

RADITO AURELIO Y REYES, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 174980. August 31, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

In resolving this petition for review on certiorari, we rely on two legal precepts. First, inconsistencies in the testimonies of prosecution witnesses that do not relate to the elements of the offense are too inconsequential to warrant a reversal of the trial court's judgment of conviction. Second, the defenses of denial and frame-up must be substantiated with clear and convincing evidence; otherwise, same cannot prevail over the positive and credible testimonies of the prosecution witnesses.

Factual Antecedents

On October 22, 2002, two Informations charging petitioner Radito Aurelio y Reyes @ Jack (petitioner) with violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165[1] were filed with the Regional Trial Court (RTC) of Mandaluyong City, and raffled off to Branch 213.

The Information[2] charging the petitioner with violation of Section 5,[3] Article II of R.A. No. 9165 was docketed as Criminal Case No. MC-02-6019-D and contained the following accusatory allegations:

That on or about the 17[th] day of October 2002, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, without any lawful authority, did then and there willfully, unlawfully and feloniously deliver, distribute, transport or sell to poseur buyer, P01 Julius B. Bacero one (1) small heat-sealed transparent plastic sachet containing 0.05 gram of white crystalline substance, which was found positive to the test for Methylamphetamine Hydrochloride, commonly known as "shabu", a dangerous drug, for the amount of P100.00 bearing Serial No. HA802877, without the corresponding license and prescription, in violation of the above-cited law.

CONTRARY TO LAW.

On the other hand, the Information[4] charging petitioner with violation of Section 11,[5] Article II of R.A. No. 9165 was docketed as Criminal Case No. MC-02-6020-D and contained the following accusatory allegations:

That on or about the 17[th] day of October 2002, in the City of Mandaluyong, Philippines, a place within the jurisdiction of this Honorable Court the above-named accused, not having been lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and feloniously and knowingly have in his possession, custody and control one (1) small heat-sealed transparent plastic sachet containing 0.12 gram of white crystalline substance, which was found positive to the test for Methylamphetamine Hydrochloride, commonly known as "shabu", a dangerous drug, without the corresponding license and prescription, in violation of the above-cited law.

CONTRARY TO LAW.

Upon motion of the prosecution, the two cases were consolidated. When petitioner was arraigned, he entered a plea of "not guilty" to the charges. Thereafter, pre-trial and trial ensued.

The Version of the Prosecution

On October 17, 2002, Police Chief Inspector Bien B. Calag, Jr. (Chief Inspector Calag) of Task Force Magpalakas of the Philippine National Police instructed SPO2 Julius Bacero (SPO2 Bacero) to verify a report of rampant selling of shabu in M. Vasquez Street, Barangay Harapin ang Bukas, Mandaluyong City. At the same time, Chief Inspector Calag also contacted his informant and directed the latter to gather data that would substantiate the report. After 45 minutes, the informant called up and confirmed the reported illegal trade of shabu.

SPO2 Bacero, together with PO1 Ronald Jacuba (PO1 Jacuba), then proceeded to the area to conduct police surveillance. The informant directed them to the house where the sale of shabu was being conducted. Thereafter, the police officers returned to the station and reported their findings to Chief Inspector Calag, who immediately formed a buy-bust team composed of said police officers and members of the Mayor's Action Command. SPO2 Bacero was designated as the poseur-buyer.

At around 4:30 in the afternoon that day, the buy-bust team proceeded to the house of the petitioner. SPO2 Bacero knocked on the door and petitioner opened it. When SPO2 Bacero said "Pare iiskor ako ng piso," petitioner told him to wait and went back inside the house. Meanwhile, SPO2 Bacero used his mobile phone to give PO1 Jacuba a ring - their pre-arranged signal for PO1 Jacuba to get closer to the house of petitioner. After three minutes, the petitioner asked SPO2 Bacero to enter and gave him a small sachet containing white crystalline substance. In exchange, SPO2 Bacero paid petitioner with marked money.

