

PEOPLE OF THE PHILIPPINES, PLAINTIFF/APPELLEE, VS. MARISSA MARCELO, ACCUSED/APPELLANT.

G.R. No. 181541. August 18, 2014

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

It is our commitment to apply the law without compassion against those who engage in illegal drug trade.[1]

This is an appeal from the Decision[2] dated August 31, 2007 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00858, which affirmed the Decision[3] dated January 26, 2003 of the Regional Trial Court (RTC), Branch 52 of Sorsogon City in Criminal Case No. 2003-5973 finding Marissa Marcelo y Madronero (appellant) guilty beyond reasonable doubt of the crime of violation of Section 5, Article II of Republic Act (RA) No. 9165.

Factual Antecedents

On August 4, 2003, an Information[4] charging appellant with violation of Section 5, Article II of RA 9165, otherwise known as “The Comprehensive Dangerous Drugs Act of 2002,” as amended, was filed in the RTC of Sorsogon City, the accusatory portion of which reads:

That on or about the 1[st] day of August 2003 at about 7:30 o’clock in the evening at the Visitor’s Inn, municipality of Donsol, province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the said accused, without any authority of law, did then and there, willfully, unlawfully and feloniously, deliver and sell to Henry Tarog Methamphetamine Hydrochloride (shabu) weighing approximately 2.3234 grams contained in a plastic sachet, in exchange for P1,500.00, comprised of previously marked bills, to the damage and prejudice of the State and the general public.

ACTS CONTRARY TO LAW.[5]

During arraignment, appellant entered a plea of “not guilty.” After the termination of the pre-trial conference, trial ensued.

The Prosecution’s Version

The prosecution presented Police Inspector Perfecto Rabulan (P/Insp. Rabulan), Police Officer 2 Freddie Salvatierra (PO2 Salvatierra), Police Inspector Josephine M. Clemen (P/Insp. Clemen), Police Officer 2 Russan Jimenez (PO2 Jimenez) and Barangay Chairperson Elsa Arbitria (Arbitria) as witnesses. From their testimonies,[6] the following facts emerged:

Imrie Tarog (Tarog) informed P/Insp. Rabulan that appellant would arrive at his rented unit in Visitor’s Inn, Brgy. Punta Waling-Waling, Donsol, Sorsogon to deliver and sell an unspecified quantity of shabu. Prior thereto, there were already reports that appellant and her husband are engaged in selling shabu. P/Insp. Rabulan thus ordered a surveillance of the area where the transaction would take place and coordinated the matter with Arbitria, the Barangay Chairperson of Brgy. Punta Waling-Waling. He subsequently formed a buy-bust team and requested

Tarog to participate in the operation.

On July 31, 2003, at 10 p.m., Tarog told P/Insp. Rabulan of appellant's impending arrival. Tarog was instructed to act as poseur-buyer and was given two 500-peso bills and five 100-peso bills as marked money. P/Insp. Rabulan then prepared a pre-operation report dated August 1, 2003 and coordinated the buy-bust operation with the Philippine Drug Enforcement Agency (PDEA).

On August 1, 2003 at 6 p.m., appellant arrived at the Visitor's Inn. Meanwhile, the buy-bust team also arrived and waited in front of the inn until Tarog appeared at the second floor terrace. He threw the key to the gate which is the pre-arranged signal for the buy-bust team to enter and proceed to his unit. PO2 Salvatierra caught the key and together with P/Insp. Rabulan used it to open the gate. They proceeded to Tarog's rented unit and through the slightly opened door, they had a clear view of the living room. They saw appellant sitting on a couch with her back turned to the door as she was giving shabu to Tarog who was in turn handing to her the marked money. The police officers thus immediately entered the unit. PO2 Salvatierra took the shabu from Tarog and handed it to P/Insp. Rabulan, while the latter took the buy-bust money.

About an hour later, Arbitria entered the room and saw appellant sitting on a couch with a sachet containing white crystalline substance beside her. After being asked why she was in the premises, appellant answered that she was collecting a debt. PO2 Jimenez conducted a body search on appellant in the comfort room and in the presence of Arbitria, but no prohibited drug was recovered in her possession. Neither did the search on her wallet yield any illegal substance.

