

## THIRD DIVISION

[ G.R. No. 186459, September 01, 2010 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. NITA EUGENIO Y PEJER, APPELLANT.**

### D E C I S I O N

**CARPIO MORALES, J.:**

Nita Eugenio y Pejer (appellant) was charged before the Regional Trial Court (RTC) of Pasig City<sup>[1]</sup> for violation of Section 5, Article II of Republic Act No. 9165 (R.A. No. 9165) or the Comprehensive Dangerous Drugs Act of 2002, allegedly committed as follows:<sup>[2]</sup>

On or about May 13, 2003 in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO1 Aldrin Mariano, a police poseur-buyer, one (1) heat-sealed transparent plastic sachet containing three (3) centigrams (0.03 gram) of white crystalline substance, which was found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to law. (underscoring supplied)

From the evidence for the prosecution, the following version is culled:

On the night of May 13, 2003, at around 7:30 p.m., a confidential informant reported to PO1 Aldrin Mariano (PO1 Mariano), officer-on-duty at the Pasig City Hall Detachment, that one alias "Aruba" was selling *shabu* at Vicper Compound, Malinao, Pasig City.

P/Sr. Insp. Chief Rodrigo Villaruel at once formed a buy-bust team to conduct an operation composed of, among others, PO3 Amilassan Salisa as team leader, and PO1 Mariano as poseur-buyer. PO1 Mariano, who was given two one hundred peso bills bearing Serial Numbers BT219634 and XN547078 to be used as buy-bust money, wrote his initials "ARM" thereon at the lower left portion.

The operation was recorded in the police blotter and coordinated with the Philippine Drug Enforcement Agency (PDEA) which gave it control number NOC-1305-03-10.<sup>[3]</sup>

At around 8:00 in the evening, the team, together with the confidential informant, proceeded to the residence of appellant who was standing in front of her house. The informant at once introduced PO1 Mariano as buyer. As appellant inquired how

much, PO1 Mariano handed her the two marked bills upon which appellant drew out one substance-filled sachet from the "outside wall" of her house. At that instant, PO1 Mariano removed his cap, the pre-arranged signal for the team members to, as they did, close in.

PO1 Mariano then held appellant's arm, identified himself as a police officer, and apprised her of her constitutional rights as he retrieved from her the buy-bust money. He thereafter marked "EXH-A arm/05/13/03" on the substance-filled sachet "sold" to him by appellant.

The buy-bust team brought appellant to the Rizal Medical Center for physical check-up and later to the police detachment office where P/Sr. Insp. Chief Villaruel prepared the following memorandum of May 13, 2003<sup>[4]</sup> addressed to the Chief of the Eastern Police District Crime Laboratory Office, requesting the conduct of laboratory examination on the seized substance-filled sachet to determine the presence of dangerous drugs and their weight:

1. Respectfully forwarded to your good office herewith/attached (sic) submitted specimen for laboratory examination to wit:

NATURE OF OFFENSE	VIOLATION OF RA 9165
NAME OF SUSPECT	NITA EUGENIO Y PEJER, 57 years old, widow, Res. At Vicper Compound, Malinao, Pasig City
D.T.P.O.	<u>On or about <b>8:30 PM</b> 13 May 2003 at Vicper Compound, Malinao, Pasig City</u>
ARRESTING OFFICER	Elements of Mayor's Special Action Team/ City Hall Detachment, Pasig City Police Station represented by PO1 Aldrin Mariano
SPECIMEN SUBMITTED	One (1) heat sealed transparent plastic sachet containing undetermined amount of suspected "shabu" Marked EXH A ARM 05/13/03

2. Request acknowledge (sic) receipt.<sup>[5]</sup> (emphasis and underscoring supplied)

Acting on the above-quoted memorandum, P/Sr. Insp. Annalee R. Forro, Forensic Chemical Officer of the Eastern Police District Crime Laboratory Office, who received the sachet, conducted on the same night of May 13, 2003, at around **8:33 P.M.**, a laboratory examination of the contents of the sachet, the result of which she

recorded in Chemistry Report No. D-889-03E<sup>[6]</sup> wherein she concluded that the substance inside the sachet weighed 0.03 gram and was positive for methamphetamine hydrochloride.

Hence, the filing of the Information against appellant.

Denying the charge against her, appellant gave the following version:

On May 11, 2003, while fetching water from a nearby well, she was, in the presence of family and neighbors, accosted by police officers who brought her to the police station. At the station, she was questioned whether she knew one "Baylene Ramba," to which she replied in the negative. She was later surprised to learn that an Information for violation of R.A. 9165 had been filed against her.

Finding for the prosecution, the trial court, by Decision of May 31, 2005, convicted appellant, disposing as follows:

WHEREFORE, the Court finds accused NITA EUGENIO y Pejer @ Aruba GUILTY beyond reasonable doubt of the crime of violation of Sec. 5, Art. II of R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and imposes upon her the penalty of LIFE IMPRISONMENT and to pay a fine of Php500,000.00

SO ORDERED.<sup>[7]</sup> (underscoring supplied)

By Decision of September 16, 2008,<sup>[8]</sup> the Court of Appeals *affirmed* the trial court's decision.

In affirming the trial court's rejection of appellant's defense, the appellate court held:

. . . As correctly observed by the trial court, the claim that accused-appellant was arrested without reason is not supported by evidence. Not one of the alleged witnesses to the unlawful arrest, including accused-appellant's own daughter, was presented to corroborate the claim. Hence, the court *a quo* is correct in considering the defense incredible for being self-serving and uncorroborated.<sup>[9]</sup> (underscoring supplied)

In her present appeal, appellant claims, in the main, that there was failure to follow the requirements of Sec. 21 of R.A. No. 9165, hence, it compromised the integrity and evidentiary value of the allegedly seized item.

Sec. 21 of R.A. No 9165 provides:

**Section 21.** *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals,*