

## SECOND DIVISION

[ G.R. NO. 182296, April 07, 2009 ]

**SUSAN SALES Y JIMENA, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**CARPIO MORALES, J.:**

Upon her arrest during an alleged drug buy-bust operation conducted on November 5, 2002, Susan J. Sales (petitioner) was charged for violation of Section 5, Article II of Republic Act (R.A.) No. 9165<sup>[1]</sup> before the Regional Trial Court (RTC) of Quezon City in Criminal Case No. Q-02-113122-3.

The accusatory portion of the Information<sup>[2]</sup> dated November 7, 2002 filed against petitioner reads:

That on or about the 5<sup>th</sup> day of November, 2002 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 willfully and unlawfully sell, dispense, deliver, transport, distribute or act as broker in the said transaction, zero point one four (0.14) gram of white crystalline substance containing methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW. (Underscoring supplied)

Danilo D. Sanchez, who was also allegedly buying a prohibited drug from petitioner on the same occasion, was charged separately but tried jointly with petitioner. He was acquitted on reasonable doubt. Hence, the present appeal pertains only to petitioner.

Culled from the evidence for the prosecution consisting of, in the main, the testimony of PO1 Teresita B. Reyes (PO1 Teresita), a police officer assigned at the District Drug Enforcement Unit (DDEU), Camp Karingal, Sikatuna Village, Quezon City, is the following version:

On November 5, 2002, an informant<sup>[3]</sup> reported to the chief<sup>[4]</sup> of the DDEU that one named "Susan," who was later identified by PO1 Teresita to be petitioner, was peddling prohibited drugs along Scout Tobias Street, Barangay South Triangle, Quezon City. The DDEU chief at once formed a police team to conduct a buy-bust operation with PO1 Teresita as poseur buyer, PO1 Roberto Manalo as team leader, and PO1 Gerry Pacheco and PO1 Filnar Mutia as members. PO1 Teresita was given a P500.00 bill to be used as buy-bust money which she marked with her initials "TBR" (Exhibits "A" & "A-1").<sup>[5]</sup>

At past 4:00 p.m. that same day of November 5, 2002, the team, together with the informant, proceeded to Barangay South Triangle. On reaching Scout Tobias Street at around 5:00 p.m., PO1 Teresita, together with the informant, started walking along the street as the team members strategically deployed themselves in the vicinity.

Upon seeing petitioner standing at the side of the street, the informant approached her and introduced PO1 Teresita as a "*kaibigan ko i-iscore daw sya*."<sup>[6]</sup> Petitioner thereupon asked PO1 Teresita how much she would buy, to which she replied "P500.00," at the same time handing to petitioner the P500 bill. Petitioner in turn, gave PO1 Teresita a small plastic sachet.<sup>[7]</sup> At that instant, another person, who turned out to be Danilo D. Sanchez (Sanchez), appeared from nowhere and told petitioner that he also wanted to "score"<sup>[8]</sup> (buy). Almost simultaneously PO1 Teresita carried out the pre-arranged hand signal to her colleagues and embraced petitioner as she introduced herself as a police officer.<sup>[9]</sup> The team members rushed towards them, and PO1 Roberto Manalo immediately searched petitioner from whom he recovered the buy-bust money. Sanchez was searched too and a sachet was recovered from him.<sup>[10]</sup> The team arrested the two.

On their way back to Camp Karingal, PO1 Teresita marked the plastic sachet recovered from petitioner with her initials "TBR." She too marked the plastic sachet taken from Sanchez with her initials.<sup>[11]</sup> The team later turned over the buy-bust money to the desk officer, and transmitted the sachets to the PNP Crime Laboratory for examination.<sup>[12]</sup>

In Chemistry Report No. D-1324-02 dated November 8, 2002 (Exhibit "E"),<sup>[13]</sup> the contents of the sachets were found positive for methylamphetamine hydrochloride or *shabu*. The sachet taken from petitioner weighed 0.14 gram (that from Sanchez weighed 0.09 gram).

The defense proffered an entirely different version.

Petitioner, a real estate consultant residing at No. 547 Kundiman Street, Sampaloc, Manila, and her witness Edwin Isaguirre (Isaguirre), denying PO1 Teresita's tale, gave the following account.

