

## THIRD DIVISION

[ G.R. No. 186471, January 25, 2010 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RODANTE DE LEON Y DELA ROSA, ACCUSED-APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

This is an appeal from the April 4, 2008 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01811 entitled *People of the Philippines v. Rodante De Leon y Dela Rosa* which affirmed the December 20, 2005 Decision<sup>[2]</sup> in Criminal Case Nos. Q-03-122555-56 of the Regional Trial Court (RTC), Branch 82 in Quezon City. The RTC found accused-appellant Rodante De Leon guilty of violation of Sections 5 and 11, Article II of Republic Act No. (RA) 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

#### **The Facts**

The charges against appellant stemmed from the following Informations:

#### **Criminal Case No. Q-03-122555 (Violation of Section 5 [Sale], Article II of RA 9165)**

That on or about the 9<sup>th</sup> day of November, 2003, in the Quezon City, Philippines, the said accused, not being authorized by law, to sell, dispense, deliver, transport or distribute of any dangerous drug, did, then and there, wilfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction zero point sixteen (0.16) gram of methamphetamine hydrochloride a dangerous drug.

Contrary to law.<sup>[3]</sup>

#### **Criminal Case No. Q-03-122556 (Violation of Section 11 [Possession], Article II of RA 9165)**

That on or about the 9<sup>th</sup> day of November, 2003, in the Quezon City, Philippines, the said accused, not being authorized by law, to possess or use any dangerous drug, did, then and there, wilfully, unlawfully and knowingly have in his/her possession and control zero point eighteen (0.18) gram of methamphetamine hydrochloride, a dangerous drug.

Contrary to law.<sup>[4]</sup>

On February 16, 2004, appellant was arraigned and pleaded "not guilty" to the charge against him. After the pre-trial conference, trial on the merits ensued.

During the trial, the parties agreed to stipulate on the testimonies of Engr. Leonard Jabonillo, the Forensic Chemist, and Police Officer 1 (PO1) Oliver Estrelles, the police investigator of these cases. The prosecution thereafter presented PO2 Noel Magcalayo as its witness. The defense, on the other hand, presented Rodante De Leon, the accused himself.

The trial court summarized the stipulation of Engr. Jabonillo, as follows:

x x x that he is a Forensic Chemist of the Philippine National Police, that his Office received the request for laboratory examination marked as Annex "A"; that together with the said request was a plastic sachet marked as Exh. "B" which contained two (2) plastic sachets marked as Exhibits "B-1" and "B-2"; that he conducted the requested laboratory examination and, in connection therewith he submitted a Chemistry Report marked as Exhibit "C", the finding thereon showing the specimen positive for Methamphetamine Hydrochloride was marked as Exhibit "C-1" and the signature of said police officer was marked as Exhibit "C-2"; that he then issued a Certification marked as Exhibits "D" and "D-1" and thereafter turned over the specimen to the evidence custodian x x x. (Order dated September 14, 2004).<sup>[5]</sup>

Also, as regards PO1 Estrelles, the following was agreed upon:

x x x that he was the investigator of these cases and in connection with the investigation conducted by him, he received the evidence, namely: the Joint Affidavit of Apprehension executed by PO2 Noel Magcalayo and PO2 Cesar Collado marked as Exhibit "E" and "E-1"; that likewise prepared the request for examination marked as Exhibit "A" and submitted the specimen to the Crime Laboratory and receive the Chemistry Report marked as Exhibit "C"; that he received the Pre-Operation Report marked as Exhibit "E" as well as the buy bust money marked as Exhibits "F" and "F-1", that he prepared the letter request to the City Prosecutor Office marked as Exhibit "G"; and that Exhibit "A" contains superimposition of the date thereof." (Order dated September 14, 2004).<sup>[6]</sup>

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

On November 9, 2003, at about 5 o'clock in the afternoon, a confidential informant arrived at the office of the Station Anti-Illegal Drug Special Operation Task Force at the Novaliches Police Station in Quezon City and reported the illegal activities of a person named "Rodante De Leon."

Thereafter, Police Senior Inspector (P/SInsp.) Nilo Wong formed a team for a buy-bust operation with PO2 Magcalayo as poseur-buyer and Senior Police Officer 3 (SPO3) Mario Concepcion, PO2 Fernando Salonga, PO2 Cesar Collado, PO2 Edmund Paculdar, and PO1 Emeterio Mendoza as team members. A pre-operation report was prepared. P/SInsp. Wong then handed to PO2 Magcalayo two (2) pieces of PhP 100 bills as buy-bust money and on which PO2 Magcalayo wrote his initials "NM."

At around 6:30 p.m. in the evening, the team proceeded to Sarmiento St., *Barangay* Sta. Monica, Novaliches, Quezon City, where the confidential informant introduced PO2 Magcalayo to appellant as a buyer of *shabu*. PO2 Magcalayo then asked appellant if he had *shabu* and the latter answered in the affirmative and asked him how much he would buy. PO2 Magcalayo handed the money and, in return, appellant handed him one (1) plastic sachet containing white crystalline substance. He then scratched his head, which was the pre-arranged signal that the transaction was consummated, and thereafter arrested appellant. He recovered the buy-bust money from appellant as PO2 Collado approached them and handcuffed appellant. Upon frisking appellant, PO2 Collado discovered another plastic sachet on the person of appellant.

