

SECOND DIVISION

[G.R. No. 191064, October 20, 2010]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROLANDO ARANETA Y ABELLA @ BOTONG AND MARILOU
SANTOS Y TANTAY @ MALOU, ACCUSED-APPELLANTS.**

DECISION

MENDOZA, J.:

This is an appeal from the August 29, 2008 Decision^[1] of the Court of Appeals (CA), in CA-G.R. CR-H.C. No. 02308, which affirmed the March 12, 2004 Decision^[2] of the Regional Trial Court, Branch 151, Pasig City (RTC), finding the accused guilty beyond reasonable doubt for violating Section 5 and Section 11 of Article II of Republic Act No. 9165, otherwise known as the "Comprehensive Drugs Act of 2002."

Criminal informations were filed in the RTC against Rolando Araneta y Abella a.k.a. "Botong" for Violation of Section 8 and Section 16 of R.A. No. 6425 (Dangerous Drugs Act of 1972), as amended, in addition to the Information filed against him and co-accused Marilou Santos y Tantay a.k.a. "Malou" for Violation of Section 15, Article III in relation to Section 21, Article IV of R.A. 6425, as amended. In view of the enactment of R.A. No. 9165 (Comprehensive Drugs Act of 2002), the original informations were amended accordingly. The said Informations read:

Criminal Case No. 11491-D
People vs. Araneta & Santos
(For Violation of Sec. 5 in relation to Sec. 26, Art. II, R.A. 9165)

On or about July 5, 2002 in Pasig City, and within the jurisdiction of this Honorable Court, the above accused, conspiring and confederating together and both of them mutually helping and aiding one another, not being lawfully authorized to sell, dispense, transport or distribute any dangerous drug, did then and there willfully, unlawfully and feloniously sell, deliver and give away to PO2 Danilo S. Damasco, a police poseur buyer, one (1) heat-sealed transparent plastic sachet containing white crystalline substance weighing of (sic) eight (8) centigrams (0.08 gram), which was found positive to the test for metamphetamine hydrochloride, a dangerous drug, in violation of said law.

Contrary to Law.

Criminal Case No. 11492-D
People vs. Araneta
(For Violation of Sec. 11, Art. II, R.A. 9165)

On or about July 5, 2002, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, not being lawfully authorized to use or possess any dangerous drug, did then and there willfully, unlawfully and feloniously have in his possession and under his custody and control one (1) heat-sealed transparent plastic sachet containing 1.22 grams of dried marijuana fruiting tops, which was found positive to the test for marijuana, a dangerous drug, and eight (8) heat-sealed transparent plastic sachets containing white crystalline substance with the following recorded net weight, to wit:

- 1) Exh. B1 RAA/070502 - 0.07 gram;
- 2) Exh. B2 RAA/070502 - 0.10 gram;
- 3) Exh. B3 RAA/070502 - 0.08 gram;
- 4) Exh. B4 RAA/070502 - 0.07 gram;
- 5) Exh. B5 RAA/070502 - 0.08 gram;
- 6) Exh. B6 RAA/070502 - 0.04 gram;
- 7) Exh. B7 RAA/070502 - 0.06 gram;
- 8) Exh. B8 RAA/070502 - 0.09 gram

or having a total weight of 0.59 gram, which were found positive to the test for methamphetamine hydrochloride, a dangerous drug, in violation of the said law.

Contrary to Law.

The prosecution's evidence was summarized in the CA decision as follows:

On July 5, 2002, between 3:00 and 3:30 o'clock in the morning, a confidential informant arrived at the Station Drug Enforcement Unit (SDEU) of the Pasig City Police Station to report to Officer-In-Charge SPO4 Numeriano de Lara the alleged peddling of illegal drugs of live-in couple Botong and Malou, later identified as appellants Rolando Araneta y Abella and Marilou Santos y Tantay, at Barangay Putol, Rosario, Pasig City. SPO4 de Lara immediately formed a team composed of SPO2 Dante Zigapan who acted as the team leader, PO2 Danilo Damasco, PO1 Orig, and PO1 Bede Montefalcon, to confirm the veracity of the informant's report and conduct a buy-bust operation. Before dispatching the team, SPO4 de Lara briefed them as to the alleged illegal activities of the couple and gave their description.

