

## NINTH DIVISION

[ CA-G.R. CR No. 05848, March 17, 2014 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RANDY MAYO Y MENDOZA, ACCUSED-APPELLANT.**

### DECISION

**LAMPAS PERALTA, J.:**

Before the Court is an appeal<sup>[1]</sup> from the Decision dated October 29, 2012<sup>[2]</sup> in Criminal Case No. 0474-2005 of Branch 13, Regional Trial Court of Batangas, Lipa City, convicting accused-appellant Randy Mayo y Mendoza of the crime of violation of Section 11<sup>[3]</sup>, paragraph 1, Article II, Republic Act No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*. The case involves 1,658 grams of dried marijuana leaves and 61.4 grams of dried marijuana fruiting tops which were found in accused-appellant's rented apartment as a consequence of the execution of the search warrant issued against him.

### THE ANTECEDENTS

Prior to August 8, 2005, SPO1 Guillermo Banaag, Chief Investigator of the 402nd Provincial Mobile Group (PMG) stationed at *Barangay Masaya*, Rosario, Batangas, received information that accused-appellant was engaged in activities involving illegal drugs in Brgy. Latag, Lipa City, Batangas. After surveillance and confirmation of accused-appellant's involvement in illegal drugs, SPO1 Banaag, PO2 Marcos Quitain and PO1 Jeremy Ambita applied for a search warrant which was issued by Executive Judge Avelino Demetria of Branch 85, RTC, Lipa City, Batangas against accused-appellant at his address at No. 2 Dante Briones Apartment, Brgy. Latag, Lipa City, Batangas. The PMG coordinated with the Philippine Drug Enforcement Agency (PDEA) and the Lipa City Police Station on the execution of the search warrant.<sup>[4]</sup>

On August 8, 2005, around 6:00 P.M., the PMG team composed of Police Inspector Jose Marasigan Jr., SPO1 Benjamin Aguila, PO3 Dante Bautista, PO2 Alex Matibag, PO3 Richard Leynes, PO1 Jeremy Ambita and Gary Guy Goree, a media representative, proceeded to accused-appellant's apartment at the aforesated address. Barangay Captain Filomino C. Maandal, Jr. was also present. The team did not find accused-appellant in the apartment, but Ana Castillo, his live-in partner, was there who confirmed that accused-appellant was also living there. After explaining the search warrant to Ana Castillo and Barangay Captain Maandal, Police Inspector Jose Marasigan Jr., PO3 Richard Leynes, PO2 Alex Matibag and Gary Guy Goree entered accused-appellant's apartment. The team recovered three (3) packs of suspected dried marijuana in accused-appellant's cabinet and eight (8) sachets containing suspected dried marijuana fruiting tops beside the cabinet. PO3 Dante Bautista took photographs thereof, while PO3 Richard Leynes placed "RLL 08-08-05" representing his initials and the date of the search on the said packs and sachets. The inventory of the items and the Receipt of Property Seized were signed by Ana

Castillo, Barangay Captain Maandal, Gary Guy Goree and Police Inspector Jose Marasigan Jr.<sup>[5]</sup>

On the same night of August 8, 2005, around 9:00 P.M., the PMG team brought the seized items to their headquarters in *Brgy. Masaya*, Rosario, Batangas. After blotter, PO3 Richard Leynes turned over the recovered marijuana to Chief Investigator SPO1 Guillermo Banaag. Upon return of the search warrant and approval of his custody of the seized items, SPO1 Banaag prepared on August 9, 2005 a letter-request for the examination of the seized items and personally delivered them on the same day around 4:15 P.M. to SPO1 Lito Vargas of the PNP Batangas Provincial Crime Laboratory Office at Camp General Miguel C. Malvar, Kumintang Ilaya, Batangas City. SPO1 Lito Vargas in turn immediately handed the items to forensic chemist Mr. Jupri Delantar, whose qualitative examination on said specimens yielded a positive result for marijuana, a dangerous drug.<sup>[6]</sup>

For his part, accused-appellant denies any knowledge about the seized items, but he admits that he was then residing in the rented apartment with Ana Castillo.<sup>[7]</sup>

