

ELEVENTH DIVISION

[CA-G.R. CR-HC No. 05944, April 23, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JUBAYNAI MALAGUIT Y MORENO, ACCUSED-APPELLANT.**

LANTION, J.A.C., J.:

This is an appeal from the Decision^[1] dated 16 October 2012 of the Regional Trial Court of Quezon City, Branch 82, in Criminal Case Nos. Q-06-140136 and Q-06-140137 finding accused-appellant Jubaynai Malaguit y Moreno GUILTY beyond reasonable doubt of violation of Section 5 and 11, Article II of Republic Act No. 9165^[2] (sale and illegal possession of prohibited drugs). The dispositive portion of the said Decision reads:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

a) RE: Criminal Case No. Q-06-140136 - This Court finds accused JUBAYNAI MALAGUIT Y MORENO "guilty" beyond reasonable doubt of a violation of Section 5, Article II of Republic Act No. 9165.

Accordingly, she is hereby sentenced to suffer the penalty of LIFE IMPROSONMENT and to pay a fine of Five Hundred Thousand (Php500,000.00) Pesos;

b) RE: Criminal Case No. Q-06-140137 - This Court finds accused JUBAYNAI MALAGUIT Y MORENO "guilty" beyond reasonable doubt of a violation of Section 11, Article II, of the same Act.

Accordingly, she is hereby sentenced to suffer the indeterminate penalty of imprisonment of Twelve (12) years and One (1) Day as Minimum to Fourteen (14) Years as Maximum and to pay a fine in the amount of Three Hundred Thousand (Php300,000.00) Pesos.

c) The Branch Clerk of Court is hereby directed to transmit to the Philippine Drug Enforcement Agency the dangerous drugs subject thereof for proper disposition and final disposal.

SO ORDERED."^[3]

THE ANTECEDENTS

The indictment of Accused-Appellant Jubaynai Malaguit's (hereafter Appellant) stemmed from the two (2) *Informations* filed against her, which pertinently read:

In CRIMINAL CASE NO.Q-06-140136^[4]
(Information dated 13 March 2006 for Violation of
Sec. 5, Article II, of RA 9165)

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xxx

That on or about the 11th day of March 2006, 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 zero nine (0.09) gram of white crystalline substance containing Methylamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.

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In CRIMINAL CASE NO. Q-06-140137^[5]
(Information dated 13 March 2006 for Violation of
Sec. 11, Article II of RA 9165)

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xxx

That on or about the 11th day of March 2006, in Quezon City, Philippines, the said accused, not being authorized by law to possess or use any dangerous drug, did then and there willfully, unlawfully and knowingly have in [her] possession and control, zero point zero four (0.04) gram of white crystalline substance containing Methylamphetamine Hydrochloride, a dangerous drug.

CONTRARY TO LAW.

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When arraigned, Appellant pleaded not guilty to the charge against her.^[6] At the pre-trial conference, the Prosecution made stipulations on the testimony of Police Inspector (P/Insp.) Bernardino M. Banac, Jr., as follows: a.) he is the Forensic Chemist of the PNP Crime Laboratory; b.) his office received a request for laboratory examination marked as Exhibit "A" and a plastic sachet marked as Exhibit "B" which contains three (3) smaller plastic sachets marked as Exhibits "B-1", "B-2", and "B-3"; c.) he conducted an examination on the substance contained in the three (3) plastic sachets, as requested, and thereafter submitted a Chemistry Report No. D-095-2006 (Exhibit "C") and the findings in said Report show the specimen positive for Methylamphetamine Hydrochloride (Exhibit "C-1"); d.) the Report also includes Banac, Jr.'s. signature (Exhibit "C-2") and the Jurat (Exhibit "C-3"); and e.) he turned over the specimen to the Evidence Custodian and retrieved the same for the pre-trial scheduled on 28 February 2007.^[7]