SPO2 Zigapan designated PO2 Damasco as the poseur-buyer giving him a marked P100 bill to be used in the entrapment. The team proceeded to the target area on board two vehicles. SPO2 Zigapan, Montefalcon and the informant were in one vehicle while PO2 Damasco and PO1 Orig were together in the other vehicle.

The team arrived at the target place around 4:10 in the morning. They positioned themselves some 20-30 meters from the alley where

appellants were allegedly staying. SPO2 Zigapan gave instructions to the informant to locate the appellants. After several minutes, the informant came back and confirmed the presence of appellants at ROTC Street, Putol, Bgy. Rosario, Pasig City. Thereafter, the team proceeded to the said location.

PO2 Damasco and the informant went near the appellants who were standing just outside their house. The informant and appellants exchanged greetings. After a short conversation, Botong went inside their house. The informant introduced PO2 Damasco to Malou by saying, "*I-score itong kaibigan ko. Baka meron ka dyan.*" Malou then asked PO2 Damasco, "*I-score ka na ba.*" After Malou asked PO2 Damasco, "*Magkano,*" the latter immediately gave her the marked P100 bill.

Malou called Botong and when the latter came out, Malou handed to him the marked money. Botong then gave Malou a plastic sachet which she handed to PO2 Damasco.

After examining the plastic sachet, PO2 Damasco immediately gave the pre-arranged signal to the other members of the team who thereafter rushed to the scene. PO2 Damasco arrested Malou while SPO2 Zigapan arrested Botong.

SPO2 Zigapan recovered from Botong the marked P100 bill and after frisking him, the police officer found in Botong's pocket one plastic sachet of what looked like marijuana and eight plastic sachets containing white crystalline substance. PO2 Damasco immediately placed "RAA" and the date July 5, 2002 on the plastic sachet he brought from Malou and the plastic sachets confiscated by SPO2 Zigapan from Botong.

At the police station, PO2 Damasco prepared the written request for a laboratory examination of the confiscated plastic sachets. Together with the request, the plastic sachets were brought by PO1 Orig to the crime laboratory. The laboratory tests gave a positive result of the presence of methamphetamine hydrochloride or what is locally known as shabu on the contents of nine (9) sachets and marijuana on one (1) sachet.

The evidence for the accused was summarized by the CA as follows:

Between 3:30 to 4:30 o'clock in the morning of July 5, 2006, accused Rolando Araneta together with his live-in partner and co-accused Marilou Santos were sleeping on the ground floor of their rented apartment, when they were suddenly awakened by a loud noise coming from the upstairs. Rolando immediately stood up and tried to go up the stairs. That was when he met a man who introduced himself as a policeman. The man likewise pointed a gun to him and told him not to move. He was then instructed to sit down, to which he acceded. Thereafter, the man went near the door of his house and opened the same. Suddenly, four (4) other policemen went inside. One of the policemen went inside the comfort room and looked for somebody. Later, he heard the said

policeman utter, "Nobody is here." One of the policemen then approached Rolando and asked him the whereabouts of a certain Teng. Rolando answered that he did not know Teng and that there was no other person inside the house except for him and his wife Marilou.

The police operatives searched his house. They however found nothing illegal inside his house. After the search, the police operatives invited Rolando and Marilou to come with them to the precinct to answer some questions. Thereat, the police operatives informed them that they are being charged for their involvement in illegal drug activities, which they vehemently denied. PO2 Damasco, however, told them that if they wanted to be released, Rolando and Marilou must pay P20,000.00 each. When Rolando declined to give said amount, the police operatives filed the instant cases against them. (TSN, June 23, 2003, pp. 2-8)

In the early morning of July 5, 2003, accused-appellant Marilou Santos and her live-in partner Rolando were sleeping when they were awakened by a noise coming from the second floor of their house. Rolando tried to go upstairs to find out what happened, but he met a man who instantly poked a gun at him. Marilou tried to stand up but the policeman told her, "Stay there, don't move." Thereafter the police shoved them near the chair. He also asked Rolando the whereabouts of Teng but the former answered that nobody by the name of Teng lived there. While still poking the gun on them, the policeman opened the door of their house. Five (5) policemen then entered and conducted a search.

