

## THIRD DIVISION

**[ G.R. No. 195005, September 12, 2011 ]**

**ROSANA ASIATICO Y STA. MARIA, PETITIONER, VS. PEOPLE OF  
THE PHILIPPINES, RESPONDENT.**

### R E S O L U T I O N

**VELASCO JR., J.:**

This is a Petition for Review on Certiorari<sup>[1]</sup> under Rule 45 which seeks to reverse and set aside the August 31, 2010 Decision<sup>[2]</sup> and January 6, 2011 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 31146. The assailed decision affirmed the Joint Decision<sup>[4]</sup> of the Regional Trial Court (RTC), Branch 214 in Mandaluyong City, dated March 12, 2007, convicting petitioner Rosana Asiatico y Sta. Maria (Rosana) of illegal possession of dangerous drugs penalized under Section 11, Article II of Republic Act No. (RA) 9165 or the *Comprehensive Dangerous Drugs Act of 2002*, while the assailed resolution denied Rosana's motion for reconsideration.

Petitioner Rosana and her co-accused Aldrin Estrella y Sta. Maria (Aldrin) were charged in two (2) separate Informations with violation of Sec. 11, Art. II of RA 9165 before the RTC. Insofar as pertinent to this petition, We shall quote the Information against petitioner Rosana only in Criminal Case No. MC-05-8917-D, which reads:

That on or about the 19<sup>th</sup> day of January 2005, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not having been lawfully authorized to possess any dangerous drug, did, then and there willfully, unlawfully and feloniously and knowingly have in her possession, custody and control one (1) heat-sealed transparent plastic containing 0.05 gram of white crystalline substance, which was found positive to the test for Methamphetamine Hydrochloride, commonly known as "shabu," a dangerous drug, without the corresponding license and prescription, in violation of the above-cited law.

CONTRARY TO LAW.<sup>[5]</sup>

On March 8, 2005, upon arraignment, Rosana pleaded not guilty to the above charge.

During trial, the prosecution presented Police Senior Inspector Isidro Carino (P/SInsp. Carino), Police Officer 1 Sadjid Angara (PO1 Angara), and PO1 Antonio Madlangbayan (PO1 Madlangbayan). However, the testimony of P/SInsp. Carino, the forensic chemist, was dispensed with upon stipulation by the parties.

The facts as found by the CA are as follows:

The prosecution tends to establish the following:

Around 8:00 p.m. of January 19, 2005, an informant went to the office of the Station Anti-Illegal Drugs Special Operation Task Force (SAID-SOTF) in Mandaluyong City to report the illegal drug trade of accused-appellant alias "Joy" and Aldrin alias "Amok" in Barangay Bagong Silang. Based on that report, PO3 Victor Santos formed a team to conduct a buy-bust operation. The team was composed of PO2 Jorge Gorgonia who was assigned as team leader, and PO1 Sadjid Angara (PO1 Angara), PO1 Antonio Madlangbayan (PO1 Madlangbayan), PO1 Rommel Alfaro, PO1 Oscar Escudero and PO1 Pedro Sangada, as back-up. PO1 Angara was designated as poseur-buyer. The removal of PO1 Angara's cap was the pre-arranged signal to signify the consummation of the transaction.

Thereafter, the buy-bust team proceeded to the target area with the informant. They parked their mobile car along Daang Bakal Street and proceeded to strategical locations. PO1 Angara and the informant headed to J. Luna Street where accused-appellant was allegedly selling "shabu." The informant spotted accused-appellant and together with PO1 Angara, they approached her. He introduced PO1 Angara as buyer of "shabu." PO1 Angara wanted to buy three hundred pesos (P300) worth of "shabu." The accused-appellant only had two hundred pesos (P200) worth in her possession but she assured PO1 Angara that more supplies were coming. After a few minutes, Aldrin arrived in the scene and showed them two (2) plastic sachets containing three hundred pesos (P300) worth of "shabu." All of a sudden, Aldrin decided to back out then whispered to accused appellant that there was something bulging on the waist of poseur-buyer. PO1 Angara sensed that his disguise was discovered and he immediately performed the pre-arranged signal by removing his cap. PO1 Madlangbayan immediately advanced to arrest accused appellant and Aldrin.

PO1 Madlangbayan frisked accused-appellant and recovered one (1) plastic sachet from her. PO1 Angara frisked Aldrin and recovered two (2) plastic sachets from him. The officers informed the accused-appellant and Aldrin of their constitutional rights. Thereafter, PO1 Madlangbayan separately wrapped the recovered plastic sachets with newspapers and labeled them "Joy" and "Ako," respectively. The police officers brought the accused-appellant and Aldrin to the Mandaluyong Medical Center for examination. After which, they were turned over to the police station.

The defense presented the following version:

In the evening of January 19, 2005, accused-appellant and her cousin, Aldrin were in her house located at 466 Juan Luna St., Mandaluyong City. Her nephew and niece were also with them at that time. They were preparing for dinner when a number of armed policemen in civilian clothes forcibly entered their house and searched it. Accused-appellant

and Aldrin were accused of selling illegal drugs. Both of them were then brought to their headquarters for questioning. They were asked the whereabouts of a certain "Toto" but they could not give any information because they do not know him. As a result, they were detained and then charged for illegal possession of drugs. However, they only saw the said drugs at the Drug Enforcement Unit (DEU) office. Both vehemently denied the allegations against them.<sup>[6]</sup>

After trial on the merits, the RTC found Rosana and Aldrin guilty beyond reasonable doubt of the crime charged and sentenced each to suffer the penalty of imprisonment of twelve (12) years and one (1) day and a fine of PhP 300,000.<sup>[7]</sup>

The dispositive portion of the RTC decision reads:

WHEREFORE, judgment is rendered as follows:

a) In Criminal Case No. MC-05-8917-D accused **ROSANA ASIATICO y STA. MARIA** is hereby found **guilty beyond reasonable doubt** of unlawfully possessing 0.05 grams of shabu in violation of Section 11, Article II of R.A. 9165, and is hereby sentenced to suffer the penalty of imprisonment of **TWELVE (12) YEARS and ONE (1) DAY and to pay a fine of THREE HUNDRED THOUSAND (P300,000.00) PESOS.**

b) In Criminal Case No. MC-05-8918-D accused **ALDRIN ESTRELLA y STA. MARIA** is hereby found **guilty beyond reasonable doubt** of unlawfully possessing two (2) heat-sealed transparent plastic sachets each containing 0.05 grams of shabu in violation of Section 11, Article II of R.A. 9165, and is hereby sentenced to suffer the penalty of imprisonment of **TWELVE (12) YEARS and ONE (1) DAY and to pay a fine of THREE HUNDRED THOUSAND (P300,000.00) PESOS.**

Further, let the physical evidence subject matter of this case be confiscated and forfeited in favor of the Government and the same be turned over to PDEA for proper disposition.

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

Only Rosana appealed.

On August 31, 2010, the CA sustained the judgment of conviction by the RTC, ruling that the prosecution sufficiently established the elements of illegal possession of dangerous drugs, through the testimony of PO1 Angara.<sup>[9]</sup> And, contrary to Rosana's contention, the appellate court ruled that non-compliance with the procedure on the custody and disposition of confiscated or seized dangerous drugs in Sec. 21 of RA 9165 does not *ipso facto* invalidate the seizure, and will neither render her arrest illegal nor make the seized drugs inadmissible as evidence, for what is material is that the integrity and evidentiary value of the drugs seized from her were properly preserved and safeguarded.<sup>[10]</sup> In fine, the CA found that the prosecution has sufficiently shown the unbroken chain of custody of the *shabu*