Likewise, the Prosecution stipulated on the testimony of Special Police Officer (SPO) 1 Roberto Cariño as to the following: a.) he was the police investigator assigned to

Appellant's case; b.) in connection with said investigation, he took the sworn statements Police Officers (PO) 1 Emmanuel Gomez and PO2 Richard Mabazza, who were part of the buy-bust team who apprehended Appellant marked as Exhibits "D" and "D-1", respectively; c.) he received the specimen marked as Exhibits "B-1", "B-2", and "B-3" which were turned over by the arresting officer (PO1 Mabazza) and prepared a request for laboratory examination (Exhibit "A"); d.) he received a copy of the Chemistry Report No. D-095-2006 from the PNP Crime Laboratory; e.) he included in his Report the Pre-Operation Report (Exhibit "E"), photocopy of the buy-bust marked money (Exhibit "F") and Inventory Receipt (Exhibit "G"); and f.) he also prepared the referral letter to the Office of the Prosecutor, Quezon City (Exhibit "[H]").^[8]

For its part, the Defense admitted the proposed stipulation of facts, subject to the qualifications that said police officers have no personal knowledge of the circumstances about the arrest of the accused as well as the source of the substance subject of their examination and investigation^[9]

Upon termination of the Joint Pre-trial Conference^[10] on 28 February 2007, trial on the merits ensued with the Prosecution presenting witness PO2 Richard Mabazza, the police officer who posed as the poseur-buyer in the buy-bust operation conducted against Appellant on 11 March 2006.

Thereafter, the Defense presented Appellant as its lone witness.

THE FACTS (As culled from the Records)

The Prosecution's version is synthesized by the Office of the Solicitor General as follows^[11]:

"On March 11, 2006, at around 2:00 a.m., while PO3 Emmanuel Gomez (Gomez) and PO2 Mabazza were on duty as members of a standby alert team, a confidential informant of the Quezon City Police District came to said office and informed Chief District Anti-Illegal Drugs, Special Operation Task Group (DAID-SOTG), QCPD, P/Supt. Dante B Narag (Narag) regarding the illegal drug activities of a certain "Yumus". The same is a known drug pusher operating within the area of Quezon City, particularly in Barangay Culiat, Tandang Sora.

Upon receiving this information, P/Supt. Narag instructed the alert team, headed by PO2 Mabazza, to conduct a buy-bust operation against Yumus. PO2 Mabazza would act as the poseur-buyer, while PO3 Gomez and the other members of the operative (sic) would serve as back-up team.

In connection with said operation, one (1) Php500.00 bill, with serial number ZT713953, was assigned as buy-bust money; PO2 Mabazza placed "RM", his initials, on the right portion of the bill, specifically at the center logo of Bangko Sentral ng Pilipinas.

At around 2:30 a.m., after a briefing by Chief P/Supt. Narag, and upon securing a Pre-operation Report coordinated with the Philippine Drug

Enforcement Authority (sic), the group was dispatched along Maguindanao Street near Basilan Street. ON board a white Toyota Revo, with plate number SJG-649, the group proceeded to said location. And, upon arrival thereat, PO2 Mabazza managed to contact Yumus, while the other members of the team positioned themselves at a distance where they can covertly monitor the entrapment. After a few minutes of waiting for the arrival of Yumus, one Jubaynai, herein accused/appellant, appeared in the former's stead. She introduced herself as the wife of Yumus. According to the appellant, her husband is not around. However, she can provide the "stuff" (shabu) if necessary. In response, PO2 Mabazza expressed his interest to buy shabu worth Php500.00. Appellant agreed to sell shabu to PO2 Mabazza ,and took out two (2) heat-sealed transparent plastic sachets containing white crystalline substance from her right front pocket. The sachets were exchanged for the Php500.00 bill previously marked by PO2 Mabazza with his initials.

