

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MILAGROS PAHIMNAYAN Y PROMULGATED: ENERIA, ACCUSED-APPELLANT.

Ponente: VILLON, J.

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### VILLON, J.:

Before Us is an appeal[1] from the Decision[2] dated June 7, 2011 of the Regional Trial Court (RTC) of Pasig City, Branch 70[3] finding appellant Milagros Pahimnayan y Eneria guilty beyond reasonable doubt of violation of Section 11, Article II of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

The Information reads:

“That on or about the 6[th] day of November 2008, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law to possess any dangerous drug, did, then and there willfully, unlawfully, feloniously and knowingly possess one (1) heat-sealed transparent plastic sachet containing zero point zero three (0.03) gram of white crystalline substance, marked with RT-1-061108, by the arresting police officers, which substance was found positive to the test for Methylamphetamine Hydrochloride, commonly known as 'shabu,' a dangerous drug, in violation of the above-cited law.

CONTRARY TO LAW.”[4]

Upon arraignment, appellant entered a plea of “not guilty”[5] to the offense charged in the Information. Thereafter, and upon the termination of the pre-trial proceedings on May 11, 2009,[6] trial on the merits ensued.

The relevant facts are as follows:

In the afternoon of November 6, 2008, the Special Operations Task Force, Southern Police District (SPD), Fort Bonifacio, Taguig City received an information that a certain “Mila,” who was later on identified as herein appellant, was engaged in an illegal drug trade at Sitio 3, Western Bicutan, Taguig City. Acting upon the information, Police Senior Inspector Grant A. Gollod (or “PSI Gollod”) formed a buy-bust team composed of SPO3 Rey Millare, PO3 Allauigan, PO2 Lagos, PO2 Antonino and PO2 Turingan who were briefed and instructed to proceed to the subject area and conduct a buy-bust operation. PO2 Turingan, the poseur-buyer, was given one (1) piece of five hundred peso (P500.00) bill as marked money, with the initials “AS”[7] on the lower right hand of the bill. The rest of the members will serve as back-up of PO2 Turingan.

A Pre-Operation Report[8] was prepared and sent to the Philippine Drug Enforcement Agency (PDEA) in compliance with the standard operating procedure. The PDEA then issued a Certificate of Coordination dated November 6, 2008.[9]

At around 6:00 o'clock in the evening, while the team was at the subject area, an alleged courier of appellant approached PO2 Turingan and the confidential informant. The said courier asked them if they wanted to buy “shabu.” The confidential informant then asked PO2 Turingan if they will give the money to the courier to which

PO2 Turingan replied in the affirmative. Thus, the courier left them holding the marked money and went to a nearby alley where appellant was situated.

When the confidential informant saw appellant, they immediately approached her. Appellant then asked the confidential informant, “Ano, iiskor ba kayo, huling byahe na to?” and showed them a plastic sachet containing white crystalline substance suspected to be “shabu.” Instead of answering the question, PO2 Turingan arrested appellant upon seeing her holding the said plastic sachet of “shabu” and apprised her of her constitutional rights. Thereafter, PO2 Turingan marked the plastic sachet of “shabu” with “RT-1-061108.”

At the police station, PO2 Turingan prepared the Booking and Information Sheet[10] while the duty investigator, PO2 Lagos, prepared the Spot Report,[11] Certificate of Inventory[12] and the request for laboratory examination.[13] PO2 Turingan brought the plastic sachet containing white crystalline substance to the Crime Laboratory Office, Camp Crame, Quezon City for examination.

P/Sr. Insp. Leveriza F. Arenas, Forensic Chemist of the Camp Crame, Crime Laboratory Office, issued Chemistry Report No. D-344-08[14] finding the contents of the plastic sachet, a white crystalline substance, to be positive for methylamphetamine hydrochloride or “shabu,” a dangerous drug.[15]

Professing innocence, appellant testified that on November 6, 2008 at around 5:30 o'clock in the afternoon, she was inside her house when four (4) male persons arrived and suddenly kicked the front door of their house while introducing themselves as police officers. Upon entering the house, two (2) of the police officers searched the rooms upstairs while the other two (2) police officers stayed in the living room. Appellant was asked by the police officers if she was the owner of the house, and when she replied in the affirmative, her two (2) companions were told to leave. Appellant was immediately handcuffed, dragged outside of the house, forced to get inside the vehicle and brought to the police station.