Subsequently, the buy-bust team photographed appellant with the shabu and money and thereafter brought her to the police station for further investigation. A day later, P/Insp. Rabulan and a police investigator brought appellant and the specimen confiscated from her to the Crime Laboratory for examination. The specimen, which weighed 2.3234 grams, tested positive for shabu.

The Appellant's Version

Appellant averred that there was no buy-bust operation conducted against her and that she was just a victim of a frame-up. She testified that on August 1, 2003, she went to Tarog to collect from him the payment for the pork that he purchased from her. Tarog saw her but just went upstairs to the second floor of the apartment. She heard him say: "Here is again the person collecting the indebtedness from us." A woman by the name of Suyen allowed her to enter the living room and told her to sit and wait. While waiting, police officers suddenly arrived. They subjected her to a body search in the comfort room but nothing was recovered from her. PO2 Salvatierra then searched the premises. He saw a pair of short pants, turned its pockets inside out, and found a sachet of shabu which he placed beside appellant on the couch.

A certain PO Militante then searched appellant's bag and asked if she had money. Appellant replied that she only had P900.00 for her fare, which PO Militante took. When appellant requested for the return of her money, she was threatened with the filing of a case.

Appellant was thereafter invited to the police station for questioning but was instead incarcerated. She was brought by the police officers to the crime laboratory for examination but the results were not given to her. She claimed to have seen the buy-bust money for the first time only when she was brought to the PDEA to sign a document.

While under detention, appellant learned that Suyen, who turned out to be the wife of Tarog, is a cousin of PO2 Salvatierra. She theorized that she was framed to prevent her from collecting the debt of Tarog.

Ruling of the Regional Trial Court

On January 26, 2003, the RTC rendered a Decision[7] convicting appellant for violation of Section 5, Article II of RA 9165, as amended. The RTC was convinced that the prosecution's evidence established the guilt of appellant beyond reasonable doubt since (1) appellant was positively identified by the police officers in open court as the seller of 2.3234 grams of shabu, and (2) the delivery of the shabu to the poseur-buyer as well as the appellant's receipt of the marked money were attested to by the prosecution witnesses. Moreover, appellant's denial and alibi cannot prevail over the testimonies of the prosecution witnesses. Besides, no improper motive can be attributed to the police officers in imputing the crime to the appellant. Hence, their testimonies are worthy of belief coming as it does from law enforcers who are presumed to have regularly performed their duties. The dispositive portion of its Decision reads:

WHEREFORE, premises considered, the Court finds accused Marissa Marcelo y Madronero guilty beyond reasonable doubt of the crime of Violation of Section 5, Article II of R.A. No. 9165 and she is hereby sentenced to suffer the penalty of Life Imprisonment and Fine of Five Hundred Thousand (P500,000.00) Pesos.

The shabu recovered is hereby ordered forfeited in favor of the government and the same shall be turned over to the Board for proper disposal without delay.

The accused having just [given] birth to a child, her immediate transfer to the Correccional Institution of Women [in] Mandaluyong City is hereby ordered the moment she is already fit for travel.

SO ORDERED.[8]

Ruling of the Court of Appeals

The CA affirmed the RTC's ruling in its Decision[9] dated August 31, 2007, viz:

WHEREFORE, in view of the foregoing, the assailed decision of the Regional Trial Court of Sorsogon City, Branch 52, in Criminal Case No. 2003-5973, is hereby AFFIRMED.

SO ORDERED.[10]

Hence, this appeal.

Issues

Appellant's assignment of errors in her Appellant's Brief filed with the CA, which she is adopting in this appeal per Manifestation (In Lieu of Supplemental Brief),[11] is as follows:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED- APPELLANT GUILTY WITH [SIC] VIOLATION OF SECTION 5, ARTICLE II OF R.A. 9165 DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE OFFENSE CHARGED BEYOND REASONABLE DOUBT.

