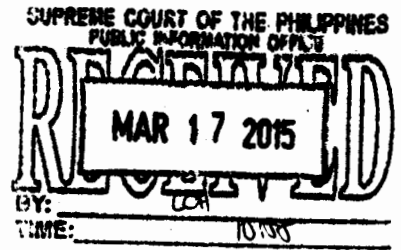




Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated February 25, 2015, which reads as follows:

“G.R. No. 212173 (People of the Philippines vs. Emily S. Canaya). – This is an appeal from the Decision¹ dated October 29, 2013 of the Court of Appeals (CA) in CA-G.R. CEB-CR HC No. 01403 which affirmed the conviction of Emily S. Canaya (accused-appellant) for illegal possession of *shabu* and several drug paraphernalia.

On March 15, 2004, separate informations² were filed against the accused-appellant, the accusatory portions of which read:

Crim. Case No. CBU-68938

That on the 11th day of March 2004 at around 3:40 P.M., at Barangay Liburon, Municipality of Carcar, Province of Cebu, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously have in her possession, custody and control:

1. One (1) heat-sealed plastic packet, labeled with EC-B-1, containing 0.02 gram of white crystalline substance;
2. Three (3) heat-sealed plastic packets labeled EC-B-2 to EC-B-4, containing white crystalline substance having a total weight of 0.55 gram; and
3. Two (2) heat-sealed plastic packs, labeled with “EC-B-5 and EEC-B-6 containing white crystalline substance having a total weight of 13.70 grams.

which when subjected for laboratory examination gave positive result for the presence of Methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.³

¹ Penned by Associate Justice Ramon Paul L. Hernando, with Associate Justices Carmelita Salandanan-Manahan and Ma. Luisa C. Quijano-Padilla concurring; CA *rollo*, pp. 103-116.

² Id. at 104-105.

³ Id. 5-6.

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Crim. Case No. CBU-68939

That on the 11th day of March 2004 at around 3:40 P.M., at Barangay Liburon, Municipality of Carcar, Province of Cebu, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously have in her possession, custody and control; one (1) disposable lighter; one (1) [pair of] scissors; one (1) improvised heatsealer made of bamboo; one (1) improvised shabu cracker (pin); one improvised (small) plastic scoop; one (1) broken blade (shaving); several unused plastic packs (transparent); two (2) rolled tin foil strips (improvised tooter) and one (1) rolled tissue paper, all drug paraphernalia, used and/or intended to be used in heating, burning and/or sniffing shabu.

CONTRARY TO LAW.⁴Crim. Case No. CBU-68940

That on the 11th day of March, 2004 at 3:35 o'clock in the afternoon, more or less, at Liburon, Municipality of Carcar, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent, without authority of law, did then and there willfully, unlawfully and feloniously SELL, DISTRIBUTE and DELIVER one (1) heat-sealed transparent plastic packets each containing white crystalline substance weighing 0.03 gram, one (1) heat sealed plastic packet containing white crystalline substance having a total weight of 0.02 gram, a dangerous drug to a person who posed himself as a poseur buyer, in a buy bust operation for and in consideration of One Hundred Pesos (P300.00) (sic), Philippine Currency, with Serial No. JP494148, HS48726 and HC872365 which when said whiter(sic) crystalline substance were subjected to laboratory examination gave positive results for the presence of METHYLAMPHETAMINE HYDROCHLORIDE, a dangerous drug.

CONTRARY TO LAW.⁵Crim. Case No. CBU-68941

That on the 11th day of March, 2004, at about 3:25 o'clock in the afternoon, at Liburon, Municipality of Carcar, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously have in her possession, custody [and control] one (1) heat-sealed transparent plastic packets [sic] each [sic] containing white crystalline substance weighing 0.03 gram, and one (1) heat-sealed plastic packet containing white crystalline substance having a total weight of 0.02 gram, which when said white crystalline substance were subjected to laboratory examination gave positive results for the presence of METHYLAMPHETAMINE HYDROCHLORIDE, a dangerous drug.

⁴ Id. at 105.

⁵ Id.

