of his violation, frisked him and recovered from his pocket two (2) more transparent plastic sachets of white crystalline substance, as well as the marked money. [22]

P/Insp. Armenta took custody of the transparent plastic sachet that Castro sold to him, while PO2 Zamora kept the marked money and the two (2) other plastic

sachets which he recovered. [23] When they reached their office, P/Insp. Armenta marked the transparent plastic sachet in his custody with his initials and the initials of Castro (JA-AC). [24] PO2 Zamora also marked the two (2) other sachets with his initials and also that of Castro's (NZ-AC). [25] The three (3) transparent plastic sachets were then turned over to the investigator, police officer Alexander Jimenez, who prepared and submitted a letter-request for analysis. [26]

Forensic Chemist/Police Inspector Leonard T. Arban of the PNP Crime Laboratory made a chemical analysis on the seized items. [27] In his Chemistry Report No. D-226-04, he confirmed that the three (3) transparent plastic sachets were positive for Methylamphetamine Hydrochloride. [28]

### **Version of the Defense**

Castro claimed that on February 24, 2004, at around 9:00 p.m., he was taking a rest in front of their house at No. 92 Union Sibika St., Galas, Quezon City when a Quezon City Police mobile car suddenly parked in front of him. [29] Four (4) men alighted, forced him to board the patrol car, and brought him to the Galas Police Station, where a plastic sachet was shown to him. [30] After Castro denied ownership of the said plastic sachet, a police officer then allegedly told him that he would be released only if he had money. [31]

To corroborate Castro's claim, his neighbor, Amalia Infante, testified that while she was walking along Mindanao St. at around 9:00 p.m. on February 24, 2004, she saw that Castro was surrounded by four (4) men. [32] They were about 15 to 20 meters away from her. [33] Despite her curiosity, she, however, went straight to the bakery to buy bread for her son. [34]

Castro's father, Amor Castro, also testified that on February 24, 2004, at around 9:00 p.m., he was watching television with his other children when he heard the sound of a car engine in front of his house. [35] When he looked outside, he saw four (4) men in civilian clothes putting his son, Castro, inside a police mobile car. [36] These men then told him to follow them at the Galas Police Station. [37] When he arrived at the police station, Castro told him that PO2 Zamora was allegedly demanding Php30,000.00 for his release. [38] He also claimed that Castro was plying his route as a tricycle driver on February 26, 2004. [39]

### **Ruling of the Trial Court**

After trial, the RTC, on January 6, 2009, convicted Castro. The dispositive portion of its Decision reads:

ACCORDINGLY, judgment is rendered finding the accused ARNOLD CASTRO y Yanga **GUILTY** beyond reasonable doubt of the two offenses of which he is charged at bench, and he is hereby sentenced as follows:

I. In Q-04-125048 the accused is sentenced to LIFE IMPRISONMENT for violation of Section 5, of RA 9165 (drug-pushing) as charged, and

ordered to pay a fine of P500,000.00; and

II. In Q-04-125049 the same accused is sentenced to suffer a jail term of 12 years and 1 day, as minimum to 13 years, as maximum and to pay a fine of P300,000.00 for violating Section 11, R.A. 9165 (possession).

The three (3) plastic sachets of shabu in these two cases are ordered transmitted to the PDEA thru DDB for proper disposal as per RA 9165.

In the court's personal opinion, the accused Arnold y Castro should only be found guilty of one (1) crime of drugpushing and not possession in addition, for his possession of the two other sachets appears to be sachets that he intended to sell to others. Nonetheless, since the Supreme Court has a contrary opinion in decided cases, this court cannot do anything but follow and obey that Supreme Court doctrine for as long as it has not been changed.

SO ORDERED. [40]

On appeal to the CA, Castro questioned the lower court's Decision in convicting him notwithstanding the prosecution's alleged failure to preserve the integrity and identity of the *corpus delicti* of the offenses charged, and its supposed failure to prove his guilt with moral certainty. [41]

### **Ruling of the Appellate Court**

On July 21, 2010, the CA affirmed the judgment of the lower court. It ruled that both the sale and possession of illegal drugs were adequately established by the prosecution. It noted that Castro was caught *in flagrante delicto* in selling *shabu* to P/Insp. Armenta during the buy-bust operation and that he was also caught in possession of two (2) other sachets of *shabu* in his pocket. [42]

The CA also held that the trial court's findings on the credibility of witnesses are accorded great weight and respect because the trial judge has the direct opportunity to observe them on the stand and ascertain if they are telling the truth or not. [43] Further, the CA ruled that the chain of custody of the seized prohibited drugs was shown not to have been broken as the handling of the sachets was free of any physical distortion. [44]

The *fallo* of the CA Decision reads:

Accordingly, the appeal is **DISMISSED**. The Decision dated January 6, 2009 is **AFFIRMED**.

**SO ORDERED.** [45]

On August 5, 2010, Castro filed his *Notice of Appeal* of even date. [46]

In Our Resolution dated January 26, 2011, [47] We notified the parties that they may file their respective supplemental briefs, if they so desire, within thirty (30) days from notice. On March 21, 2011, Castro manifested that he will no longer file a supplemental brief as the assigned errors and issues have already been thoroughly discussed in his *Brief for the Accused-Appellant* dated October 20, 2009. [48] Similarly, the People of the Philippines, on March 30, 2011, manifested that it is no longer filing a supplemental brief considering that all the issues raised by Castro have been exhaustively discussed in its *Brief for the Plaintiff-Appellee* dated February 18, 2010. [49]

### **The Issues**

Castro contends in his *Brief* that:

#### **I**

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PRESERVE THE INTEGRITY AND IDENTITY OF THE *CORPUS DELICTI* OF THE OFFENSES CHARGED.

#### **II**

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIMES CHARGED WHEN HIS GUILT WAS NOT PROVEN WITH MORAL CERTAINTY.

### **Our Ruling**

We sustain Castro's conviction.

### **Chain of Custody Established**

Castro contends that that the prosecution patently failed to preserve the integrity of the seized items and to establish an unbroken chain of custody. [50] He claims that the police officer who had initial contact with the seized articles failed to observe the proper procedure in its handling and custody. [51] He insists that under Section 21 of the Implementing Rules and Regulations (IRR) of RA 9165, the apprehending team having initial control of the seized items should immediately after seizure or confiscation, have the same physically inventoried and photographed in the presence of the accused, if there be any, and/or his representative, who shall be required to sign the copies of the inventory and be given a copy thereof. [52]

He further asserts that the dangerous drug itself constitutes the very *corpus delicti* of the offense and the fact of its existence is vital to a judgment of conviction, thus, it is essential that the identity of the prohibited drug be established beyond doubt. [53]

Undeniably, in every prosecution for illegal sale of prohibited drugs, the presentation