

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON ABEDES Y SALGADO, ACCUSED-APPELLANT.

G.R. No. 73399. February 21, 1997

Ponente: VITUG, J.

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VITUG, J.:

Herein accused Ramon Abedes y Salgado was charged on 05 October 1984 with selling and delivering two small plastic bags, each containing dried marijuana leaves and seeds having a total weight of 6.5 grams, as well as a plastic bag of marijuana cake, weighing 17.5 grams, to a Narcom poseur-buyer[1] in violation of Section 4, Article II, of Republic Act 6425, as amended.

In a decision, dated 27 June 1985, accused was convicted by the Regional Trial Court of Quezon City, Branch 102; viz:

"WHEREFORE, the Court finds accused Ramon Abedes y Salgado, guilty beyond reasonable doubt of the crime of violation of Sec. 4, Art. II, of Rep. Act No. 6425, as amended by P.D. 1675, otherwise known as the Dangerous Drugs Act of 1972, and pursuant to Sec. 4 of said law, hereby sentences him to suffer the penalty of life imprisonment (30 years) and to pay a fine of P20,000.00, with subsidiary imprisonment, in case of insolvency, and to pay the costs.

"The 2 tea bags of dried marijuana leaves and 1 tea bag of marijuana cake are ordered confiscated and forfeited in favor of the government, to be disposed of (destroyed) according to the law.

"SO ORDERED."[2]

The judgment was affirmed by this Court[3] in its decision, dated 28 November 1986, which concluded:

"WHEREFORE, this appeal is hereby DENIED. The trial court's decision is affirmed but the portion thereof which reads 30 years should be eliminated (People vs. Gonzales, 58 SCRA 266, 271)."[4]

Invoking People vs. Simon[5] which had ruled that the reduced penalties prescribed under the provisions of the Dangerous Drugs Act, as amended by R.A. No. 7659, could be retroactively applied, Ramon Abedes filed the instant "Urgent Motion to Modify Decision." Conformably with the second paragraph of Section 20, Article IV of R.A. No. 6425, as amended by Section 17 of R.A. No. 7659 and as construed and applied in the aforesaid case of People vs. Simon, the newly prescribed penalty for his offense would only be prison correccional. Applying the Indeterminate Sentence Law, the range of indeterminate penalty on Ramon Abedes, modified accordingly, should thereby be from six (6) months of arresto mayor as minimum to six (6) years of prison correccional as maximum.

It appears that from his initial confinement in October 1984 up to the present, Abedes has already served at least twelve (12) years and three (3) months of imprisonment or well beyond the maximum of six (6) years of prison correccional.

In line with this Court's resolution in Rolando Angeles y Bombita vs. Director of New Bilibid Prison,[6] dated 04

January 1995, to liberally construe the formalities required for habeas corpus, in the invocation of the retroactive effect of R.A. No. 7659, the Court hereby treats the instant motion to be in substantial compliance therewith and directs the accrual of the newly prescribed penalty to his benefit.

WHEREFORE, the instant motion to modify decision is GRANTED. The immediate release from custody of Ramon Abedes y Salgado is hereby ordered unless he should still be detained for some other lawful cause. SO ORDERED.

Padilla, (Chairman), Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Rollo, p. 4.

[2] Rollo, pp. 17-18.

[3] G.R. No. 73399.

[4] Rollo, pp. 58-59.

[5] 234 SCRA 555.

[6] G.R. No. 117568, 240 SCRA 49.

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