CONTRARY TO LAW.⁶

When arraigned, the accused-appellant pleaded “not guilty” to all the charges. After pre-trial, trial on the merits ensued.⁷

The prosecution evidence showed that the accused-appellant was tipped to be engaged in illegal drug trade in Sitio Liburon, Carcar, Cebu. The Philippine National Police (PNP) Carcar Station conducted surveillance on the area which confirmed the reports received.⁸

On March 11, 2004, the PNP Carcar Station formed two groups. A buy-bust team consisted by Senior Police Officer 1 Meliton Agadier (SPO1 Agadier), Police Officer 1 Sarah Dupio (PO1 Dupio) and a civilian asset, as the designated poseur-buyer who will use the marked ₱100 bill bearing Serial No. JP494148 as buy-bust money. The other team consisted of SPO2 Rolando Cayubit (SPO2 Cayubit), SPO1 Roland Navales (SPO1 Navales), PO3 Rolando Gantuangco (PO3 Gantuangco), PO1 Irving Avila and PO1 Jose Yamasaki Repompo (PO1 Repompo), who was tasked to implement the search warrant issued by the Regional Trial Court (RTC) of Cebu City, Branch 22 against the accused-appellant.⁹

At about 3:00 p.m., the two groups of police officers and their civilian asset headed towards Sitio Liburon. The poseur-buyer approached the accused-appellant as soon as he saw her. They had a short conversation while SPO1 Agadier and PO1 Dupio watched at about five to six meters away from them. The poseur-buyer handed the marked ₱100 bill to the accused-appellant, who, in turn, gave him a plastic pack of *shabu*. This signaled SPO1 Agadier and PO1 Dupio to rush towards them and arrest the accused-appellant. The poseur-buyer hurriedly left the scene. PO1 Dupio bodily searched the accused-appellant and found another pack of *shabu* in her right front secret pocket. The ₱100 buy-bust money and cash amounting to ₱560.00 were also recovered from her possession.¹⁰

The team of SPO2 Cayubit joined the buy-bust team and searched the house under construction which was believed to be the accused-appellant's residence. Two members of the *barangay tanod*, namely: Emiliano Solon and Rogelio Formento witnessed the search conducted. PO3 Gantuangco found six parcels of white crystalline substance placed in one small sachet, three medium sachets and two big sachets filled with the same white crystalline substance. The team also discovered various drug paraphernalia used for repacking and sniffing *shabu* in one room. These sachets of *shabu*

⁶ Id. at 106.

⁷ Id.

⁸ Id.

⁹ Id. at 106-107.

¹⁰ Id. at 107.

and drug paraphernalia were all confiscated and turned over to SPO1 Navales, who prepared its inventory and certificate.¹¹

The accused-appellant and the items seized were taken to the PNP Carcar Station. SPO1 Navales had custody of the seized items during the trip. SPO1 Agadier marked all the items confiscated in the police station. He also prepared the police blotter and the letter requesting for the chemical examination of the white crystalline substance in the sachets. The letter-request and the white crystalline substance were submitted by PO1 Repompo to the PNP Crime Laboratory. The chemical analysis conducted on the subject specimen yielded positive for Methamphetamine Hydrochloride, or *shabu*, as evinced by Chemical Report No. D-475-2004.¹²

In defense, the accused-appellant interposed a denial as she was taking a bath at the house of her uncle when the police officers went there. She further claimed that she was not shown any search warrant.¹³

She averred that on March 11, 2004, she was with her child and her two siblings in the house of her mother. At about 11:00 a.m., she left the house and followed her mother to their store so she could bring lunch to the carpenters who worked for the construction of her mother's other house. At about 12:15 p.m., she went back to her mother's store and stayed there until 2:00 p.m. before she brought snacks to the same carpenters. Thereafter, she took a bath in her uncle's house which was adjacent to the house being constructed. She claimed that her uncle's house has been unoccupied since he got imprisoned for violating Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 while his children already transferred residences. The accused-appellant narrated that she went out of her uncle's house when she heard a knock at its gate. There, she saw PO3 Gantuangco and SPO1 Agadier. They took her to the house being constructed where they searched the premises. She claimed that they found nothing and insisted that she stays in the old house of her mother. She further recanted the numerous times when she refused PO3 Gantuangco's invitations which could have been the reason why several charges were filed against her. She, however, admitted that all her other uncles and aunts were convicted for violation of R.A. No. 9165 except for one uncle whose drug case is still pending. The accused-appellant averred that she was not allowed to read a document that she was told to sign after she was taken to the Municipal Hall. Afterwards, she was detained.¹⁴

After trial on the merits, the RTC promulgated a Judgment¹⁵ dated April 27, 2011, the *fallo* of which reads as follows:

¹¹ Id.