II.

THE TRIAL COURT GRAVELY ERRED IN UPHOLDING THE ARREST OF THE ACCUSED-APPELLANT WHICH WAS NOT SUPPORTED BY A WARRANT AUTHORIZING THE SAME.

III.

THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED- APPELLANT ON THE BASIS OF THE WEAKNESS OF THE DEFENSE EVIDENCE AND BY RELYING ON THE

PRESUMPTION OF REGULARITY ON THE PART OF THE POLICE OFFICERS IN THE PERFORMANCE OF THEIR OFFICIAL DUTY.[12]

The Parties' Arguments

Appellant makes issue on the fact that the poseur-buyer Tarog was never presented in court to corroborate the other prosecution witnesses' testimonies without a plausible reason for Tarog's non-presentation. She also casts doubt on the integrity of the police officers considering that they sought Tarog's cooperation in the buy-bust operation in exchange for their help or "assistance" in Tarog's cases.

Appellant likewise asserts that the shabu was not confiscated from her as testified by Arbitria that she saw the shabu only on the sofa where the appellant sat. Neither was it shown that appellant was the one holding the marked money when it was recovered by the police. To her, these prove that no buy-bust operation was ever conducted.

Appellant further asserts that assuming a surveillance on her which lasted for almost a week was indeed conducted by the police officers, they should have secured a search warrant, but they did not. Appellant also contends that she should not have been convicted on the basis of the weakness of her defense. Further, as the alleged buy-bust operation is shown to be rife with irregularities, the presumption of regularity in the performance of official duties should not have been applied to the police officers concerned. She avers that she was a victim of frame-up and the alleged buy-bust operation was a mere ploy orchestrated by the police.

The appellee People of the Philippines, on the other hand, through the Office of the Solicitor General (OSG), argues that the elements of the crime of illegal sale of prohibited drugs are present in this case; that the presentation of an informant in illegal drug cases is not essential for conviction nor indispensable for a successful prosecution because an informant's testimony would be merely corroborative and cumulative; that there was no need for the police officers to secure a search warrant because appellant was caught in flagrante delicto; and that in the absence of proof to the contrary, the presumption of regularity in the performance of duty of the police officers must stand.

Our Ruling

The appeal is unmeritorious.

Elements for the Prosecution of Illegal Sale of Shabu.

In a prosecution for illegal sale of shabu, the following elements must concur: "(1) [the] identity of the buyer and the seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. x x x What is material in a prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti"[13] or the illicit drug in evidence.

In this case, the prosecution successfully proved the existence of all the essential elements of the illegal sale of shabu. Appellant was positively identified by the police officers who conducted the buy-bust operation as the person who sold the shabu presented in court. P/Insp. Rabulan testified that Tarog, their informant acting as a buyer, purchased the shabu from appellant during a legitimate buy-bust operation. He narrated the circumstances leading to the consummation of the sale of the shabu and the arrest of appellant as follows:

Q.

Before you conducted the operation, what did you do?

A.

We prepared the necessary documentary requirements addressed to the local government executive, the letter of coordination with the PDEA.

x x x x

Q.

Now, you said that you made a pre-operational plan and in coordination with the PDEA found on page 7 of the records is a pre-operational report signed by Police Inspector Rabulan, are you familiar with this?

A.

With [regard] to the pre-operational report[,] x x x Marissa Marcelo was arriving in the area of Donsol with undetermined quantity of shabu to be delivered to Imrie Tarog of Punta Waling-Waling, Donsol, Sorsogon.

Q.

That was the basis of your plan?

A.

Yes, ma'am.

x x x x

Q.

After making the pre-operational plan and coordination with the PDEA, what did your team do?

A.

I invited this Imrie Tarog. He committed [to help us] in our problem.

Q.

Who is this Imrie Tarog?

A.

He was the one who helped us [by buying] shabu from the suspect Marissa Marcelo.

Q.

Who supplied to you the reliable information as stated in your pre-operational report that Marissa Marcelo is selling shabu?

A.

Imrie Tarog.

Q.

You said that you invited Imrie Tarog and he committed x x x to cooperate with you, now, what did you do after hearing the commitment from him?

A.

I organized the team. I coordinated with the barangay captain of Waling-waling, Donsol, Sorsogon which is

the place where the transaction will be held.

Q.

What about Imrie Tarog, where was he then while you were organizing the team?

A.

He was occupying the rented apartment in Visitor's Inn, in Waling-waling, Donsol, Sorsogon.

Q.

After organizing the team and after that commitment with Imrie Tarog, what did you do next?

A.

We focused on surveillance and monitoring of the place.

Q.

How long did the surveillance and monitoring of the place last [before] the operation was conducted?

A.

More or less, one (1) week.

Q.

Previous to that report made by Imrie Tarog that [Marissa] Marcelo will bring shabu to Donsol, Sorsogon, does your office know this Marissa Marcelo?

A.

Yes, ma'am.

Q.

Why?

A.

Because she was already reported to us as carrier of shabu with her husband.

Q.

What kind of anti-drug operation against Marissa Marcelo were you able to hatch?

A.

[A] buy[-]bust operation.

Q.

Where was the supposed money that will be used in buying shabu from her?

A.

When Imrie Tarog informed x x x us that Marissa Marcelo was in Daraga, x x x during that time, I instructed him on what to do in the operation and I gave him the amount of [P]1,500.00 to be used as marked money in the buy[-]bust operation.

Q.

Before you gave the money to the team, to Imrie Tarog, what were the distinguishing marks in that money?

A.

Thru the serial numbers.

Q.

How did you keynote the serial number, did you write it down?

A.

We have the machine copies of the bills.

x x x x

Q.

Mr. Witness, after giving these previously marked money to Imrie Tarog and after organizing the team, where did you proceed?

A.

We were still waiting for the information if Marissa Marcelo will arrive.

Q.

Did she, in fact, arrive?

A.

Yes, ma'am.

Q.

What time did she arrive?

A.

More or less, almost 6:00 o'clock in the evening at Visitor's Inn.

x x x x

Q.

After receiving information that Marissa Marcelo will be arriving or after receiving information that Marissa Marcelo had arrived in Donsol, Sorsogon, what did you do?

A.

We proceeded to the area.

Q.

Together with Imrie Tarog?

A.

No, ma'am, Imrie Tarog was already in the apartment.

Q.

What is that apartment where he was?

A.

A lodging house, Visitor's Inn.

Q.

That same apartment where Marissa Marcelo will arrive [sic]?

A.

Yes, ma'am and there were two rooms in that lodging house.

Q.

Who occupied those two rooms in that lodging house?

A.

Imrie Tarog.

x x x x

Q.

After knowing that Marissa Marcelo has arrived, what transpired next?

A.

We proceeded to the area with the instruction of our asset that when they were already transacting business regarding shabu, he will get out and give us the key so that we can enter the room.

Q.

That was the arrangement between you and Imrie Tarog?

A.

Yes, ma'am.

Q.

Then, what happened after that?

A.

While we were in the vicinity of the Visitor's Inn, Imrie Tarog came out [to] the terrace and gave us the key.

Q.

Is that terrace on the second floor?

A.

Yes, ma'am.

Q.

And where were you while Imrie Tarog was in the terrace?

A.

In front of the Visitor's Inn.

Q.

And you were outside?

A.

Yes, ma'am.

Q.

And how did Imrie Tarog give you the key?

A.

He threw it to my companion, PO2 Salvatierra.

Q.

That the key was meant for what?

A.

The key was intended to open the gate.

Q.

After getting [the] key from Imrie Tarog, what did you do?

A.

My companion opened the padlock and proceeded to the second floor, to the room of the apartment.

Q.

And whom did you come upon in that room?

A.

Since the door was open, we found out that Marissa Marcelo and Imrie Tarog were actually transacting business of shabu.

Q.

How did you know that they were transacting business of shabu?

A.

They were exchanging the shabu and the money.

Q.

Who was giving the shabu to whom?

A.

Marissa Marcelo was giving the shabu.

Q.

To whom?

A.

To Imrie Tarog.

Q.

So, Marissa Marcelo gave the shabu to Imrie Tarog?

A.

Yes, ma'am.

Q.

And who gave the money to whom?

A.

Imrie Tarog gave the money to Marissa Marcelo.

Q.

Upon seeing that transaction, what did you do?

A.

We immediately apprehended and recovered from Marissa Marcelo the money x x x so we apprehended her.

Q.

What about the shabu?

A.

My companion, Freddie Salvatierra recovered the shabu from Imrie Tarog.

Q.

Can you describe to us the appearance of the shabu which your team recovered?

A.

It was placed inside a transparent plastic bag, heat[-]sealed.

Q.

After seeing [the] transaction taking place and after recovering the marked money from Marissa Marcelo and the shabu from your asset, Imrie Tarog, what did you do?

A.

We photographed the suspect and the shabu and also the marked money.

Q.

What about the suspect, how did you deal with [her]?

A.

We brought the suspected shabu together with the suspect to the police station for investigation.

Q.

What did you do [to ascertain] that the shabu was the one recovered from Marissa Marcelo?

A.

On the following day, we brought the suspected shabu to the Crime Laboratory in Legaspi City together with the suspect for laboratory testing [and a] drug test.

x x x x

Q.

How did you know that it was the shabu that you confiscated from Marissa Marcelo?

A.

Through the marking of my investigator (witness pointing to the marking on the suspected shabu).

Q.

What kind of markings?

A.

The date we had submitted and the initial of the investigator.

Q.

Are you referring to the blue markings “RMB”?

A.

Yes, ma’am.

Q.

What does “RMB” [mean]?

A.

Roel Miranda Briones.

Q.

Who actually brought this to the crime laboratory?

A.

I together with my investigator.

Q.

So, you were personally present when this was received by the Crime Laboratory?

A.

Yes, madam.

Q.

What about the shabu seller, Marissa Marcelo, what did you do to her?

A.

We also submitted her for drug test.

Q.

So you brought her to the Crime Laboratory?

A.

Yes, madam.

Q.

After taking her to the Crime Laboratory, what did you do to her?

A.

When the PNP Crime Laboratory released the result of the laboratory examination of the shabu, we proceeded to the Provincial Headquarter's Office.

Q.

For what purpose, Mr. Witness?

A.

To file a complaint.[14]

PO2 Salvatierra corroborated the testimony of P/Insp. Rabulan on material points. He testified as follows:

Q.

Where is that place? Where [was] the supposed operation x x x to take place?

A.

At [B]arangay Punta Waling-waling, Donsol, Sorsogon.

Q.

Where did it take place, at what particular place?

A.

At Visitor's Inn.

Q.

And, who x x x went [to] the Visitor's Inn?

A.

The Chief of Police and myself were the ones who entered the Visitor's Inn, the others acted as back[-]up, as security.

Q.

Why did you enter that Visitor's Inn?

A.

Because the asset x x x and/or x x x the Chief of Police was already in the terrace and when we arrived there, he (asset) threw to us his key; and, that was the appropriate time for us (the Chief of Police and myself) to enter the said premises.

Q.

What part of that Visitor's Inn did you enter?

A.

We went to the second room because [there are still other rooms upstairs].

Q.

What did you come upon after you entered?

A. We came upon the exchanging of the marked money by our asset, that is, the giving of the money; whereas, the suspect in turn delivers the shabu to the asset.

x x x x

Q.

What is the name of the asset who gave the marked money?

A.

Imrie Tarog.

Q.

And who is this Marissa Marcelo whom you said handed the suspected shabu to your asset, Imrie Tarog?

A.

She is the one. (Witness pointed to a pregnant woman who identified herself as Marissa Marcelo.)

Q.

Where were you then in relation to the buyer and the seller when the transaction was taking place?

A.

I was beside the Chief of Police. When we entered[,] the Chief of Police was able to recover the marked money from Marissa Marcelo while I recovered the suspected shabu from our asset.

x x x x

Q.

You said, you were the one who recovered the suspected shabu from the poseur[-]buyer, Imrie Tarog, if you recall, please describe to us, how that [suspect] shabu look[ed] like?

A.

It was placed in a medium-size[d] transparent plastic sachet which weighed around 3 grams.[15]

Forensic Chemist P/Insp. Clemen examined the confiscated crystalline substance weighing 2.3234 grams and found the same to be positive for methamphetamine hydrochloride or shabu. This finding is contained in Chemistry Report No. D-321-03.[16]

Clearly, the prosecution, through the testimonies of the police officers as prosecution witnesses, was able to establish the elements of illegal sale of shabu. “Prosecutions involving illegal drugs depend largely on the credibility of the police officers who conducted the buy-bust operation.”[17] The Court finds no reason to doubt the credibility of the said witnesses and their testimonies. The RTC, as sustained by the CA, found that the testimonies of the prosecution witnesses were direct and definite. Their testimonies were consistent on relevant matters with each other and the exhibits that were formally offered in evidence.

Moreover, the “findings of the trial courts which are factual in nature and which involve credibility are accorded respect when no glaring errors; gross misapprehension of facts; or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason for this is that the trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds an even more stringent application where said findings are sustained by the Court of Appeals”.[18]

The Presentation of the Poseur-Buyer
is not Indispensable.

Appellant’s insistence that the failure to present the poseur-buyer is fatal to the prosecution fails to impress. “The relevant information acquired by the [‘poseur-buyer’] was equally known to the police officers who gave evidence for the prosecution at the trial. They all took part in the planning and implementation of the [buy-bust] operation, and all were direct witnesses to the actual sale of the [shabu, the appellant’s] arrest immediately thereafter, and the recovery from [her] x x x of the marked money x x x. The testimony of the [poseur-buyer] was not therefore indispensable or necessary; it would have been cumulative merely, or corroborative at best.”[19] His testimony can therefore be dispensed with since the illicit transaction was actually witnessed and adequately proved by the prosecution witnesses.[20]

There was no Evidence of Improper Motive
on the Part of the Poseur-Buyer.

Appellant argues that the poseur-buyer’s cooperation in the buy-bust operation was in exchange for leniency in the serious criminal charges filed against him thereby constituting improper motive. This argument lacks factual basis. While PO2 Salvatierra admitted that the poseur-buyer has a pending criminal case, said case was filed after the buy-bust operation.[21]

The Entrapment Established the Illicit
Sale of Shabu.

Appellant’s contention that there was no direct link between her, the marked money and shabu again fails to impress. In an entrapment operation, the prosecution must establish the poseur-buyer’s receipt of the shabu from appellant and present the same in court.[22] The eyewitness testimonies of P/Insp. Rabulan and PO2 Salvatierra are sufficient to prove the actual exchange of the marked money and the plastic sachet of shabu between the poseur-buyer and appellant. These objects were presented in evidence during the trial. The existence of the illicit sale is therefore evident.

A Warrant of Arrest was not Necessary.

Appellant’s argument that her warrantless arrest was not valid is untenable. We emphasize that the prosecution proved that appellant was apprehended after she exchanged the shabu in her possession for the marked money of the poseur-buyer. Having been caught in flagrante delicto, the police officers were not only authorized but were even duty-bound to arrest her even without a warrant.[23]

There was no Evidence of Denial and Frame-up.

Appellant's defenses of denial and frame-up do not deserve credence. Denial cannot prevail over the positive testimony of prosecution witnesses.[24] On the other hand, frame-up is viewed with disfavor since it can easily be fabricated and is a common ploy in prosecution for violations of the Dangerous Drugs Law. For this defense to prosper, it must be proved with clear and convincing evidence. There must also be evidence that the police officers were inspired by improper motive.[25]

Here, aside from appellant's self-serving testimony, her claim of frame-up is unsubstantiated by other convincing evidence. It is also unlikely that a team of police officers would conduct an entrapment operation and arrest the appellant just to help the poseur-buyer avoid payment of a debt.

Besides, appellant should have filed the proper charges against the police officers if she was indeed the victim of a frame-up. The failure to file administrative or criminal charges against them substantiates the conclusion that the defense of frame-up was a mere concoction.[26]

In the absence of evidence that the prosecution witnesses were impelled by improper motive to testify falsely, appellant failed to overturn the presumption that the arresting officers regularly performed their duties. There is, therefore, no basis to suspect the veracity of their statements.[27]

The Proper Penalty

All told, we find no reason to disturb the findings of the RTC, as affirmed by the CA, that appellant is guilty beyond reasonable doubt of illegal sale of shabu, as defined and penalized under Section 5, Article II of RA 9165. Under this law, the penalty for the unauthorized sale of shabu, regardless of its quantity and purity, is life imprisonment to death and a fine ranging from P500,000.00 to P10,000,000.00. However, with the enactment of RA 9346,[28] only life imprisonment and fine shall be imposed.[29] Moreover, appellant is not eligible for parole pursuant to Section 2 of the Indeterminate Sentence Law.

WHEREFORE, the Decision dated August 31, 2007 of the Court of Appeals, which affirmed the Decision dated January 26, 2003 of the Regional Trial Court, Branch 52, Sorsogon City, convicting appellant Marissa Marcelo y Madronero for violation of Section 5, Article II of Republic Act No. 9165, and sentencing her to suffer the penalty of life imprisonment and pay the fine of P500,000.00, is **AFFIRMED** with modification that appellant is not eligible for parole.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, Perez, and Perlas-Bernabe, JJ., concur.

[1] See *People v. San Juan*, 427 Phil. 236, 248 (2002).

[2] CA rollo, pp. 127-137; penned by Associate Justice Rosalinda Asuncion-Vicente and concurred in by Associate Justices Remedios A. Salazar-Fernando and Enrico A. Lanzanas.

[3] Records, pp. 62-67; penned by Judge Honesto A. Villamor. The Decision is dated January 26, 2003; however, it should be dated January 26, 2004.

[4] *Id.* at 1-2.

[5] *Id.* at 1.

[6] TSN, October 29, 2003; TSN November 5, 2003; TSN, November 13, 2003; TSN, November 25, 2003.

- [7] Records, pp. 62-67.
- [8] Id. at 66-67.
- [9] CA rollo, pp. 127-137.
- [10] Id. at 137.
- [11] Rollo, p. 22-25.
- [12] CA rollo, p. 66.
- [13] *People v. Dilao*, G.R. No. 170359, July 27, 2007, 528 SCRA 427, 442.
- [14] TSN, October 29, 2003, pp. 8-13.
- [15] TSN, November 5, 2003, pp. 6-10.
- [16] Records, p. 8.
- [17] *People v. Hajili*, 447 Phil. 283, 295-296 (2003).
- [18] *People v. Macatingag*, 596 Phil. 376, 388 (2009).
- [19] *People v. Dag-uman*, G.R. No. 96548, May 28, 1992, 209 SCRA 407, 411-412.
- [20] *People v. Doria*, 361 Phil. 595, 622, (1999).
- [21] TSN, November 5, 2003, pp. 32-33.
- [22] *People v. Bandang*, G.R. No. 151314, June 3, 2004, 430 SCRA 570, 573.
- [23] *People v. Pendatun*, 478 Phil. 201, 214 (2004).
- [24] *People v. Alberto*, G.R. No. 179717, February 5, 2010, 611 SCRA 706, 714.
- [25] *People v. Collado*, G.R. No. 185719, June 17, 2013, 698 SCRA 628, 645.
- [26] *People v. Gonzaga*, G.R. No. 184952, October 11, 2010, 632 SCRA 551, 569.
- [27] *People v. Lazaro, Jr.*, G.R. No. 186418, October 16, 2009, 604 SCRA 250, 270.
- [28] AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES. Approved June 24, 2006.
- [29] *People v. Abedin*, G.R. No. 179936, April 11, 2012, 669 SCRA 322, 339.

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