

SPECIAL SEVENTH DIVISION

[CA-G.R. CR-HC NO. 06164, August 18, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GLORIA ARZAGA Y OLINO AND JENNY GARCIA Y BERGADO,
ACCUSED-APPELLANTS.**

DECISION

REYES, JR., J.C., J.:

Before this Court is an appeal filed by accused-appellants Gloria O. Arzaga and Jenny B. Garcia seeking to reverse and set aside the February 20, 2012 Joint Decision (Rollo, pp. 47-54) of the Regional Trial Court (RTC) of Urdaneta City, Pangasinan Branch 48, in Criminal Case No. U-15769 (For: Illegal Sale of Dangerous Drugs) and Criminal Case No. U-15770 (For: Illegal Possession of Drug Paraphernalia) finding them guilty beyond reasonable doubt of the offenses charged against them. The dispositive of the said Decision reads as follows:

“WHEREFORE, in Criminal Case No. U-15769, the Court finds the accused Gloria Arzaga and Jenny Garcia guilty beyond reasonable doubt of the crime of Illegal Sale of Dangerous Drugs, and both are hereby sentenced to suffer the penalty of life imprisonment and to pay a fine of Php500,000.00.

In Criminal Case No. U-15770, the Court finds the accused Gloria Arzaga guilty beyond reasonable doubt of the crime of Illegal Possession of Drug Paraphernalia and she is hereby sentenced to suffer a penalty of 6 months and 1 day to 4 years imprisonment and a fine of Php10,000.00.

The illegal drug and drug paraphernalia presented in court as evidence are ordered forfeited in favor of the government and shall be forwarded to the PDEA Office for proper disposition.

SO ORDERED” (Records, p. 303).

CRIMINAL CASE NO. U-15769

In an Information (Records, p. 72) dated September 26, 2008, accused-appellants Gloria O. Arzaga and Jenny B. Garcia were indicted with violation of Section 5 Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, committed as follows, to quote:

“That on or about 2:30 o'clock in the afternoon of September 25, 2008 at Brgy. Dilan, Urdaneta City, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused conspiring together, did then and there willfully, unlawfully and feloniously sell one (1) heat-sealed transparent plastic sachet containing Methamphetamine Hydrochloride

(SHABU) weighing 0.05 grams, a dangerous drug.

CONTRARY to Sec. 5, Art. II of Republic Act 9165, otherwise known as "Comprehensive Dangerous Drugs Act of 2002." (Records, p. 72)

CRIMINAL CASE NO. U-15770

In another Information (Records, p. 5) of the same date, accused-appellant Gloria O. Arzaga was indicted with violation of Section 12, Art. II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, committed as follows, to quote:

"That on or about 2:30 o'clock in the afternoon of September 25, 2008 at Brgy. Dilan, Urданeta City, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in her possession, control and custody the following drug paraphernalia to wit: three (3) strips of aluminum foil and one (1) aluminum foil used as improvised tooter, all of which yielded positive to the test for Methamphetamine Hydrochloride and one (1) lighter used as improvised burner.

CONTRARY to Art. II, Sec. 12 of Republic Act 9165, otherwise known as "Comprehensive Dangerous Drugs Act of 2002." (Records, p. 5)

Upon arraignment on February 17, 2009, accused-appellants Gloria O. Arzaga and Jenny B. Garcia, assisted by a counsel de officio, pleaded not guilty to the crime charged on them in Criminal Case No. U-15769 (See: Order dated February 17, 2009, Records, p. 105). On the other hand, when accused-appellant Gloria O. Arzaga was arraigned, she also pleaded not guilty to the crime charged on her in Criminal Case No. U-15770 (See: Order dated February 18, 2009, Records, p. 31).

Pre-trial conference was conducted and thereafter, trial on the merits ensued with the prosecution presenting Intelligence Officer (IO1) Daryll Damaso as the poseur-buyer; Chemical Forensic Officer Myrna Malojo and Barangay Kagawad Felixberto de Guzman. The defense, for its part presented the testimonies of the accused-appellants Gloria Arzaga and Jenny Garcia.

The prosecution tends to establish that on September 25, 2008, while IO1 Daryll Damaso was at the PDEA Office in Barangay Bayaoas, Urданeta City, he received an information from a civilian informant reporting to him that certain persons namely Jenny and Gloria were allegedly selling shabu in their house at Barangay Dilan. IO1 Damaso immediately relayed the report to their team leader, PO3 Danny Ventura, who ordered to conduct a casing surveillance against the reported persons. IO1 Damaso, together with PO1 Velasquez and the civilian informant, proceeded to the reported place and there they saw (through the open door) people exchanging something with the accused-appellants. Thereafter, they decided to conduct a buy-bust operation against the two. IO1 Damaso was designated as the poseur-buyer, while PO1 Velasquez and PO3 Ventura acted as the back-up security. After preparing and marking the buy-bust money with initials DPD, the team proceeded to the place of operation where they found the two accused-appellants sitting in front of their house. The civilian informant introduced IO1 Damaso to accused-appellant Jenny Garcia as the buyer of the shabu. Accused-appellant Jenny Garcia then asked the said poseur-buyer if he wanted to buy and the poseur-buyer said yes. Accused-