At the police station, appellant was first detained inside the office and showed a list of names of people whom she might know. However, when appellant told the police officers that she did not know anyone from the list, she was brought outside of the office and detained in a regular detention cell. She vehemently denied the accusation against her.[16]

The testimonies of defense witnesses Julie Adordionisio[17] and Hazel Albino[18] corroborated appellant's testimony that they were her companions when she was arrested by the police officers inside her house on November 6, 2008 at around 5:30 o'clock in the afternoon.

After weighing the evidence presented, the court a quo rendered a decision, the dispositive portion of which reads:

“WHEREFORE, in view of the foregoing, the accused MILAGROS PAHIMNAYAN y Eneria is hereby found GUILTY beyond reasonable doubt of committing the crime as charged, and is hereby sentenced to suffer the penalty of IMPRISONMENT OF TWELVE (12) YEARS AND ONE DAY TO TWENTY (20) YEARS and a fine of THREE HUNDRED THOUSAND PESOS (PHP300,000.00).

Meanwhile, pursuant to Section 21 of Republic Act 9165, Magella Monashi, Evidence Custodian of the Philippine Drug Enforcement Agency (PDEA), or any of the PDEA authorized representative is hereby ordered to take charge and to have custody of the 'shabu' subject matter of this case, within 72 hours from notice, for proper disposition.

Furnish the PDEA a copy of this Decision for its information and guidance.

Costs against the accused.

SO ORDERED.”[19]

Aggrieved, appellant interposed the instant appeal raising this lone assignment of error for consideration:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FACT THAT HER GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

Appellant contends, in the main, that PO2 Turingan failed to strictly observe and comply with the procedure for the disposition, custody and control of the seized prohibited drugs under Sec. 21 of RA 9165, specifically, the marking, inventory and the proper turn-over of the item from the first person who held it up to the time the item was presented in court as evidence; and that while the marking of the seized item was done in the place of the incident by PO2 Turingan, there was a variance between the volume of “shabu” which was 0.05gram as indicated in the Certificate of Inventory and the volume as shown in the Chemistry Report, which is 0.03gram.

This contention is untenable.

It appears from the testimony of PO2 Turingan that after he confiscated the plastic sachet containing “shabu” from appellant, he immediately marked the same at the scene of the crime with his initials such as “RT-1-061108.” Thereafter, PO2 Turingan together with the buy-bust team went to the police station to have the seized drug inventoried. At the said station, the duty investigator prepared a request for laboratory examination and PO2 Turingan personally brought the said plastic sachet of “shabu” to the crime laboratory.[20]

Record further shows that PO2 Turingan was able to identify appellant in court as the person from whom he recovered the plastic sachet of “shabu” and he was likewise able to identify the said plastic sachet of “shabu” which he marked at the scene of the crime after they apprehended appellant on November 6, 2008.[21] Indeed, the prosecution evidence had established the unbroken chain of custody of the seized plastic sachet of “shabu” from PO2 Turingan, to the investigating officer and to the forensic chemist. There is no doubt that appellant committed the crime charged and that the plastic sachet of “shabu” presented before the court a quo was the same plastic sachet of “shabu” seized from her.

Thus, the integrity and evidentiary value of the confiscated plastic sachet of “shabu” was completely preserved by PO2 Turingan as provided under paragraph 1, Section 21 of R.A. No. 9165.[22]

Moreover, the Certificate of Inventory indicated that the police officers recovered from appellant, “one (1) piece plastic sachet containing shabu with more or less 0.05gram with marked RT-1-061108.” This means that the said “shabu” may be less than 0.05gram. As aptly discussed by the Solicitor General, the discrepancy between the quantity of “shabu” indicated in the Certificate of Inventory and in the Chemistry Report is likewise of no moment. The words “more or less” in the Certificate of Inventory demonstrate that the number of grams stated therein is a mere approximation. In the words of the Supreme Court in *People vs. Maspil*,[23] “It can therefore be a little lighter or heavier. The slight discrepancy is not material.” What is essential is proof that the substance seized from appellant is the very same one presented in court as evidence of the corpus delicti, which the prosecution was able to adduce in the instant case.[24]

Appellant further contends that the prosecution failed to present proof that the forensic chemist took the necessary precaution to ensure that the integrity of the evidence was not compromised. However, its integrity is presumed to have been preserved.

