



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**RODRIGO RONTOS y BELA
TORRE,**

Petitioner,

- versus -

G.R. No. 188024

Present:

SERENO, CJ, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR. and
REYES, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

JUN 05 2013

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DECISION

SERENO, CJ:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision¹ dated 28 October 2008 and Resolution² dated 29 May 2009 of the Court of Appeals (CA) in CA-G.R. CR No. 30412. The CA Decision affirmed the Decision³ in Criminal Case No. C-69394 of the Regional Trial Court of Caloocan City, Branch 123 (RTC) finding petitioner guilty beyond reasonable doubt of the crime of violation of Section 11, Article II of Republic Act No. (R.A.) 9165 (Comprehensive Dangerous Drugs Act).

At 4:00 p.m. on 19 October 2003, PO2 Emil Masi (PO2 Masi) of the Caloocan North City Police Station dispatched PO1 Joven Pacis (PO1 Pacis) and PO1 Greg Labaclado (PO1 Labaclado) of the Station Anti-Illegal Drugs Task Force to conduct surveillance in Sampaloc St., Camarin, Caloocan City

¹ *Rollo*, pp. 100-111. The Decision of the Court of Appeals (CA) Special Tenth Division in CA-G.R. CR No. 30412 dated 28 October 2008 was penned by Associate Justice Ricardo R. Rosario with Associate Justices Rebecca de Guia-Salvador and Arcangelita M. Romilla-Lontok concurring.

² *Id.* at 123-124.

³ *Id.* at 74-81.

because of reports of illegal drug activity in the said area.⁴ When they got there around 5:00 p.m., PO1 Pacis and PO1 Labaclado noticed petitioner standing about five meters away from them, apparently preoccupied with scrutinizing two plastic sachets in his hand.

Upon coming closer, they saw that the plastic sachets appeared to contain a white crystalline substance similar to *shabu*.⁵ PO1 Pacis approached petitioner and confiscated the plastic sachets. Thereafter, he introduced himself as a police officer and informed petitioner of the offense the latter had committed.⁶ The two police officers informed petitioner of his constitutional rights, while he just remained silent.⁷ PO1 Pacis marked the plastic sachets with his initials “JCP-1” and JCP-2” and placed them in a makeshift envelope.⁸

They then brought petitioner to the station and turned him over to PO2 Masi together with the plastic sachets.⁹ PO2 Masi conducted an investigation and prepared a request for a laboratory examination¹⁰ of the contents of the plastic sachets.¹¹ PO1 Pacis brought the request and the plastic sachets to the crime laboratory, and forensic chemist Police Inspector Jessie dela Rosa (P/Insp. dela Rosa) conducted the examination.¹² The tests on the contents of the plastic sachets yielded a positive result for methylamphetamine hydrochloride, a dangerous drug more commonly known as *shabu*.¹³

A Complaint¹⁴ for violation of Section 11 (possession of dangerous drugs), Article II of R.A. 9165, was drawn up and referred¹⁵ to the city prosecutor for the filing of charges before the court.

On the other hand, petitioner narrated a different version of the incident. According to him, on the date and time mentioned, he was at home with his parents, sister, nephews and a visitor named Cassandra Francisco (Cassandra) when PO1 Pacis and PO1 Labaclado suddenly barged in.¹⁶ The police officers searched the house, claiming that they were looking for something.¹⁷ When the search proved fruitless, they arrested petitioner and Cassandra and detained them at the Drug Enforcement Unit in Camarin,

⁴ Id. at 102.

⁵ Id.

⁶ Id. at 75.

⁷ Id.

⁸ TSN, 15 August 2005, p. 7.

⁹ *Rollo*, p. 102.

¹⁰ Exhibit “A,” folder of exhibits, p. 2.

¹¹ *Rollo*, p. 75.

¹² Id.

¹³ Exhibit “C,” folder of exhibits, p. 1.

¹⁴ Records, p. 4.

¹⁵ Id. at 3.

¹⁶ *Rollo*, p. 103.