On November 4, 2002, at past 9 o'clock in the evening, petitioner was at Isaguirre's house located at No. 65 K-7<sup>th</sup> Street, Kamias, Quezon City to visit Agnes, Isaguirre's sister-in-law and petitioner's high school classmate and close friend, who just arrived from the USA. While there, petitioner, together with Isaguirre, his wife, and Teresa, played *pusoy* and *tong-its* at the library when armed men, who turned out to be policemen, barged into the house by passing through the open main door adjacent to the library. Without any search and arrest warrant, the armed men searched the house and arrested petitioner together with Isaguirre and Teresa, but not after they (armed men) took petitioner's cellular phone, jewelry and cash of over P3,000.

Petitioner, Isaguirre and Teresa were invited for questioning bearing on drugs. Despite their protestation of innocence, they were forcibly brought to Camp Karingal

where they were detained separately.

While on detention, petitioner was prevented from contacting her lawyer or any person and was constantly asked if she knew of any drug pusher, but she denied any knowledge. Petitioner remained on detention, while Isaguirre and Teresa were released.

By Joint Decision<sup>[14]</sup> dated August 28, 2006, the trial court, crediting the version of the prosecution and finding that "[t]he police followed the normal and regular procedure in conducting the entrapment operation, x x x,"<sup>[15]</sup> convicted petitioner, as charged, and imposed upon her life imprisonment and a fine of P500,000. Thus it disposed:

ACCORDINGLY, judgment is hereby rendered as follows:

1. In Criminal Case No. Q-02-113122, accused **SUSAN SALES y JIMENA** is hereby found **GUILTY** beyond reasonable doubt of violation of Section 5 of R.A. 9165 (for drug pushing) as charged and she is hereby sentenced to suffer a jail term of **LIFE IMPRISONMENT** and to pay a fine of **P500,000.00**; and
2. In Criminal Case No. Q-02-113123, accused **DANILO SANCHEZ y DISTAJO** is hereby **ACQUITTED** of violation of Section 11 of R.A. 9165 (possession of *shabu*) as charged due to reasonable doubt.

The *shabu* involved in each of these cases in two sachets (A & B) weighing 0.14 gram and 0.09 gram, respectively, are ordered transmitted to the PDEA thru the DDB for proper disposition per R.A. 9165.

**SO ORDERED.** (Emphasis in the original)

On appeal, the Court of Appeals, by Decision<sup>[16]</sup> dated December 17, 2007, affirmed the trial court's decision. Her motion for reconsideration having been denied, petitioner filed the present petition for review on certiorari.

Petitioner faults the Court of Appeals in relying on the improbable and incredible testimony of PO1 Teresita that she (petitioner) was arrested during a buy-bust operation.<sup>[17]</sup> Assuming there was such a buy-bust operation, petitioner posits, the police team did not comply with the guidelines required by law concerning her arrest and the confiscation and custody of the illegal drugs.<sup>[18]</sup>

The Office of the Solicitor General (OSG) in its Comment prays that the petition be denied for lack of merit.

This Court, aware that in some instances law enforcers resort to the practice of planting evidence to extract information or even to harass civilians,<sup>[19]</sup> has been issuing cautionary warnings to courts to exercise extra vigilance in trying drug cases, lest an innocent person is made to suffer the unusually severe penalties for drug offenses.

After a considered examination of the records of the case, the Court finds that a reversal of the challenged Court of Appeals decision is in order.

PO1 Teresita's testimony is not only improbable but also incredible. Consider her following testimony, quoted *verbatim*:

CROSS EXAMINATION:

ATTY. GARLITOS:

Q: Mrs. Witness, do you know personally the informant in this case x x x?

WITNESS:

A: He just came to our office.

x x x x

Q: So that was the first time that you saw the informant?

A: Yes, sir.

x x x x

Q: And did the informant actually tell where in Scout Tobias made this target area of operation x x x?

A: The informant said that is where this alias Susan doing.

Q: In a house?

A: Outside, sir.

Q: And did your informant mention that she will be riding in a car?

A: Not he was mentioning about that, sir.

Q: So the informant told you that this Susan is walking along Scout Tobias?

A: He said "Makikita naming nakatayo si Susan."

x x x x

Q: Did the informant tell you why she was standing there, Mrs. Witness?

A: According to the informant that is the place where she's selling drugs, sir.<sup>[20]</sup> (Underscoring supplied)

By PO1 Teresita's claim, her informant had told her that "that is the place where [petitioner is] selling drugs." Why PO1 Teresita took the word of the informant whom she admitted having met for the first time on that occasion is strange. At any rate, if, indeed, petitioner was a peddler, she would know the perils inherent in her illegal trade and would not simply peddle prohibited drugs **openly along a busy street, Scout Tobias, in broad daylight.** For carrying out illicit business under