In *People vs. Quiamanlon*,[25] the Supreme Court held that:

“The integrity of the evidence is presumed to be preserved, unless there is a showing of bad faith, ill will, or proof that the evidence has been tampered with. In this case, Quiamanlon bears the burden to show that the evidence was tampered or meddled with to overcome a presumption of regularity in the handling of exhibits by public officers and a presumption that they properly discharged their duties. Failing to discharge such burden,

there can be no doubt that the drugs seized from Quiamanlon were the same ones examined in the crime laboratory. Evidently, the prosecution established the crucial link in the chain of custody of the seized drugs.”

Thus, it was incumbent upon the appellant to show that the evidence was tampered with to overcome the presumption of regularity in the handling thereof considering that public officers are presumed to have regularly performed their duties. Appellant failed to discharge this burden.

In the prosecution of illegal sale and possession of dangerous drugs, it is enough that the elements of the crime are proven by credible witnesses and other pieces of evidence. The elements of the crime having been sufficiently established, and all other relevant pieces of evidence having been presented by the prosecution, appellant's conviction is inevitable. The Supreme Court repeatedly stressed that bare denial is bound to crumble in the face of positive assertions of credible witnesses.[26]

As correctly ruled by the court a quo:

“The accused was positively identified by prosecution witness and was caught in the act of possession of what appears to be 'shabu.' And based on the stipulations during pre-trial conference, the said substance was admitted to be tested and positive of 'shabu.' Accordingly, based on the positive testimony of prosecution witness coupled with object evidence, the court is of the belief that the elements of illegal possession of dangerous drugs have been established.

On the other hand, the accused did not submit any other credible reason for her arrest. She merely submits 'denial' for her defense. It is hornbook law that denial is intrinsically a weak defense.”[27]

In this case, prosecution witness PO2 Turingan testified in direct and straightforward manner, thus, his testimony deserves credence, given the presumption that he and his fellow police officers have performed their duties regularly.

WHEREFORE, premises considered, the assailed decision of the RTC of Pasig City, Branch 70 dated June 7, 2011 is hereby AFFIRMED in toto.

**SO ORDERED.**

### **C E R T I F I C A T I O N**

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Macalino, F.S., and [\*]Inting, S.B., JJ., concur.

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[\*] Vice Justice P.B. Corales per Office Order No. 161-14-AGT dated April 24, 2014

[1] Rollo, pp. 33-47

[2] Records, pp. 114-117

[3] Hon. Louis P. Acosta, Presiding Judge.

[4] Records, p. 1

[5] Records, p. 65

[6] Records, pp. 69-70

[7] Records, p. 85

[8] Records, p. 82

[9] Records, p. 84

[10] Records, p. 88

[11] Records, p. 86

[12] Records, p. 87

[13] Records, p. 89

[14] Records, p. 90

[15] TSN, August 24, 2009, pp. 3-21

[16] TSN, March 9, 2010, pp. 3-8

[17] TSN, August 2, 2010, pp. 2-8

[18] TSN, October 11, 2010, pp. 3-6

[19] Records, p. 117

[20] TSN, August 24, 2009, pp. 12-15

[21] Ibid., at pp. 12-13

[22] Section 21 (1) Custody and Disposition of Confiscated, Seized, and/or Surrender of Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment. -- The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemical, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physical inventory and photographed the same in the presence of the accused or the person/s from which such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.

[23] G.R. No. 85177, August 20, 1990

[24] Rollo, pp. 70-71

[25] G.R. No. 191198, January 26, 2011 citing People vs. Ventura, G.R. No. 184957, October 27, 2009

[26] People vs. Saludes, 403 SCRA 590

[27] Records, p. 117; People vs. Salas, 66 SCRA 126; People vs. Teano, 128 SCRA 149; People vs. Ola, 152 SCRA 1

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