Thereafter, PO1 Jacuba arrived and, together with SPO2 Bacero, arrested the petitioner. They apprised him of his constitutional rights and frisked him. They recovered the marked money and another plastic sachet containing white crystalline substance from petitioner.

The police officers brought petitioner to the Mandaluyong Medical Center for medical check-up then proceeded to the police station for blotter and interrogation. The two sachets containing white crystalline substance recovered from the petitioner were sealed and marked as "JB-1" and "JB-2". The case was then turned over to SPO1 Jaime Masilang of the Criminal Investigation Unit of Mandaluyong City for investigation and referral to appropriate offices. He endorsed the two sachets to the crime laboratory for examination. The results of the examination conducted by Police Inspector Armand De Vera (Police Inspector De Vera) on the contents of the sachets tested positive for methamphetamine hydrochloride, also known as shabu, a dangerous drug.

The Version of the Petitioner

Petitioner denied the allegations against him and presented a completely different scenario. He testified that in the late afternoon of October 17, 2002, he was watching television in the house of his neighbor which is about 20 meters from his house. He went out to buy cigarettes, but suddenly two men grabbed him and told him to proceed to his house. They went to his house and stayed there for 15 minutes until they were joined by three more persons. After that he was taken to an alley and ordered to board a vehicle that took them to the barangay hall. Ten minutes later he was brought to the City Hall of Mandaluyong where a police officer questioned him on an alleged shabu incident.

Petitioner was then taken to the office of Task Force Magpalakas, located at the lower level of the Mandaluyong City Hall. Thereat, he saw SPO2 Bacero for the first time, who demanded P30,000.00 for his liberty. Unable to produce the money, he was charged in separate criminal informations with allegedly selling and possessing shabu.

Petitioner's long-time neighbor, Julieta Dulia (Julieta) and his sister, Teresita Aurelio (Teresita), corroborated his testimony.

Ruling of the Regional Trial Court

On March 2, 2005, the trial court rendered its Judgment[6] convicting petitioner for violation of Sections 5 and 11, Article II of R.A. No. 9165. The dispositive portion of the Judgment reads:

WHEREFORE, CONSIDERING ALL THE FOREGOING, accused RADITO AURELIO Y REYES is hereby found GUILTY BEYOND REASONABLE DOUBT of the offenses charged and he is hereby sentence [sic] to suffer the straight penalty of twelve (12) years imprisonment for Violation of Section 5, Article II of Republic Act No. 9165, in Criminal Case No. MC-02-6019-D and he is likewise, sentence [sic] to suffer the straight penalty of twelve (12) years imprisonment for Violation of Section 11, Article II of Republic Act No. 9165, in Criminal Case No. MC-02-6020-D, respectively.

The evidence recovered from the herein accused is hereby forfeited in favor of the government to be disposed of in accordance with existing rules.

The Branch Clerk of Court is hereby ordered to submit the same to that office within fifteen (15) days from today, the corresponding receipt to be submitted to the undersigned.

SO ORDERED.[7]

Ruling of the Court of Appeals

The CA affirmed with modification the Judgment of the trial court by increasing the penalty of imprisonment imposed on the petitioner in both cases. The dispositive portion of its June 22, 2006 Decision[8] reads:

WHEREFORE, the assailed decision of the Regional Trial Court of Mandaluyong City, Branch 213 dated March 2, 2005 is hereby AFFIRMED with the following MODIFICATIONS:

(1) In Criminal Case No. MC-02-0619-D, the penalty is modified to LIFE IMPRISONMENT and a fine of P500,000.00, in accordance with the first paragraph of Section 5, Article II of Republic Act No. 9165.

(2) In Criminal Case No. MC-02-6020-D, the penalty is modified to the indeterminate sentence of TWELVE (12) YEARS AND ONE (1) DAY as minimum to TWENTY (20) YEARS as maximum and a fine of P300,000.00.