After the search, the policemen brought them to the police station. Thereat, PO2 Damasco asked them several questions. Moments later, the policeman got something from the drawer and told them that those articles belong to them. Marilou denied that the said articles belong to them since the policemen did not recover anything from them during the search. Despite her denial, they were still charged with Violations of Sections 15, 16 and 8 of Republic Act 9165. After a while, PO2 Damasco demanded P20,000.00 from them in exchange for their release. As they were innocent, Marilou refused to give said amount, prompting the police operatives to formally charge them. (TSN, July 23, 2003, p. 3)

In the early morning of July 5, 2002, Marian Rodriguez was outside the alley in ROTC, Rosario, Pasig City when she saw both accused going out of the alley accompanied by five (5) men. The accused and the five (5) men passed in front of Marian. She hesitated to follow the group. Since then Marian never saw the accused again. (TSN, September 10, 2003, pp. 3-4).

In its March 12, 2004 Decision, the RTC found the accused guilty beyond reasonable doubt and sentenced them accordingly, as follows:

WHEREFORE, the Court renders judgment, as follows:

1) In Criminal Case No. 11491-D, the Court finds accused Rolando

Araneta y Abella @ Botong and accused Marilou Santos y Tantay A Malou GUILTY beyond reasonable doubt of violation of Sec. 5 in relation to Sec. 26, Art. II of R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and imposes upon them the penalty of LIFE IMPRISONMENT and to pay a fine P500, 000.00 each; and

2) In Criminal Case No. 11492-D (which absorbed Criminal Case No. 11490-D), the Court finds accused Rolando Araneta y Abella @Botong GUILTY beyond reasonable doubt of violation of Sec. 11, Art. II of R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and imposes upon him the penalty of imprisonment of from Twelve (12) years and One (1) day to Twenty (20) years and to pay a fine of P300, 000.00. Considering that the accused is a detention prisoner, he shall be credited with the period of his detention during his preventive imprisonment.

Xxx xxx xxx

SO ORDERED.

The RTC ruled that all the elements for the prosecution of the illegal sale of dangerous drugs were present during the buy-bust operation conducted by the police officers. These were: 1) the identity of the buyer and the seller; 2) the object of the sale and the consideration; and 3) the delivery of the thing sold and payment therefor.

Furthermore, the RTC held that the defense of denial, frame-up, forcible entry, and extortion could not prevail over the positive identification by the prosecution witnesses. It noted that accused Rolando Araneta was not candid enough to inform the court that no less than eight (8) criminal cases were previously filed against him in different courts for violation of the Dangerous Drugs Law. Nevertheless, out of eight (8) criminal cases filed against him, he admitted that one resulted in a conviction and two other cases were dismissed. The other cases were then still pending trial.

Aggrieved, the accused appealed to the CA arguing that: 1) the RTC erred in not finding that they were illegally arrested and, as such, the sachets of *shabu* allegedly recovered from them were inadmissible in evidence; and 2) the RTC erred in finding them guilty beyond reasonable doubt of the crime charged because the testimonies of the prosecution witnesses were replete with inconsistencies and contradictions.

On August 29, 2008, the CA rendered the subject decision affirming the decision of the RTC.

In arriving at said determination, the CA applied the "*objective test*" in buy-bust operations laid down in the case of *People v. Doria*, 301 SCRA 668, 698-699.^[3] The CA ruled that the prosecution evidence met the standard for the "*objective test*" through the testimony of its witness, PO2 Danilo Damasco, who acted as *poseur-buyer* and who related how the informant introduced him to the accused; how the transaction was consummated through the exchange of marked money and the sachet of *shabu*; and how the accused was arrested by the entrapment team.