Details of the respective factual versions of the parties based on the evidence they presented, were summarized by the trial court in its Decision dated October 29, 2012 as follows:

xxx Prior to August 8, 2005, SPO1 Guillermo Areta Banaag who was then the Chief Investigator of the 402nd Provincial Mobile Group (PMG), stationed at Barangay Masaya, Rosaio, Batangas, received an information from their Intelligence Operatives that herein accused Randy Mayo y Mendoza of Barangay Latag, Lipa City, Batangas, is engaged in activities involving illegal drugs. He thus conducted surveillance on the accused and after confirming such illegal activities, he together with PO2 Marcos Quitain and PO1 Jeremy Ambita applied for a search warrant against the accused before Executive Judge Avelino Demetria of the Regional Trial Court (RTC), Branch 85, Lipa City, Batangas. On August 8, 2005, Judge Demetria issued Search Warrant No. 03-2005 xxx against herein accused Randy Mayo y Mendoza alias "Andy" of No. 2 Dante Briones Apartment, Barangay Latag, Lipa City, Batangas, for Violation of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Before serving the search warrant, the elements of the 402nd Provincial Mobile Group, entered their operation in their blotter xxx. The group also coordinated with the Philippine Drug Enforcement Agency (PDEA) as evidence by the Pre-Operation Report xxx and the Lipa City Police Station on their planned execution of the search warrant against the accused.

On August 8, 2005, at around 6:00 o' clock in the evening, a team of the 402nd Provincial Mobile Group composed of team leader Police Inspector Jose Marasigan Jr., SPO1 Benjamin Aguila, PO3 Dante Bautista, PO2 Alex Matibag, PO3 Richard Leynes and PO1 Jeremy Ambita together with

media representative Gary Guy Goree proceeded to the rented apartment of the accused in Barangay Latag, Lipa City, Batangas, armed with a search warrant. Upon arrival thereat, the team fetched the Barangay Captain of the said barangay, Filomino C. Maandal, Jr., in order to witness the conduct of the search. Barangay Captain Maandal acceded in going with them but upon reaching the house of the accused, they found out that the accused was not around and only his live-in partner, Ana Castillo was there. Ana Castillo however, confirmed that the accused was living there.

To begin the search, PO3 Dante Bautista read and explained the search warrant to Ana Castillo and Barangay Captain Maandal. Thereafter, PI Jose Marasigan Jr., PO3 Richard Leynes, and PO2 Alex Matibag entered the apartment of the accused together with media representative Gary Guy Goree, Ana Castillo and Barangay Captain Maandal. Other members of the searching team were outside the house guarding the perimeter. The apartment has only one (1) room and during the conduct of the search, the team recovered two and a half bricks or packs of suspected dried marijuana xxx inside the cabinet of the said room, wrapped in a newspaper with packing tape and eight (8) pieces of small sachets xxx also containing dried marijuana. The scent of it and previous experiences led the team to believe that those were dried marijuana leaves. PO3 Dante Bautista then took photographs xxx of the recovered illegal drugs with the searching team and with the civilian witnesses. PO3 Richard Leynes placed the marking RLL 08-08-05, which stands for his initials and the date of the search, on the packages of *marijuana* recovered. Thereafter, an Inventory of Confiscated/Seized Items xxx was made, duly signed by Ana Castillo, Barangay Captain Maandal, Gary Guy Goree, and team leader PI Jose Marasigan Jr. A Receipt of Property Seized xxx was prepared together with the Certification of Orderly Search xxx with Ana Castillo, Barangay Captain Filomeno C. Maandal, team leader Police Inspector Jose Marasigan as signatories.

The team proceeded to their headquarters in *Barangay Masaya*, Rosario, Batangas, with the items recovered. At the headquarters, the incidents of their operation were entered in their blotter xxx. The confiscated items were then turned over by PO3 Richard Leynes to their chief investigator SPO1 Guillermo Banaag, who then prepared the 1st Indorsement dated August 9, 2005 for the return of the search warrant, specifically, RTC Branch 85, Lipa City. He also made a Motion for custody of the seized/illegal drugs xxx which the Court granted in its Order dated August 9, 2005 xxx, duly signed by Judge Demetria. Upon the receipt of two and a half (2½) packs of dried *marijuana* leaves and eight (8) heat sealed transparent plastic sachets containing dried marijuana leaves from the Court, SPO1 Banaag prepared a letter-request xxx for the examination of the said illegal drugs recovered from the accused.