¹² Id. at 107-108.

¹³ Id. at 108.

¹⁴ Id.

¹⁵ Issued by Presiding Judge Enriqueta Loquillano-Belardino; id. at 44-53.

WHEREFORE, the Court finds the accused EMILY CANAYA guilty beyond reasonable doubt and is hereby sentenced to suffer the following:

1. life imprisonment and a fine of P500,000.00 for Violation of Section 11, Article II of RA 9165, in Crim. Case No. CBU-68938;
2. six (6) months and one (1) day to two (2) years of imprisonment and a fine of P10,000.00 with subsidiary imprisonment in case of insolvency for Violation of Section 12, Article II of RA 9165, in Criminal Case [N]o. CBU-68939.

On ground of reasonable doubt, accused EMILY CANAYA is hereby acquitted of the offense charged with Violations 5 and 11, Article II of RA 9165 in Criminal Case No. CBU-68940 and 68941.

The pack of shabu sold, pack of shabu recovered, six packs of shabu and drug paraphernalias [sic] seized pursuant to the search warrant are forfeited in favor of the government.

SO ORDERED.¹⁶

In convicting the accused-appellant in Criminal Cases Nos. CBU-68938 and CBU-68939 for violation of Sections 11 and 12 of R.A. No. 9165, respectively, the RTC ratiocinated among others, the following findings and conclusions: (1) that no clear and convincing evidence was adduced to show that the police officers were ill motivated in the performance of their official duties brought about by consistent refusal of PO3 Gantuangco's admiration; (2) that it is unlikely for her to take a bath at her uncle's house even if the two houses of her mother are located nearby; (3) that it is not the ownership of the house searched which is essential but the fact that she resides therein; (4) that no amount of denial or allegation of frame-up can overturn the categorical declarations of the police officers; and (5) that the chain of custody of the drugs confiscated were duly proved by the prosecution despite absence of inventory and photographs stated in Section 21 of R.A. No. 9165.¹⁷

On appeal, the CA affirmed *in toto* the decision of the RTC in its Decision¹⁸ promulgated on October 29, 2013, the dispositive portion of which reads:

WHEREFORE, in the light of the foregoing, the instant appeal is DENIED for lack of merit. The assailed Judgment dated April 27, 2011 of the Regional Trial Court, Branch 57 of Cebu City in Crim. Case Nos. 68938 and x x x 68939 finding the accused-appellant Emily Canaya guilty beyond reasonable doubt for Violation of Sections 11 and 12, Art. II of

¹⁶ Id. at 52-53.

¹⁷ Id. at 50-52.

¹⁸ Id. at 103-116.

R.A. 9165, respectively, are hereby **AFFIRMED *in toto***. No pronouncement as to costs.

SO ORDERED.¹⁹

In its *in toto* affirmance, the CA reasoned out, among others that: (1) any hidden grudge of PO3 Gantuangco against the accused-appellant is a mere personal thing which is not powerful enough to drive an entire team of police officers to conduct a strenuous drug operation against her; (2) even if PO3 Gantuangco was ill motivated during the operation, the same does not affect his duty as a police officer nor discard the CA's presumption of regularity in the official tasks done by the PNP; (3) the accused-appellant's "ill motive theory" against the police officers was baseless; (4) the accused-appellant's acquittal in Criminal Case No. CBU-68940 did not automatically make the police officers ill motivated; and (5) the chain of custody of the *shabu* was duly proved.

Ruling of the Court

The conviction is upheld.

The Court agrees with the RTC findings, as affirmed by the CA, that the prosecution successfully established the necessary elements of violations of Sections 11 and 12 of R.A. No. 9165, to wit: (1) the accused-appellant maintains possession of *shabu* and various drug paraphernalia; (2) such possession is not authorized by law; and (3) the accused-appellant freely and consciously possessed the illegal drug²⁰ and drug paraphernalia.