SO ORDERED.[9]

Petitioner filed a Motion for Reconsideration[10] but it was denied in the Resolution[11] dated October 9, 2006.

Thus, this petition.

Assignment of Errors

The petitioner ascribes upon the CA the following two-fold errors:

BOTH THE TRIAL AND APPELLATE COURTS GRAVELY ERRED IN GIVING CREDENCE TO THE TESTIMONY OF POLICE OFFICER JULIUS BACERO AND IN FINDING PETITIONER 'GUILTY' OF THE OFFENSES CHARGED.

BOTH THE TRIAL AND APPELLATE COURTS ERRED IN NOT FINDING THAT NO DRUG BUY-BUST [OPERATION] ACTUALLY TOOK PLACE.[12]

The petitioner contends that the trial court erred in giving credence to the testimonies of the prosecution witnesses due to several inconsistencies on material points. According to the petitioner, the trial court obviously had no

basis in relying on the presumption that the police officers regularly performed their duties in conducting the entrapment operation. In support of his contention, petitioner quoted at length portions of the stenographic notes.

Our Ruling

The petition is unmeritorious.

Elements for the Prosecution of Illicit

Sale and Possession of Shabu

In a prosecution for the illegal sale of dangerous drugs, the following elements must be proven beyond reasonable doubt: (1) the identity of the buyer and the seller, the object, and consideration; and, (2) the delivery of the thing sold and the payment therefor. What is crucial to the prosecution for illegal sale of dangerous drugs is evidence of the transaction, as well as the presentation in court of the corpus delicti. On the other hand, in a prosecution for illegal possession of a dangerous drug, there must be proof that "(1) the accused was in possession of an item or an object identified to be a prohibited or regulated drug, (2) such possession is not authorized by law, and (3) the accused was freely and consciously aware of being in possession of the drug." [13]

In this particular case, the prosecution established beyond reasonable doubt all the essential elements of illegal sale and possession of shabu. Petitioner was positively identified by the prosecution witnesses as the person who sold the shabu presented in court. SPO2 Bacero testified that he purchased and received the shabu from petitioner during a legitimate buy-bust operation and that another sachet containing shabu was seized from petitioner's possession after they conducted a lawful search as an incident to a valid warrantless arrest. The marked money used in the buy-bust operation was duly presented, and the shabu seized from the petitioner was positively and categorically identified in open court. It was also shown that petitioner sold and possessed the shabu without authority, license or prescription.

SPO2 Bacero narrated the details leading to the consummation of the sale of the illegal drug, the arrest he made, and the recovery of the drugs from the possession of the petitioner:

Q.

Who in your office actually received the information that somebody is selling "shabu" somewhere in M. Vasquez St.?

A.

Police Chief Inspector Bien B. Calag, ma'am.

x x x x

Q.

Aside from informing you that he received an information regarding activities involving selling "shabu" along M. Vasquez St., what if any did chief Inspector Calag [tell] you?

A.

He instructed us to verify the report.

x x x x

Q.

And what did you do by way of verifying the information?

A.

In compliance with that we directed our secret informant to conduct surveillance to confirm the report.

x x x x

Q.

Mr. witness you said you dispatched your informant in the place, now after you dispatched him, what action if any was taken by you?

A.

After 45 minutes thereafter, our informant called up and confirmed the information, ma'am.

x x x x

Q.

And what did he tell you if any during the call?

x x x x

A.

That it is true that somebody was selling "shabu" at M. Vasquez St., and he gave the address.

x x x x

Q.

And what was the address given to you?

A.

522 M. Vasquez St., Brgy. Harapin ang Bukas, Mandaluyong City.

Q.

Now, upon receipt of this information coming from your informant, what did you do, Mr. witness?

A.

At around quarter to four in the afternoon, we proceeded to M. Vasquez St.

Q.

Before you proceeded to M. Vasquez St., what did you do first?

A.

Before proceeding to the area, I was given by Chief Calag, Jr. a P100 bill as a buy bust money.

