



Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 194945

Present:

LEONARDO-DE CASTRO, J.,*
Acting Chairperson,
BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR., and
PERLAS-BERNABE, JJ.**

- versus -

ALEX WATAMAMA y ESIL,
Accused-Appellant.

Promulgated:

30 JUL 2012

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DECISION

VILLARAMA, JR., J.:

On appeal is the March 5, 2010 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR HC No. 03295, affirming the Decision² of the Regional Trial Court (RTC), Branch 103, of Quezon City, finding appellant Alex Watamama y Esil guilty of violating Section 5 of Republic Act (R.A.) No. 9165.³

The prosecution's version of the facts is as follows:

* Designated Acting Chairperson of the First Division per Special Order No. 1226 dated May 30, 2012.

** Designated Acting Member of the First Division per Special Order No. 1227 dated May 30, 2012.

¹ *Rollo*, pp. 2-18. Penned by Associate Justice Antonio L. Villamor with Associate Justices Vicente S.E. Veloso and Rodil V. Zalameda concurring.

² *CA rollo*, pp. 47-51. Penned by Presiding Judge Jaime N. Salazar, Jr. The decision is dated April 23, 2008.

³ Comprehensive Dangerous Drugs Act of 2002.

At around 10 o'clock in the morning of September 25, 2005, an informant reported to SPO2 Dante Nagera in the Quezon City Anti-Drug Action Center, PNP Central Police District, Quezon City Hall Compound, that a certain "Alex" was selling drugs in Barangay Payatas, Quezon City. SPO2 Nagera relayed the information to his superior P/Supt. Gerardo Ratuaita who then formed a team consisting of SPO2 Nagera, PO3 Leonardo Ramos, PO1 Teresita Reyes, PO1 Alexander Jimenez, and PO1 Peggy Lynne Vargas to conduct a buy-bust operation. PO1 Vargas was designated as the *poseur* buyer and was given two ₱100 bills which she marked with her initials "PV".⁴

At 12 noon of the same day, the buy-bust team arrived at Area A, Payatas, Quezon City. The informant accompanied PO1 Vargas to a house at No. 14 Rosal Street. Upon seeing appellant, the informant introduced PO1 Vargas to appellant as a *shabu* user. PO1 Vargas asked to buy ₱200 worth of *shabu* from appellant. When asked for payment, PO1 Vargas promptly handed appellant the two marked bills. Appellant pocketed the money then took out a plastic sachet containing 0.18 grams of *shabu* and gave it to PO1 Vargas. PO1 Vargas inspected the contents of the plastic sachet, then gave the pre-arranged signal that the transaction was consummated. Immediately, the other members of the buy-bust team surfaced and arrested appellant. The two marked bills were recovered when SPO2 Nagera ordered appellant to empty his pockets. Appellant was thereafter brought to the police station.⁵

At the police station, PO1 Vargas marked the confiscated *shabu* and turned it over to the station investigator Alex A. Jimenez. Jimenez prepared an inventory receipt which P/Supt. Ratuaita signed. Thereafter, PO2 Ortiz brought the plastic sachet to the PNP Crime Laboratory for qualitative examination.⁶ Forensic chemist Leonard Jabonillo performed the examination and found that the contents of the heat-sealed transparent plastic sachet with marking PV-09-

⁴ TSN, April 4, 2006, pp. 3-6; TSN, January 15, 2007, pp. 2-5.

⁵ Id. at 9-18; id. at 7-14.

⁶ Id. at 21-22; id. at 15-16.

25-05, weighed 0.18 grams and tested positive for methylamphetamine hydrochloride or *shabu*.⁷

On the other hand, appellant claimed that three men in civilian attire with handguns tucked at their waist suddenly barged in his house and arrested him. He was not shown any arrest warrant and nothing was found on him when the police frisked him at the police station. He added that PO1 Jimenez told him that if he wanted to be released he must reveal the identity of a big-time *shabu* supplier. He denied knowing any big-time *shabu* supplier and also denied selling *shabu*. He was then charged with illegal sale of *shabu*.⁸

The RTC rendered a decision convicting appellant of illegal sale of 0.18 grams of *shabu* and sentenced him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.

On appeal to the CA, appellant argued that the arresting police officers failed to comply strictly with Section 21(1) of R.A. No. 9165, since there was no proof that they conducted an inventory of the confiscated items, or even marked the same in his presence, or the presence of his representative or counsel, or a representative from the media and the Department of Justice, or any elected official.

As aforesaid, the CA denied the appeal and affirmed the RTC Decision. The CA found that the prosecution was able to establish every link in the chain of custody of the *shabu* from the moment of seizure to receipt for examination and safekeeping in the PNP Crime Laboratory to safekeeping for presentation in court. The CA further held that the marking and inventory of the *shabu* done at the police station was not fatal to the prosecution's case. Section 21 (a) of the Implementing Rules and Regulations of Republic Act No. 9165 provides that in case of warrantless seizures, the marking, inventory, and photograph may be conducted at the

⁷ Records, p. 9.