Prosecutions for illegal drugs depend largely on the credibility of the police officers who conducted the buy-bust operation.²¹ In the instant case, the unwavering testimonies of the prosecution witnesses for being consistent with each other and backed up by the presentation of documentary evidence, such as: (1) Chemical Report No. D-475-2004 identified the white crystalline substance contained in the six plastic packs confiscated in the room of the accused-appellant as *shabu*; (2) Receipt of Property Seized; and (3) a Certification regarding the inventory of the seized drugs and paraphernalia.

The trial court's determination on the issue of credibility of witnesses and its consequent findings of facts must be given great weight and respect on appeal. This is so because of the judicial experience that trial courts are in a better position to decide the question of credibility, having heard the witnesses themselves and observed their deportment and manner of

¹⁹ Id. at 115.

²⁰ *People v. Gaspar*, G.R. No. 192816, July 6, 2011, 653 SCRA 673, 687.

²¹ *People of the Philippines v. Reynaldo Baturi*, G.R. No. 189812, September 1, 2014, citing *People v. Hajili*, 447 Phil. 283, 295-296 (2003).

testifying during trial.²² Moreover, the Court finds logical reason to ascribe any ill motive on the police officers just because she refused PO3 Gantuangco's admiration on several occasions. As aptly stated by the RTC, any hidden grudge of PO3 Gantuangco against the accused-appellant is merely personal to him and does not suffice to set a team of police officers into motion for her apprehension.

The defenses of denial and frame-up are brushed aside. These defenses have been invariably viewed with disfavor for it can easily be concocted as a ploy in most prosecutions for violation of the Dangerous Drugs Act. Thus, the RTC and CA correctly disregarded them considering that her "ill motive theory" against the police officers were unsubstantiated.

The chain of custody of the confiscated packs of *shabu* was also successfully established, to wit: (1) PO3 Gantuangco recovered six packs of *shabu* on the floor in between the cabinets inside the room of the searched house while SPO2 Cayubit recovered drug paraphernalia therein; (2) these items were turned over to SPO1 Navales, who then prepared its receipt and certification. He had custody of the seized items from the place of the seizure until they arrived at the PNP Carcar Station with the accused-appellant; (3) SPO1 Agadier marked all the seized items at the police station and endorsed it to PO1 Repompo; (4) PO1 Repompo prepared the letter requesting for the laboratory examination of the white crystalline substance and delivered it with the subject specimen to a forensic chemist in the PNP Crime Laboratory; and (5) Forensic Chemist Mutchit Salinas confirmed the subject specimen as *shabu* per Chemistry Report No. D-475-2004 dated March 12, 2004. Thus, as correctly discussed by the RTC and affirmed by the CA, there was substantial compliance of Section 21 of R.A. No. 9165 since the integrity and evidentiary value of the *shabu* confiscated have been preserved.

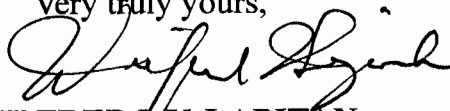
As to the penalty imposed, Section 11 of R.A. No. 9165 prescribes the penalty of life imprisonment and a fine ranging from ₱400,000.00 to ₱500,000.00 upon a person, unless authorized by law, to possess 10 grams or more but less than 50 g of *shabu*. Here, the *shabu* recovered from the possession of the accused-appellant had a total weight of 14.70 g.

Section 12 of R.A. No. 9165 imposes the penalty of imprisonment from six (6) months and one (1) day to four (4) years and a fine ranging from ₱10,000.00 to ₱50,000.00 upon a person who, unless authorized by law, shall possess drug paraphernalia. As amply aforesaid, the accused-appellant illegally possessed various drug paraphernalia. Therefore, the Court conforms to the penalties imposed by the RTC, as affirmed by the CA, as they are within the range of the penalties provided for by law.

²² Id., citing *People v. Alberto*, G.R. No. 179717, February 5, 2010, 611 SCRA 706, 715.

WHEREFORE, in consideration of the foregoing premises, the Decision dated October 29, 2013 of the Court of Appeals in CA-G.R. CEB-CR HC No. 01403 is **AFFIRMED.**" (Jardeleza, J., no part in view of participation in the Office of the Solicitor General; Bersamin, J., designated additional member per Special Order No. 1912 dated January 12, 2015.)

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court

RA 3/10/15

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