Q.

What did you do upon receipt of the P100 bill?

A.

I placed a marking on the P100 bill, ma'am.

x x x x

Q.

At quarter to four of October 17, who were with you when you left your office to proceed to M. Vasquez St.?

A.

PO1 Jacuba.

Q.

And who else?

A.

And other members of Mayor's Action Command.

Q.

And how many were you more or less?

A.

We were five (5) ma'am.

x x x x

Q.

Mr. witness, at 4:30 in the afternoon of October 17, 2002 where were you?

A.

I went to his house and [knocked].

Q.

[Whose house]?

A.

The house of Radito Reyes.

Q.

Mr. witness, at what particular house did you knock x x x when you reached M. Vasquez St.?

A.

At 522 M. Vasquez St., Brgy. Harapin ang Bukas, Mandaluyong City.

x x x x

Q.

You said you knocked at his door at 522 M. Vasquez St., Brgy. Harapin ang Bukas, Mandaluyong City[. After] you knocked at this house, what happened, Mr. witness?

A.

Radito opened the door.

x x x x

Q.

After he opened the door, what transpired next?

A.

I told him "Pare, iiskor ako ng piso" which is equivalent to P100.00.

Q.

Now Mr. witness, upon telling him the word "iiskor ako ng piso" what was the response, if any, of the person you are talking with?

A.

I was told to wait for a while.

Q.

After he uttered the word "for a while", what did he do?

A.

He went inside, ma'am.

Q.

What about you, where were you when he entered the house?

A.

I was left outside the door.

Q.

Now after he left and you were at the door, what happened next?

A.

After a while x x x he came back.

x x x x

Q.

You said he entered the house and you were left standing outside the house, now while he was away, what did you do?

A.

I signaled PO1 Jacuba to come nearer.

Q.

What signal, if any, was employed by you in conveying to Jacuba the message?

A.

I made a miss[ed] call to his cellphone.

Q.

After you made a miss[ed] call to PO1 Ronald Jacuba which according to you is a way of conveying to him that he should come near, what happened next?

A.

He got close to the area.

Q.

You said that the accused went back after three (3) minutes, what transpired between you and the accused when he returned?

A.

He let me x x x inside.

Q.

When he let you x x x inside, what did you do, did you come [sic] inside?

A.

Yes, ma'am.

Q.

When you were already inside the house upon invitation of the accused, what transpired between you and him?

A.

He handed to me a small x x x thing x x x.

Q.

Will you describe to us the small thing which he handed to you?

A.

It is a small thing containing white crystalline substance.

x x x x

Q.

Now this small thing that you are referring to, what is it made of?

A.

It is a small plastic sachet, ma'am.

Q.

And what is the color of the plastic?

A.

White, ma'am.

Q.

Now after he handed to you the plastic sachet with white crystalline substance, what did you do with your

money?

A.

In exchange, I handed to him the money. "Kaliwaan po."

x x x x

Q.

Now after he handed to you the plastic sachet with white crystalline substance and in exchange therefor you handed to him this P100 bill which was already marked as Exhibit "D", what happened next?

A.

We talked for a while inside the house, ma'am.

x x x x

Q.

And after two (2) minutes what transpired next?

A.

After two (2) minutes, Jacuba suddenly arrived.

Q.

And what transpired when Jacuba arrived after two (2) minutes?

A.

We arrested the accused.

Q.

By the way, Mr. witness, before you [made] the arrest, what did you do first?

A.

I introduced myself as a Police Officer.

Q.

And aside from introducing yourself as policeman, what else?

A.

I advised him of his right to remain silent.

x x x x

Q.

Now, what did you do next after you told him that he has the right to remain silent?

A.

Thereafter, as an S.O.P. we made a search upon the body of the accused.

x x x x

Q.

And what was the result, if any, of the search which you made on the accused?

A.

We were able to recover the money from him.

x x x x

Q.