Upon receiving the two (2) aforementioned sachets, PO2 Mabazza, pretended to examined (sic) the same, and afterwards, scratched his head as (pre-arranged) signal to the members of the back-up team. In response to said signal, the back-up team rushed to the scene at the same time that PO2 Mabazza introduced himself as a police officer, and arrested the appellant. PO2 Mabazza confiscated from the appellant the marked money given in exchange of (sic) the two (2) heat-sealed sachets. Further, when asked to empty her pockets, appellant surrendered another heat-sealed sachet containing a white crystalline substance, similar to that sold to PO2 Mabazza. The rest of the team, lead (sic) by PO3 Gomez, proceeded to the house of Yumus, hoping to apprehend the same. But, they failed to effect arrest as the latter was not in the house.

While in custody, PO3 Gomez informed the appellant of the offense she committed as well as her constitutional rights. The appellant was then brought to the office of the DAID-SOTG, and was turned over to the Desk Officer on duty, for proper disposition and investigation. As for the three (3) heat-sealed sachets confiscated from the appellant, PO2 Mabazza marked the same, and turned them over to SPO1 Carino, together with the buy-bust money. Said investigator then prepared an Inventory Receipt of the three (3) plastic sachets confiscated from the appellant. SPO1 Carino likewise took photographs of appellant with said items, and the buy-bust money, before making a request for a laboratory examination.

Based on the examination conducted by Police Investigator Banac, [Jr.], Forensic Chemist of the PNP Crime Laboratory, the contents of the three (3) plastic sachets confiscated from the appellant tested positive for methamphetamine hydrochloride.^[12]

In her Brief,^[13] Appellant's version of the facts is as follows:

"Accused JUBAYNAI MALAGUIT (MALAGUIT for brevity), a 33-year old resident of 13 Maguindanao Street, Barangay Culiat Compound(sic),

Tandang Sora, Quezon City, vehemently denied the charges against her. In fact, on the date of the alleged incident, she was sleeping at home when she heard a knock on the door. When she checked, she saw police officers and they entered her house. Despite finding nothing, they brought her to Camp Karingal. After five (5) days, they manufactured evidence against her and she discovered that she was being charged with illegal sale and possession of dangerous drugs."^[14]

On 16 October 2012, the court *a quo* rendered the assailed Decision.

Undaunted, Appellant appealed the Decision of the court *a quo* raising the following assignment of errors:

I

THE COURT A *QUO* GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT FOR VIOLATION OF SECTIONS 5 AND 11, ARTICLE II, REPUBLIC ACT NO. 9165.

II

THE COURT A *QUO* GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY DESPITE THE INADMISSIBILITY OF THE PROSECUTION'S EVIDENCE.

III

THE COURT A *QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE POLICE OFFICER'S PATENT NON-COMPLIANCE WITH THE PROPER CHAIN OF CUSTODY OF THE SEIZED DANGEROUS DRUGS.^[15]

THIS COURT'S RULING

Perusing the three (3) assignment of errors, Appellant principally argues that the court *a quo* erred in convicting her despite the Prosecution's alleged failure to prove her guilt beyond reasonable doubt. In contending that she should be acquitted, Appellant banks on the alleged procedural lapses committed by the police operatives who failed to mark the seized items at the scene of the crime and conduct a physical inventory of the seized drugs in the presence of the accused or his counsel, a representative from the media, the Department of Justice and any elected public official, resulting in the failure of the Prosecution to establish the *corpus delicti* of the crime charged. Appellant further insists that her acquittal at bar is justified since the prosecution failed to prove that the integrity and evidentiary value of the seized items had been adequately preserved through an unbroken chain of custody.

The appeal fails.

Prefatorily, it bears stressing that criminal prosecutions involving violations of Sections 5 and 11, Article II of R.A. No. 9165 depend largely on the credibility of the police officers who conducted the buy-bust operation. On this regard, We take note of the well-entrenched rule that the findings of fact of the trial court as well as its