¹⁷ Id. at 76.

Caloocan City.¹⁸ Cassandra was later released when her uncle allegedly gave money to the police officers.¹⁹

After trial on the merits, the RTC rendered a Decision²⁰ dated 23 August 2006, the dispositive portion of which states:

Wherefore, premises considered, judgment is hereby rendered finding accused **RODRIGO RONTOS Y DELA TORRE** guilty beyond reasonable doubt of the crime of Violation of Section 11, Article II, RA 9165 and hereby sentencing him to suffer imprisonment of **TWELVE YEARS AND ONE DAY TO THIRTEEN YEARS, NINE MONTHS AND TEN DAYS** and to pay a fine of ₱500,000.00 without subsidiary imprisonment in case of insolvency.²¹

Through the testimonies of PO1 Pacis, PO1 Labaclado and P/Insp. dela Rosa, the RTC ruled that the prosecution was able to establish the concurrence of all the elements of possession of dangerous drugs: (a) an item or object identified to be a dangerous drug was in a person's possession; (b) the possession was not authorized by law; and (c) the person freely and consciously possessed the dangerous drug. The RTC also found no evil motive on the part of the police officers to testify falsely against petitioner. Despite the defenses of denial, frame-up and evidence-planting interposed by petitioner, the RTC held that his guilt was proven beyond reasonable doubt.

On appeal to the CA, petitioner contended that, since his warrantless arrest was illegal, the allegedly confiscated items were inadmissible in evidence. He further claimed that the police officers failed to faithfully comply with the procedure for ensuring the identity and integrity of the plastic sachets containing *shabu*.

The CA ruled²² that the question over the legality of the arrest was deemed waived by petitioner when he voluntarily submitted himself to the jurisdiction of the court by entering a plea of "Not Guilty" and participating in the trial of the case.²³ In any case, the CA explained that while the arrest was without a warrant, it was with probable cause since petitioner was arrested in *flagrante delicto*. He committed a crime in plain view of the police officers, as he was spotted in the act of holding and examining plastic sachets containing *shabu*.

¹⁸ Id.

¹⁹ Id.

²⁰ Id. at 74-81.

²¹ Id. at 81.

²² Id. at 100-111.

²³ Id. at 105.

While the CA admitted that no photograph or inventory of the confiscated items was taken or made, it entertained no doubt that the dangerous drugs presented in court were the same ones confiscated from petitioner. Furthermore, the failure of the police officers to observe the proper procedure for handling confiscated dangerous drugs may only result in administrative liability on their part. That failure does not cast doubt on the identity and integrity of the illegal drugs.²⁴

Thus, the CA affirmed the Decision of the RTC with the modification that the fine imposed was reduced from ₱500,000 to ₱300,000.²⁵ As the motion for reconsideration²⁶ of petitioner was denied,²⁷ he now comes before us raising the same issues presented before the CA.

OUR RULING

We acquit petitioner on the ground of reasonable doubt.

We cannot uphold the contention of petitioner that his warrantless arrest was illegal. The CA correctly ruled that his failure to question the legality of his arrest before entering his plea during arraignment operated as a waiver of that defense. “It has been ruled time and again that an accused is estopped from assailing any irregularity with regard to his arrest if he fails to raise this issue or to move for the quashal of the information against him on this ground before his arraignment.”²⁸

In his arraignment before the trial court, petitioner never raised any issue and instead “freely and voluntarily pleaded Not Guilty to the offense charged.”²⁹ Thus, he was estopped from raising the issue of the legality of his arrest before the trial court, more so on appeal before the CA or this Court.

However, on the basis of the nonobservance of the rules of procedure for handling illegal drug items, we resolve to acquit petitioner on the ground of reasonable doubt.

In illegal drugs cases, the identity and integrity of the drugs seized must be established with the same unwavering exactitude as that required to

²⁴ Id. at 107-108.

²⁵ Id. at 110.

²⁶ Id. at 112-116.

²⁷ Id. at 123-124.