What else was recovered by you from him, if any?

A.

We were likewise able to recover another plastic sachet in his right pocket. In his "bursa de relo."

x x x x

Q.

And what is it that was placed or contained inside the plastic sachet?

A.

White crystalline substance, ma'am.

Q.

Mr. witness, after you arrested the herein accused what did you do next?

A.

We brought him to our Head Quarters [sic].

x x x x

Q.

What else was endorsed by you, I will withdraw that, your Honor. What about the two (2) plastic sachets, what did you do with these two (2) plastic sachets upon arrival at the Mandaluyong Police station?

A.

We likewise, brought the same to the Crime Laboratory . . .

Q.

Before bringing [them] to the Crime Laboratory, did you do anything, on the two (2) sachets?

A.

I placed markings, your Honor.[14]

PO1 Jacuba corroborated the testimony of SPO2 Bacero on relevant points. He testified as follows:

Q.

Now, after you were briefed as to your designated task in this buy-bust operation, what happened next?

A.

[At] or about 4:00 p.m., we [proceeded] to the area, ma'am.

Q.

Where did you proceed?

A.

To M. Vasquez Street, ma'am.

Q.

In what particular place at M. Vasquez?

A.

At 522 M. Vasquez Street, ma'am.

x x x x

Q.

When you reached this place, in the afternoon, at around what time? 4:30 more or less?

A.

More or less, ma'am.

x x x x

Q.

In terms of distance, more or less, how far were you from this house with address at 522 M. Vasquez Street, where [did] you [position] yourself in this operation? In terms of meters, how far, approximately?

A.

Approximately, thirty (30) meters, ma'am.

x x x x

Q.

Mr. witness, after you positioned yourself 30 meters away from the house with address 522 M. Vasquez Street, what took place?

A.

Bacero went to the house of alias Jack, ma'am.

Q.

How did you know that he proceeded to the house of alias Jack?

A.

He told us and he likewise told us to wait for his miss[ed] call.

Q.

Now, thereafter, when he told you that he will now proceed to the house of alias Jack at 522 M. Vasquez

Street, in the meantime, what were you doing while you were in your post?

A.

We were just on stand-by, ma'am.

x x x x

Q.

Thereafter, while you were then on stand-by, what took place, if any?

A.

After 8 - 10 minutes, ma'am, PO1 Bacero made a miss[ed] call.

Q.

When Bacero made a miss[ed] call, what did you do?

A.

We proceeded to the house pointed to us by the asset when we conducted our casing, ma'am.

x x x x

Q.

When you proceeded there, what happened?

A.

PO1 Bacero already arrested Jack, ma'am.

x x x x

Q.

What happened next, Mr. witness, you said after the miss[ed] call you went to this place where you saw Bacero and Jack, already arrested by Police Officer Bacero, what happened next?

A.

He was searched, ma'am, and we apprised him of his rights.

x x x x

Q.

You said that Bacero frisked him and on the later part of the frisking, you were present?

A.

Yes, ma'am.

x x x x

Q.

And what was told to you by Bacero?

x x x x

A.

Bacero told me that when he searched the body of that person, he confiscated a plastic sachet and the buy-bust money.[15]

Police Inspector De Vera, the Forensic Chemical Officer who examined the confiscated crystalline substance from the illegal sale, found the same to be positive for methamphetamine hydrochloride or shabu. The examination of the contents of the other sachet seized from his possession as a result of a lawful search also tested positive for 0.12 gram of said dangerous drug. These findings are contained in Chemistry Report No. D-2059-02E.[16]

The Trial Court's Findings on the
Credibility of Witnesses are Given
Great Respect.

The trial court and the CA found the testimonies of the prosecution witnesses regarding petitioner's illegal sale and possession of shabu to be credible since they are consistent with the documentary and object evidence submitted by the prosecution. "When it comes to the credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence." [17] The trial court is in the best position to evaluate testimonial evidence properly because it has the full opportunity to observe directly the witnesses' deportment and manner of testifying.[18] This rule finds an even more stringent application where said findings are affirmed by the appellate court.[19]

The Inconsistencies in the Testimonies
of the Prosecution Witnesses are Trivial.

