

FIRST DIVISION

[CA-G.R. CR. HC NO. 05623, March 31, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
FRANTE RECOLIZADO Y GARCIA, ACCUSED-APPELLANT.**

DECISION

SORONGON, E. D., J.:

Frante Recolizado y Garcia (accused-appellant) seeks the reversal of the *Joint Decision*^[1] dated May 7, 2012 of the Regional Trial Court of Aparri, Cagayan, Branch 9, in *Criminal Cases HC Nos. II-10056 and 11-10057* for violation of Sections 5 and 11 of R.A. No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002, respectively.

The two Informations read:

In Criminal Case No. II-10056

"The undersigned Inquest Prosecutor accused FRANTE RECOLIZADO y GARCIA for Violation of Section 5, of Republic Act No. 9165, committed as follows:

That on or about APRIL 5, 2007, in the municipality of Aparri, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused, without any legal authority thereof, conspiring together and helping each other, did then and there willfully, unlawfully and feloniously sell and/or dispose of one (1) piece heat-sealed transparent plastic sachet containing Methamphetamine Hydrochloride, locally known as Shabu, a dangerous drug, weighing more or less 0.01 gram, to a poseur/buyer of the elements of the Philippine National Police force 201st PMG stationed at Punta, Aparri, Cagayan for and in consideration of the amount of P300.00, the said accused knowing fully well and aware that it is prohibited for any person to sell, dispose, contribute and/or give away to another any dangerous drug unless authorized by law.

CONTRARY TO LAW."

In Criminal Case No.II-10057

"The undersigned Inquest Prosecutor accuses FRANTE RECOLIZADO y GARCIA for Violation of Section 11, of Republic Act No. 9165, committed as follows:

That on or about APRIL 5, 2007, in the municipality of Aparri, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-

named accused, without any legal authority thereof, did then and there willfully, unlawfully and feloniously have in his possession and under his control and custody two (2) heat-sealed transparent plastic sachets each containing white crystal substance, with an aggregate weight of .04 gram, which substance gave positive result to the tests of Methamphetamine Hydrochloride, a dangerous drug, the said accused knowing fully well and aware that it is prohibited for any person to possess or use any dangerous drug regardless of quantity or purity, unless authorized by law.

CONTRARY TO LAW."

When arraigned on October 8, 2008 accused-appellant entered a "not guilty" plea. Trial on the merits thereafter ensued.

The version of the People as summarized by the Office of the Solicitor General (OSG) in their brief runs thuswise:

"On April 5, 2007, at around 7:00 in the morning, PO2 Richard Arellano was at the police office in Punta, Aparri, Cagayan, when an asset arrived and apprised him that illegal drugs were being sold by appellant at Barangay San Antonio, Aparri, Cagayan. PO2 Arellano informed their director about the tip from the asset. Thereafter, a police team was formed in order to conduct a buy-bust operation, which team included PO2 Arellano as the poseur-buyer.

At about 8:00 in the morning of the same date, the police team, with the asset, proceeded to Gallarza St., Barangay San Antonio, Aparri, Cagayan. Upon arriving thereat, the police positioned themselves outside appellant's house while PO2 Arellano and the asset went inside the house of appellant. Thereat, PO2 Arellano told appellant that he wanted to buy shabu. Appellant asked PO2 Arellano how much he wanted to buy while retrieving in his pocket a plastic sachet containing shabu. PO2 Arellano then said that he wanted to buy three hundred peso worth of shabu and gave the marked money amount to appellant. Appellant then handed the shabu to PO2 Arellano. PO2 Arellano made the pre-arranged signal to his back up team to indicate that the sale of shabu was consummated. The back-up team, which included SPO1 Loreto Rasac, arrived and introduced themselves as police officers. The police apprised appellant of his rights and was thus arrested.

Appellant was frisked and two additional plastic sachets were found in his possession together with the marked money. PO2 Arellano put his initials "RCA" on the plastic sachet he bought from the appellant while SPO1 Ragsac placed his initials "LHR1" and "LHR2" on the plastic sachets he found in the possession of appellant.

On April 6, 2007 P/Insp. Prestant Antonio, Forensic Chemical Officer of the Crime Laboratory, Camp Adduru, Tuguegarao, conducted a chemical examination on the sachets recovered from appellant. The chemical examination yielded positive for the presence of Methamphetamine Hydrochloride or shabu."^[2]

For his defense, accused-appellant alleged:

"On April 5, 2007, accused FRANTE RECOLIZADO (Recolizado for brevity) was in his house and he just woke up when two (2) male persons, Jayson Mata and one Alariao, went to him and asked him for an errand to buy shabu from his cousin Ely. The two (2) gave him Five Hundred Pesos (Php500.00). Recolizado acceded, went to buy shabu for the two (2), then went home. After thirty (30) minutes, the two (2) arrived in their house and while they were in front of their house, they were brandishing two (2) pieces of plastic shabu. Suddenly, the companion of Jayson Mata grabbed Recolizado and they bodily carried him asking him about the marked money. The two (2) also frisked his pockets and took hold of his Six Hundred Fifty Pesos (Php650.00) they found in his pocket. Then, they brought him to the police headquarters. Upon arrival, Recolizado asked regarding his money and the police replied that they have to photocopy it. The shabu that he was requested to buy from his cousin Ely is in possession of the police officers. When Recolizado was apprehended by PDEA agents, he asked the latter why he was being arrested, but the PDEA agents did not utter anything. He even complained when he was brought to the police station."^[3]

The trial court convicted the accused-appellant by Decision^[4] dated May 7, 2012. The dispositive portion of the said decision states:

"Wherefore, premises considered, accused Frante Recolizado is hereby found guilty beyond reasonable doubt in Criminal Case No. II-10056, for violation of Sec. 5, of RA 9165, and is hereby sentenced to suffer the penalty of life imprisonment and a fine of one million (P1,000,000.00) pesos.

Likewise, the accused is found guilty beyond reasonable doubt in Criminal Case No. II-10057, for violation of Sec. 11, of RA 9165, and is hereby sentenced to suffer the penalty of twelve (12) years and one day to fifteen (15) years imprisonment and a fine of three hundred thousand (P300,000.00) pesos.

SO ORDERED."

By way of this appeal, accused-appellant alleged:

I. THE TRIAL COURT GRAVELY ERRED IN NOT GIVING WEIGHT AND CREDENCE TO ACCUSED-APPELLANT'S DEFENSE OF DENIAL;

II. THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED NOTWITHSTANDING THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT; and

III. THE TRIAL COURT GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE IMPROBABLE AND INCONSISTENT TESTIMONIES OF THE PROSECUTION WITNESSES.