

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANGELITA MANALO Y DELA PAZ, ACCUSED-APPELLANT.*G.R. No. 107623. June 30, 1995*

Ponente: PUNO, J.

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Angelita Manalo y Dela Paz was charged in two (2) separate Informations before the Regional Trial Court of Pasig, Metro Manila (Branch CLVIII) with two (2) offenses, viz: sale of 0.02 grams of "shabu," a prohibited drug, without license or authority and for possession of prohibited drugs. The trial court acquitted accused for possession of prohibited drugs but found her guilty beyond reasonable doubt for illegal sale of 0.02 grams of "shabu." She was thus sentenced^[1] to suffer the penalty of life imprisonment, to pay a fine of thirty thousand pesos and to pay the costs. This decision was affirmed by this Court in G.R. No. 107623, entitled *People v. Angelita Manalo*, on February 23, 1994.^[2]

In due time, accused moved for a reconsideration of said Decision. On April 29, 1994, she filed an addendum to her motion for reconsideration, praying for a retroactive application of the provisions of Republic Act 7659 which would reduce the penalty of imprisonment imposed upon her.

After finding that no substantial argument had been raised by accused to warrant the reversal of the Decision, the Court denied accused's motion for reconsideration.^[3] Accused's addendum to her motion for reconsideration was noted by this Court without action, the decision denying the motion for reconsideration having attained finality.^[4]

On July 29, 1994, the Court came out with its interpretation and reconciliation of the conflicting provisions of R.A. 7659 in the case of *People v. Martin Simon y Sunga*.^[5]

Pursuant to our ruling in the case of *Simon*, that even if the judgment which could be modified by the reduced penalties under R.A. 7659 has become final and executory, "practice, procedure and pragmatic considerations would warrant and necessitate the matter being brought to the judicial authorities for relief under a writ of habeas corpus," we hereby treat the addendum to accused-appellant's motion for reconsideration as a petition for writ of habeas corpus.

In the case at bench, the proper penalty to be imposed for the illegal sale of 0.02 grams of "shabu" would be prison correccional, pursuant to the second paragraph of Section 20 of R.A. 6425, as amended by Section 17 of R.A. 7659 and in consonance with the doctrine laid down in *People v. Simon*, supra. Further, applying the Indeterminate Sentence Law, the impossible penalty should be the indeterminate sentence of SIX (6) MONTHS OF ARRESTO MAYOR, as the minimum, to FOUR (4) YEARS AND TWO (2) MONTHS OF PRISION CORRECCIONAL, as the maximum.

IN VIEW WHEREOF, the decision of the trial court convicting accused-appellant ANGELITA MANALO y DELA PAZ for the sale of 0.02 grams of "shabu" is hereby AFFIRMED, with the MODIFICATION that the penalty of imprisonment imposable on accused-appellant should be the indeterminate sentence of SIX (6)

MONTHS OF ARRESTO MAYOR as minimum, to FOUR (4) YEARS AND TWO (2) MONTHS OF PRISION CORRECCIONAL as maximum.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Mendoza, JJ., concur.

[1] Decision, dated September 28, 1992, Rollo, at p. 54.

[2] Rollo, pp. 101-116.

[3] Resolution, dated May 11, 1994, Rollo, p. 128.

[4] Resolution, dated June 22, 1994, Rollo, p. 133.

[5] G.R. No. 93028, dated July 29, 1994, 234 SCRA 555, at 571; citing the case of *Harden v. Director of Prisons*, No. L--2349, October 22, 1948, 81 Phil 741.

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