The petitioner asserts that the credibility of the prosecution witnesses is adversely affected by several inconsistencies in their testimonies. These inaccuracies consist of the following: (a) the information regarding petitioner's illegal sale of shabu was allegedly received by the superior of SPO2 Bacero but surprisingly, same was not entered in the police blotter; (b) the participation of SPO2 Bacero in the test-buy with the petitioner is not clear, because if it is true that the test-buy yielded positive result, then SPO2 Bacero should have immediately arrested the petitioner; (c) SPO2 Bacero vacillated in his declaration that he has personal knowledge regarding petitioner's illegal activities; (d) the testimonies of SPO2 Bacero and PO1 Jacuba regarding the surveillance on the petitioner contradict each other; (e) the length of time SPO2 Bacero waited for the petitioner to return with the shabu is incredulous and cannot be ascertained if it was three minutes or three seconds; and, (f) the testimonies of said police officers on how the buy-bust money was recovered also diametrically oppose each other.

After a thorough review of the inconsistencies mentioned by the petitioner, we find that they do not relate to the elements of the offenses committed. Rather, they tend to focus on minor and insignificant matters. These inconsistencies do not detract from the fact that the prosecution's key witness who conducted the entrapment, identified the petitioner as the same person who sold the dangerous drug to him and from whose possession another plastic sachet containing shabu was recovered.

Inconsistencies in the testimonies of witnesses that refer to trivial and insignificant details do not destroy their credibility.[20] Moreover, minor inconsistencies serve to strengthen rather than diminish the prosecution's case as they tend to erase any suspicion that the testimonies have been rehearsed thereby negating any misgiving that the same were perjured.[21]

Testimonies of witnesses need only to corroborate each other on important and relevant details concerning the principal occurrence. "Besides, it is to be expected that the testimony of witnesses regarding the same incident

may be inconsistent in some aspects because different persons may have different impressions or recollection of the same incident." [22]

The testimonies of the petitioner's witnesses cannot be given more weight than the testimonies of the prosecution witnesses. Teresita is the sister of the petitioner while Julieta has been his neighbor for the past 10 years. Thus, their testimonies are necessarily suspect, considering they are petitioner's sibling and friend respectively. The testimonies of Julieta and Teresita even contradict each other as Teresita declared that five malefactors entered their home while Julieta stated that only two men went with petitioner inside his house. This inconsistency further diminishes the credibility of petitioner's witnesses. [23]

To rebut the prosecution's overwhelming evidence, the petitioner asserts the defenses of denial and frame-up. He denies selling shabu to SPO2 Bacero and possessing a sachet that contained the same drug during the purported entrapment. He insists that the shabu was planted by the police officers and that they attempted to extort money from him in exchange for his freedom.

We view with disfavor the defenses of denial and frame-up. Like the defense of alibi, said defenses can easily be concocted and are common and standard defenses employed in prosecutions for violations of the Dangerous Drug Act. [24] For these defenses to prosper there must be clear and convincing evidence. [25] In this case, petitioner failed to adduce sufficient proof in support of his defenses. There is simply no evidence to bolster his defenses other than his self-serving assertions. Moreover, we note that the petitioner did not file any complaint for frame-up or extortion against the buy-bust team. Such inaction belies his claim of frame-up and that the police officers were extorting money from him. His allegations therefore are simply implausible.

In the absence of evidence of any ill-motive on the part of the police officers who apprehended the petitioner, the presumption of regularity in the performance of official duty prevails. [26] The presumption that official duty has been regularly performed was not overcome since there was no proof showing that SPO2 Bacero and PO1 Jacuba were impelled by improper motive. [27] "There is, therefore, no basis to suspect the veracity of their testimonies." [28]

In view of the foregoing circumstances, a reversal of the trial court's judgment, as affirmed by the CA, is unwarranted. The inconsistencies that may be found in the testimonies of the prosecution witnesses are too insignificant to negate the fact that the petitioner indeed committed the offenses for which he was convicted. Moreover, the positive and credible testimonies of the prosecution witnesses cannot be overturned by the petitioner's defenses of denial and frame-up, which we frown upon in the absence of clear and convincing evidence.

The Proper Penalty

Having been duly established by the prosecution's evidence that petitioner violated Sections 5 and 11, Article II of R.A. No. 9165, we shall now ascertain the correctness of the penalties imposed on him.

Under Section 5, Article II of R.A. No. 9165, the penalty prescribed for unauthorized sale of shabu, regardless of its quantity and purity, is life imprisonment to death and a fine ranging from P500,000.00 to P1 million. There being no circumstance which would aggravate petitioner's criminal liability, the CA therefore correctly imposed the penalty of life imprisonment and a fine of P500,000.00 in Criminal Case No. MC-02-6019-D.

Under Section 11(3), Article II of R.A. No. 9165, on the other hand, the penalty prescribed for illegal possession of less than five grams of shabu or methamphetamine hydrochloride is imprisonment of twelve (12) years and one (1) day to twenty (20) years, plus a fine ranging from P300,000.00 to P400,000.00.

The petitioner was charged with and found guilty of illegal possession of 0.12 gram of shabu in Criminal Case No. MC-02-6020-D. Hence, the CA correctly imposed the indeterminate prison term of twelve (12) years and one (1) day as minimum to twenty (20) years as maximum and a fine of P300,000.00 in Criminal Case No. MC-02-6020-D.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. CR No. 29279 that affirmed with modification the Decision of the Regional Trial Court of Mandaluyong, Branch 213, finding petitioner Radito Aurelio y Reyes guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of Republic Act No. 9165 in Criminal Case Nos. MC-02-6019-D and MC-02-6020-D, respectively, and its Resolution denying the motion for reconsideration, are AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] The Comprehensive Dangerous Drugs Act of 2002.

[2] Records of Criminal Case No. MC-02-6019-D, p. 7.

[3] Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.

[4] Records of Criminal Case No. MC-02-6020, p. 1.

[5] Possession of Dangerous Drugs.

[6] Rollo, pp. 33-46; penned by Judge Amalia F. Dy.

[7] Id. at 46.

[8] CA rollo, pp. 117-127; penned by Associate Justice Sesonando E. Villon and concurred in by Associate Justices Jose L. Sabio, Jr. and Rosalinda Asuncion-Vicente.

[9] Id. at 126.

[10] Id. at 128-133.

[11] Rollo, pp. 67-68.

[12] Id. at 11.

[13] *People v. Hajili*, 447 Phil. 283, 295 (2003).

[14] TSN, August 6, 2003, pp. 7-26.

[15] TSN, September 29, 2004, pp. 11-27.

[16] Records of Criminal Case No. MC-02-6020-D, p. 12.

[17] *People v. Naquita*, G.R. No. 180511, July 28, 2008, 560 SCRA 430, 444.

[18] Id.

[19] Id.

[20] *People v. Mationg*, 407 Phil. 771, 787 (2001).

[21] *People v. Garcia*, 424 Phil. 158, 184-185 (2002).

[22] *People v. Sy Bing Yok*, 368 Phil. 326, 336 (1999).

[23] *People v. Concepcion*, G.R. No. 178876, June 27, 2008, 556 SCRA 421, 444.

[24] *People v. Lazaro*, G.R. No. 186418, October 16, 2009, 604 SCRA 250, 269.

[25] *Id.*

[26] *People v. Naquita*, *supra* note 17 at 454.

[27] *Id.*

[28] *People v. Macatingag*, G.R. No. 181037, January 19, 2009, 576 SCRA 354, 366.

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