Afterwards, appellant was brought to the police station for investigation. PO2 Collado then placed his initials on the sachet he found on appellant. The evidence was subsequently turned over to the police investigator, PO1 Estrelles, who prepared a request for its laboratory examination.

PO2 Collado, PO1 Mendoza, PO2 Paculdar, and PO2 Magcalayo then brought the transparent plastic sachets containing the white crystalline substance subject of the buy-bust operation to the Philippine National Police (PNP) Crime Laboratory, Eastern Police District on St. Francis Street, Mandaluyong City for examination. Engr. Jabonillo, a Forensic Chemical Officer, conducted a qualitative examination on the specimens, which yielded positive results for Methamphetamine Hydrochloride, a dangerous drug. He issued Chemistry Report No. D-1240-2003 dated November 9, 2003, which showed the following results:

#### SPECIMEN SUBMITTED:

Two (2) heat-sealed transparent plastic sachets each containing white crystalline substance having the following markings and recorded net weights:

A (NM) = 0.16 gm

B (CC) = 0.18 gm

x x x x

#### PURPOSE OF LABORATORY EXAMINATION:

To determine the presence of dangerous drugs.

x x x x

## FINDINGS:

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

## CONCLUSION:

Specimen A and B contain Methylamphetamine Hydrochloride, a dangerous drug. x x x

## Version of the Defense

On the other hand, appellant testified that, prior to his arrest, he was a police officer of Station 7, Araneta, Cubao, Quezon City and had been connected with the PNP for 10 years. On November 9, 2003, at around 3 o'clock in the afternoon, he went to Sarmiento St., *Barangay* Sta. Monica, Novaliches, Quezon City to look for a *kumpadre* from whom he intended to borrow money when policemen accosted him and poked their guns at him. The people around him ran, and as he was the only one left on the scene, the policemen asked him to sit down. He told SPO3 Concepcion, whom he knew, that he was a police officer but he was told to shut up and to explain his side at the police station instead.

Upon arrival at the police station in Novaliches, Quezon City, his wallet, with his I.D. and police badge, were taken from him. PO2 Magcalayo told him that he had a fake police I.D. When appellant tried to explain himself, PO2 Magcalayo allegedly kicked him saying, "*Hindi na uso ang pulis, sundalo na ang nakaupo ngayon.*"

The following night, he was presented on inquest during which he was charged with violation of Secs. 5 and 11 of RA 9165. He denied all the charges against him claiming that the alleged *shabu* marked as Exhibits "B-1" and "B-2" came from the arresting police officers. He did not file a case against them, because he had no money and because he knew that he was not guilty.

On cross-examination, appellant further testified that he was a follow-up operative at the Station Investigation Division of Police Station 7. He admitted that he was separated from the service because he was absent without official leave due to a business problem he had to attend to. He likewise said that he did not know his arresting officers, whom he saw then for the first time, and that he was not familiar with RA 9165.

## Ruling of the Trial Court

After trial, the RTC convicted appellant. The dispositive portion of its Decision reads:

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

Re: Criminal Case NO. Q-03-122555, the Court finds accused **RODANTE DE LEON y DELA ROSA guilty** beyond reasonable doubt of a violation of Section 5, Article II of R.A. No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and hereby sentences him to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00;

Re: Criminal Case NO. Q-03-122556, the Court finds accused **RODANTE DE LEON y DELA ROSA guilty** beyond reasonable doubt of a violation of Section 11, Article II of R.A. No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and hereby sentences him to suffer the indeterminate penalty of twelve (12) years and one (1) day as minimum to fifteen (15) years and one (1) day as maximum and to pay a fine in the amount of P300,000.00;

SO ORDERED.<sup>[7]</sup>

On appeal to the CA, appellant disputed the trial court's decision finding him guilty beyond reasonable doubt of the crimes charged. He argued that the alleged buy-bust operation conducted by the police officers was tainted with irregularities and that the prosecution failed to prove the chain of custody of the evidence.

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

On April 4, 2008, the CA affirmed the judgment of the trial court. The dispositive portion of its Decision reads:

**WHEREFORE**, premises considered, the appeal is **DENIED** for lack of merit. The Decision dated 20 December 2005 of the Regional Trial Court of Quezon City, Branch 82 finding accused-appellant Rodante De Leon y Dela Rosa guilty beyond reasonable doubt in *Criminal Case No. Q-03-122555* for violation of Section 5, Article II of Republic Act No. 9165 and sentencing him to suffer the penalty of life imprisonment and to pay a fine in the amount of P500,000.00, and in *Criminal Case No. Q-03-122556* for violation of Section 11, Article II of R.A. No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002, sentencing him to suffer the indeterminate penalty of twelve (12) years and one (1) day as minimum to fifteen (15) years and one (1) day as maximum and to pay a fine in the amount of P300,000.00, is **AFFIRMED**.

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

Appellant filed a timely notice of appeal of the decision of the CA.

### **The Issues**

Appellant assigns the following errors: