

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MELODY GUTIERREZ Y LAURIADA, ACCUSED-APPELLANT.

G.R. No. 187156. September 08, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is an appeal by accused Melody Gutierrez y Lauriada of the Court of Appeals (CA) Decision[1] in CA-G.R. CR-H.C. No. 02884 affirming her conviction by the Regional Trial Court (RTC) of Makati City[2] for violations of Republic Act No. 9165 (RA 9165), or the Comprehensive Dangerous Drugs Act of 2002.

On January 25, 2007, a confidential informant known as Amboy went to the Anti-Illegal Drugs Special Operations Task Force (SAID-SOTF) of the Makati Police Station, and reported that accused and another, known by his alias Toto, were selling illegal drugs on Adora Street, Barangay Tejeros, Makati City. Police Officer 1 (PO1) Jaime Orante, Jr., who interviewed the informant, checked the Makati Drug Abuse Council (MADAC) watch list, and found accused's name in it. A team composed of SAID-SOTF and MADAC operatives was quickly formed to conduct a buy-bust operation. PO1 Orante was designated as poseur-buyer and given three marked one-hundred peso bills.[3]

At 6:30 that evening, the team and informant Amboy proceeded to Adora Street. PO1 Orante and Amboy approached accused. Amboy greeted accused and said, "Te, mayroon ba tayo dyan tatlo lang?" PO1 Orante handed accused the marked money, and the latter placed the money in her pocket. Accused then took a plastic container and a plastic sachet containing a white crystalline substance and handed these to PO1 Orante. The latter then reversed the bull cap he was wearing as a signal that the transaction had been completed. The rest of the team came forward and helped PO1 Orante arrest accused. The plastic sachets confiscated from accused were brought to the Philippine National Police (PNP) Crime Laboratory for examination. It was found that the contents thereof were methylamphetamine hydrochloride, more commonly known as shabu, a prohibited drug.[4]

Accused Melody Gutierrez was charged for violation of Article II, Sections 5 and 11 of RA 9165 before the Makati City RTC for, first, selling P300.00 worth of methylamphetamine hydrochloride weighing 0.02 gram;[5] and second, for possession, custody and control of three plastic sachets of methylamphetamine hydrochloride weighing 0.02 gram each.[6]

At the trial, accused denied the charges against her. She claimed that on the day she was arrested, she was having a snack on Barona Street when a green-colored vehicle stopped near her. Two men alighted from the vehicle, introduced themselves as police officers, and asked her if she knew the whereabouts of a certain Toto. She said she did not know the person they were looking for, but the two men did not believe her. They forced her into the vehicle and brought her to SAID-SOTF.[7]

In a Decision[8] dated May 25, 2007, the trial court held that the prosecution was able to prove the elements of the illegal sale of shabu, on one hand, and the illegal possession of a dangerous drug on the other. Thus, it found the accused guilty of the offenses charged, to wit:

WHEREFORE, it appearing that the guilt of accused MELODY GUTIERREZ y LAURIADA was proven beyond reasonable doubt, for the offenses of violation of Sections 5 and 11, Article II of RA 9165, as principal, with no mitigating or aggravating circumstances, she is hereby sentenced:

- In Criminal Case No. 07-286, to suffer life imprisonment and to pay a fine of P500,000.00;
- In Criminal Case No. 07-287, to suffer imprisonment for an indeterminate term of fourteen [14] years eight [8] months and one [1] day, as minimum, and to pay a fine of P300,000.00; and
- To pay the costs.

Let the 0.02-gram, 0.02-gram, 0.02-gram, and 0.02 gram; (sic) of Methylamphetamine Hydrochloride be turned-over (sic) to the PDEA for proper disposition.

SO ORDERED.

Accused appealed her conviction to the Court of Appeals. She argued that her guilt was not proven, because nobody corroborated the testimony of PO1 Orante; and the other prosecution witness, MADAC Operative Joebert Dela Peña, admitted that his sole participation was in assisting in the arrest of the accused. Accused also questioned the failure of the prosecution to present the confidential informant as witness, and the forensic chemist to testify the veracity of the laboratory report. Accused claimed that the sole eyewitness testimony of PO1 Orante to the sale was insufficient to prove her guilt beyond reasonable doubt.[9]