⁸ TSN, February 21, 2008, pp. 3-8.

nearest office of the apprehending team as long as the integrity and evidentiary value of the seized items are properly preserved. The CA noted that PO1 Vargas adequately explained why the marking was not made at the place of confiscation since there was a crowd of people forming when appellant was arrested. Also, a photograph was taken but the digital camera was lost. The CA also held that the defect in the pre-operation coordination sheet with PDEA would not affect the entrapment operation. The CA explained that Section 86 of R.A. No. 9165 is explicit only in saying that the PDEA shall be the “lead agency” in investigations and prosecutions of drug-related cases. It held that Section 86 is more of an administrative provision.

Unsatisfied with the CA decision, appellant filed a notice of appeal before this Court, essentially questioning the noncompliance by the police with the procedure for the custody and control of seized prohibited drugs under Section 21 of R.A. No. 9165. He claims that the chain of custody was not established by the prosecution and prays for his acquittal.

We agree with appellant.

In all prosecutions for the violation of the Comprehensive Dangerous Drugs Act of 2002, the existence of the prohibited drug has to be proved.⁹ The chain of custody rule requires that testimony be presented about every link in the chain, from the moment the item was seized up to the time it is offered in evidence. To this end, the prosecution must ensure that the substance presented in court is the same substance seized from the accused.

While this Court recognizes substantial adherence to the requirements of R.A. No. 9165 and its implementing rules and regulations, not perfect adherence, is what is demanded of police officers attending to drugs cases,¹⁰ still, such officers must present justifiable reason for their imperfect conduct and show that the integrity and evidentiary value of the seized items had been preserved. Here, however, they failed to meet these conditions.

⁹ *People v. Habana*, G.R. No. 188900, March 5, 2010, 614 SCRA 433, 439, citing *People v. Mendiola*, G.R. No. 110778, August 4, 1994, 235 SCRA 116, 120.

¹⁰ *Id.* at 440, citing *People v. Ara*, G.R. No. 185011, December 23, 2009, 609 SCRA 304.

The prosecution failed to show how the seized evidence changed hands from the time PO1 Vargas turned it over to the investigator up to the time they were presented in court as evidence. The prosecution did not adduce evidence on how the evidence was handled or stored before its presentation at the trial. It is not enough to rely merely on the testimony of PO1 Vargas who stated that she turned the seized item over to the investigator who then prepared the letter of request for examination. There was no evidence on how PO2 Ortiz came into possession of the *shabu* and how he delivered the seized item for examination to the PNP Crime Laboratory. Neither was there any evidence how it was secured from tampering. Instructive is the case of *People v. Kamad*,¹¹ where the Court enumerated the different links that the prosecution must endeavor to establish with respect to the chain of custody in a buy-bust operation: *first*, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; *second*, the turn over of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turn over by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turn over and submission of the marked illegal drug seized by the forensic chemist to the court.

We are aware that there is no rule which requires the prosecution to present as witness in a drugs case every person who had something to do with the arrest of the accused and the seizure of prohibited drugs from him. The discretion on which witness to present in every case belongs to the prosecutor.¹² Nonetheless, as a mode of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. In context, this would ideally include testimony about every link in the chain, from the seizure of the prohibited drug up to the time it is offered into evidence, in such a way that everyone who touched the exhibit would describe how and from whom it was

¹¹ G.R. No. 174198, January 19, 2010, 610 SCRA 295, 307-308.

¹² See *People v. Zeng Hua Dian*, G.R. No. 145348, June 14, 2004, 432 SCRA 25, 32.

received, where it was and what happened to it while in the witness' possession, the condition in which it was received, and the condition in which it was delivered to the next link in the chain.¹³

In this case, the over-reliance on PO1 Vargas' testimony and the failure to present the investigator and PO2 Ortiz are fatal to the prosecution's case. Since the failure to establish every link in the chain of custody of the drug compromised its identity and integrity, which is the *corpus delicti* of the crimes charged against appellant, his acquittal is therefore in order.

WHEREFORE, the appeal is **GRANTED**. The March 5, 2010 Decision of the Court of Appeals in CA-G.R. CR-HC No. 03295 is **REVERSED and SET ASIDE**. Accused-appellant Alex Watamama y Esil is hereby **ACQUITTED** on the ground of reasonable doubt.

The Director, Bureau of Corrections, Muntinlupa City, is hereby ordered to release the person of accused-appellant ALEX WATAMAMA y ESIL from custody unless he is detained for some other lawful cause/s.

The Director, Bureau of Corrections, is hereby further ordered to **REPORT** to this Court his compliance herewith within five (5) days from doing so.

With costs *de officio*.

SO ORDERED.


MARTIN S. VILLARAMA, JR.
Associate Justice

¹³ *People v. Cervantes*, G.R. No. 181494, March 17, 2009, 581 SCRA 762, 777, citing *Malillin v. People*, G.R. No. 172953, April 30, 2008, 553 SCRA 619, 632, further citing American jurisprudence.

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Antonio T. Carpio
ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)