appellant Gloria Arzaga went inside the house and after a few minutes she came back and handed one sachet of suspected shabu to poseur-buyer IO1 Damaso. Upon receipt of the shabu, poseur-buyer IO1 Damaso handed three (3) pieces of marked Php100.00 peso bill as payment to accused-appellant Jenny Garcia. Thereafter, poseur-buyer IO1 Damaso removed his ball cap, which was their pre-arranged signal that the transaction was consummated. PO3 Velasquez immediately went to the place and introduced themselves as PDEA agents and arrested the accused-appellants. After the arrest, PO3 Velasquez recovered the buy-bust money from the hand of accused-appellant Jenny Garcia. The specimen confiscated was with the poseur-buyer IO1 Damaso until they returned to the PDEA Office for the preparation of the needed documents. It was found out later on that the three (3) pieces PHP100.00 bills used as buy-bust money were not recorded in their blotter. During the buy-bust operation, some drug paraphernalia, consisting of three (3) used aluminum foils, improvised tooter (aluminum foil) and improvised burner (lighter), were also recovered from accused-appellant Gloria Arzaga. The police officers then invited Barangay Kagawad Felixberto De Guzman to witness the inventory of the items and specimen confiscated. Thereafter, IO1 Daryll Damaso sent a letter-request to PSI Myrna Malojo, the Forensic Chemical Officer, for the lab examination of the specimen and paraphernalia confiscated from accused-appellants. After conducting qualitative examination, Forensic Chemical Officer Myrna Malojo found all the specimen and paraphernalia submitted as positive of methamphetamine hydrochloride. The specimen then was turned-over to Evidence Custodian PI Ellen Lady Maranion, for safe keeping.

The defense for its part, presented in Court the accused-appellants whose testimonies corroborated each other. Both averred that on September 25, 2008, at about 9:00 in the morning, several persons came to their house, identifying themselves as members of the PDEA, and conducted a search. Thereafter, both accused-appellants (the mother and her daughter-in-law) were invited to the PDEA office for questioning. At the PDEA, accused-appellants were shown an aluminum foil and were informed that they were under arrest for selling shabu. Accused-appellants were ordered to sign documents and pictures of them were also taken by the PDEA Officers. Accused-appellants were detained for five days at the PDEA Office and then they were brought to the Hall of Justice where they were again asked to sign some documents. Thereafter, accused-appellants were transferred to the BJMP.

Accused-appellant Gloria Arzaga denied the accusation against her that she was selling shabu and that she has in her possession some drug paraphernalia. She admitted that she does not know the names of the men who came in her house. Neither does she have any misunderstandings with them. She did not tell her counsel to file a protest nor file a complaint against them because she does not know the process. She also did not prepare a counter-affidavit because she thought she will go home right away. She however saw Barangay Kagawad Felixberto de Guzman but she did not talk to him even though she knows him personally. At the time when she was detained, she was crying.

Accused-appellant Jenny Garcia testified that she was at the house of her mother-in-law because the latter was suffering from hypertension. She admitted that she and her husband (son of her mother-in-law) were not married yet. She stated that when they were arrested, they did not protest but they went with the PDEA agents voluntarily. She also stated that she only affixed her thumbmark in the booking

sheet and arrest report. She informed the court that she considers her thumbprint as her signature. When asked why she did not file a complaint against the PDEA agents, accused-appellant Jenny Garcia answered that she was not able to talk about it to her counsel. She likewise denied the accusation of illegal sale of shabu that was leveled against her as in fact she does not know what a shabu is.

After trial on the merits, the RTC of Urdaneta City, Pangasinan, Branch 48 found that the prosecution was able to establish the guilt of both accused-appellants beyond reasonable doubt. Thus, it issued the now appealed "Joint Decision" finding accused-appellants Gloria Arzaga and Jenny Garcia guilty beyond reasonable doubt of the crime of Illegal Sale of "shabu" and sentencing them to suffer the penalty of life imprisonment and to pay the fine of Php500,000.00. The RTC also found accused-appellant Gloria Arzaga guilty beyond reasonable doubt of the crime of illegal possession of drug paraphernalia, sentencing her to suffer a penalty of 6 months and 1 day to 4 years imprisonment and to pay the fine of Php10,000.00 (See: Records, p. 303).

Feeling aggrieved with the said Decision, accused-appellants filed an appeal with this Court and raised the following errors to have been committed by the RTC, to wit:

I.

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION'S EVIDENCE DESPITE NON-COMPLIANCE WITH THE REQUIREMENTS FOR THE PROPER CUSTODY OF SEIZED DANGEROUS DRUGS UNDER R.A. NO. 9165 AND FAILURE TO PROVE THE DRUG'S INTEGRITY.

II.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

Accused-appellants faulted the RTC for giving full weight and credence to the testimonies of the prosecution's witnesses, who as police officers/law enforcers, enjoy in their favor the presumption of regularity in the performance of their official duties. Accused-appellants insisted that this presumption cannot prevail over the constitutional right of the accused to be presumed innocent, so much so that they (accused-appellants) were able to overcome said presumption by contrary evidence. The claim of regularity in the conduct of police buy-bust operation was rebutted by accused-appellants' argument that the prosecution failed to comply with the provisions of Section 21, Article II of Republic Act No. 9165 on the proper custody of the seized drugs and the preservation of their integrity. Accused-appellants argued that the RTC seriously erred in not considering the failure of the prosecution to present the testimony of Evidence Custodian P/Insp. Ellen Lady Maranion, to whom the Forensic Chemist turned over the specimen. They also averred that there was no testimony offered by the prosecution to establish each of the link in the chain of custody. And finally, they stated that the inventory of the items seized were infirmed as it does not contain the signatures of the accused-appellants, their representatives or counsels or any representative from media and DOJ and that said inventory was