The CA affirmed the RTC Decision in toto in a Decision dated September 30, 2008.[10] It held that what is material is proof that the transaction took place, coupled with the presentation in court of the corpus delicti as evidence, both of which were proven by the testimony of PO1 Orante. Contrary to accused's contention, the consummation of the sale was corroborated by MADAC Operative Dela Peña.[11]

As to the failure of the prosecution to present the forensic chemist who examined the content of the plastic sachets seized from accused, the CA said this does not diminish the integrity of the testimonies of the other prosecution witnesses. According to the CA, the witnesses were able to prove the chain of custody from the time PO1 Orante took possession of the illegal drugs from accused up to the time they were offered in evidence. Right after the arrest, PO1 Orante prepared Spot Report No. STN2-012507-281, listing as evidence seized "four pieces of small heat-sealed transparent plastic sachet containing suspected 'shabu;' and presented as 'JCO' as subject of sale and 'JCO-1' TO 'JCO-3' as subject of possession." He also prepared an acknowledgment receipt listing all the items seized from accused. Thereafter, the sachets were delivered to the PNP Crime Laboratory by PO1 Orante himself, as shown in the stamp of receipt by the PNP Crime Laboratory Southern Police District. These circumstances, the CA said, sufficiently established the unbroken chain of custody of the seized illegal drugs.[12] Moreover, the defense admitted the execution and authenticity of the Physical Science Report during the pre-trial.[13]

Accused is now before this Court assailing the CA's Decision. In a Resolution[14] dated June 10, 2009, the Court accepted accused's appeal and notified the parties that they may submit their respective supplemental briefs, if they so desire. In separate Manifestations, accused, through the Public Attorney's Office, and the People of the Philippines, through the Office of the Solicitor General, both informed this Court that they will no longer file supplemental briefs, since their respective appeal briefs before the CA have thoroughly discussed their respective arguments.[15]

We affirm the Decision of the CA.

We find no reason to disturb the factual findings of the trial court, as affirmed by the CA. The CA exhaustively discussed the facts of the case, and we agree with its conclusion that the prosecution proved the accused's guilt

beyond reasonable doubt.

However, the CA, in affirming the trial court's decision in toto, overlooked the error in the penalty imposed by the latter in Criminal Case No. 07-287. The trial court sentenced accused to "imprisonment for an indeterminate term of fourteen (14) years, eight (8) months, and one (1) day, as minimum," without providing for the maximum penalty.

Under the Indeterminate Sentence Law, accused shall be sentenced to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by law punishing the offense, and the minimum shall not be less than the minimum term prescribed by the same.

Article II, Section 11 of RA 9165 provides:

SEC. 11. Possession of Dangerous Drugs. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x

(5) 50 grams or more of methamphetamine hydrochloride or "shabu;"

x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

x x x

(3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or "shabu," or other dangerous drugs such as, but not limited to, MDMA or "ecstasy," PMA, TMA, LSD, GHB, and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

Hence, the maximum penalty should be in the range of 17 years, four (4) months, and one (1) day to 20 years, while the minimum should not be less than 12 years and one day to 14 years and eight (8) months.

The minimum penalty set by the trial court is within the proper range; but as to the maximum penalty, considering that there are no aggravating circumstances, we find that the penalty of imprisonment for 17 years, four (4) months, and one (1) day is appropriate.

WHEREFORE, foregoing premises considered, the assailed Decision of the Court of Appeals is AFFIRMED WITH MODIFICATION. Accused is hereby sentenced, in Criminal Case No. 07-287, to an indeterminate sentence of 12 years, and one (1) day, as minimum, to 14 years, as maximum. In all other respects, the Decision of the Regional Trial Court of Makati City in Criminal Case Nos. 07-286-287 is AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

- [1] Penned by Justice Sixto C. Marella, Jr., with Justices Amelita G. Tolentino and Japar B. Dimaampao, concurring, rollo, pp. 2-14.
- [2] RTC Decision, CA rollo, pp. 12-17.
- [3] Rollo, p. 4.
- [4] Id. at 4-5.
- [5] CA rollo, Criminal Case No. 07-286, p. 39.
- [6] Id., Criminal Case No. 07-287, p. 39.
- [7] Id. at 14.
- [8] Penned by Judge Francisco B. Ibay, CA rollo, pp. 12-17.
- [9] CA rollo, p. 36.
- [10] Supra note 1.
- [11] Rollo, p. 8.
- [12] Id. at 9-11.
- [13] Id. at 10.
- [14] Id. at 20-21.
- [15] Id. at 22-24 and 26-27.

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