SPO1 Banaag forwarded the confiscated drugs to the PNP Batangas Provincial Crime Laboratory Office Camp General Miguel C. Malvar, *Kumintang Ilaya*, Batangas City with the letter-request xxx that the said specimens be examined. The *Qualitative Examination* done on the said specimens as stated in the Chemistry Report Number BD-123-05 xxx gave a positive result for the presence of Marijuana, a dangerous drug. Hence, the instant charge against herein accused for *Violation of Section 11, Paragraph 1, Article II of Republic Act No. 9165* otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

xxx xxx xxx

For its part, the Defense presented its lone witness, in the person of the accused himself Randy Mayo y Mendoza.

In claiming innocence, he narrated that on August 16, 2005, he was in Manila for a contract to paint a house for five (5) months. He admitted that in 2005 that he was a resident of B. Reyes Street, *Barangay Latag*, Lipa City, Batangas. He was then renting an apartment with a female companion, Ana Castillo. He learned from his friend that the said apartment he was renting was searched on August 8, 2005. When his work contract was finished, he went back to Lipa City but instead lived in *Barangay Anilao*. In 2007, he was arrested at the Sampaguita Mart by PNP members of Rosario, Batangas, by virtue of an Alias Warrant of Arrest issued by Judge Jane Aurora Lantion on account of the instant charge.<sup>[8]</sup>

A criminal information<sup>[9]</sup> was filed against accused-appellant for violation of Section 11, paragraph 1, Article II of R. A. No. 9165. Thus:

That on or about the 8th day of August, 2005 at about 7:30 o' clock in the evening at Brgy. Latag, Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there wilfully, unlawfully and feloniously have in his custody, control and possession of 1,658 grams of dried marijuana leaves contained in three (3) packages and 61.4 grams of dried marijuana fruiting tops contained in eight (8) separate heat-sealed transparent plastic bags, which are dangerous drugs.

Contrary to law.

Upon arraignment on February 26, 2007, accused-appellant pleaded "not guilty" to the charge.<sup>[10]</sup> Pre-trial was conducted wherein the trial court issued a pre-trial Order<sup>[11]</sup> summarizing the matters taken up as follows:

xxx xxx xxx

The Minutes of the Preliminary held on August 14, 2008 are hereby adopted by the parties to wit:

*'MARKING OF DOCUMENTARY EVIDENCE:*

xxx xxx xxx

*WITNESSES:*

xxx xxx xxx

*STIPULATION OF FACTS:*

*The identity of the accused as the same accused who was arraigned before this Court, and the jurisdiction of this Honorable Court were admitted.'*

The Public Prosecutor presented the original of Chemistry Report BD-123-05 xxx

In addition to the four pictures already marked during the preliminary conference, the Prosecution marked another two (2) pictures xxx and the marijuana contained in the eight (8) heat sealed transparent plastics xxx

xxx xxx xxx

The issue to be resolved is whether or not the accused is guilty of the crime charged.

xxx xxx xxx

Trial ensued. The prosecution presented PO2 Alex Matibag,<sup>[12]</sup> PO3 Richard Leynes,<sup>[13]</sup> SPO1 Guillermo Banaag<sup>[14]</sup> and Barangay Captain Filomino C. Maandal, Jr.<sup>[15]</sup> as witnesses. The defense presented accused-appellant<sup>[16]</sup> as its lone witness.

In a Decision dated October 29, 2012, the trial court convicted accused-appellant of violation of Sections 11, paragraph 1, Art. II of R. A. No. 9165 and sentenced him as follows:

WHEREFORE, premises considered and in view of all the foregoing, the Court finds the accused Randy Mayo Y Mendoza GUILTY beyond reasonable doubt for *Violation of Section 11, Paragraph 1, Article II of*