²⁸ *People v. Tan*, G.R. No. 191069, 15 November 2010, 634 SCRA 773, 786.

²⁹ Records, p. 8.

arrive at a finding of guilt.³⁰ The case against the accused hinges on the ability of the prosecution to prove that the illegal drug presented in court is the same one that was recovered from the accused upon his arrest.

The procedure set forth in Section 21 of R.A. 9165 is intended precisely to ensure the identity and integrity of dangerous drugs seized.³¹ This provision requires that upon seizure of illegal drug items, the apprehending team having initial custody of the drugs shall (a) conduct a physical inventory of the drugs and (b) take photographs thereof (c) in the presence of the person from whom these items were seized or confiscated and (d) a representative from the media and the Department of Justice and any elected public official (e) who shall all be required to sign the inventory and be given copies thereof.

This Court has emphasized the import of Section 21 as a matter of substantive law that mandates strict compliance.³² It was laid down by Congress as a safety precaution against potential abuses by law enforcement agents who might fail to appreciate the gravity of the penalties faced by those suspected to be involved in the sale, use or possession of illegal drugs.³³ Under the principle that penal laws are strictly construed against the government, stringent compliance therewith is fully justified.³⁴

Here, the procedure was not observed at all. Where it is clear that Section 21 was not observed, as in this case, such noncompliance brings to the fore the question of whether the illegal drug items were the same ones that were allegedly seized from petitioner.

The direct testimony of PO1 Pacis in connection with his identification of the envelope where he placed the two plastic sachets allegedly confiscated from petitioner does not really inspire confidence, to wit:

Q: What did you do with the plastic sachet that you have confiscated from the accused?

A: After confiscating them, I marked them and placed them in an envelope in order to preserve the evidence, ma[‘a]m.

Q: I am showing toy [sic] you this white envelope, will you please have a look at it and tell the Honorable Court if this is the same envelope which contained the two plastic sachets?

A: I am not sure, ma[‘a]m, it is not actually an envelope but an improvised envelope.³⁵

³⁰ *Mallillin v. People*, G.R. No. 172953, 30 April 2008, 553 SCRA 619.

³¹ *People v. Martinez*, G.R. No. 191366, 13 December 2010, 637 SCRA 791, 817-818.

³² *People v. Umipang*, G.R. No. 190321, 25 April 2012, 671 SCRA 324, 351-355.

³³ *Id.*

³⁴ *Id.*

³⁵ TSN, 15 August 2005, p. 7.

We cannot, in good conscience, affirm the conviction of petitioner for possession of illegal drugs if the police officer charged with the preservation of the evidence cannot even be certain in the identification of the envelope that was presented in court. As held in *Dolera v. People*,³⁶ there also exists in the present case a reasonable likelihood of substitution, in that the two plastic sachets that tested positive for *shabu* and were presented in court were not the items allegedly seized from petitioner. This possibility of substitution is fatal for the prosecution,³⁷ for there is then a failure to prove the identity of the *corpus delicti* beyond reasonable doubt.³⁸

We are not unaware of the rule that justifiable grounds may excuse noncompliance with the requirements of Section 21 as long as the integrity and evidentiary value of the seized items are properly preserved.³⁹ The problem in this case is that the police officers presented no justifiable reason why they neglected to observe the proper procedure. Considering that PO1 Pacis himself expressed misgivings on the identity of the envelope shown to him in court, with the envelope that he had placed the confiscated illegal drug items in, neither can we confirm that the chain of custody had been sufficiently established.

Corpus delicti is the “actual commission by someone of the particular crime charged.”⁴⁰ In illegal drug cases, it refers to the illegal drug item itself.⁴¹ When courts are given reason to entertain reservations about the identity of the illegal drug item allegedly seized from the accused, the actual commission of the crime charged is put into serious question. In those cases, courts have no alternative but to acquit on the ground of reasonable doubt.

WHEREFORE, the Decision dated 28 October 2008 in CA-G.R. CR No. 30412 of the Court of Appeals is **REVERSED** and **SET ASIDE**. **RODRIGO RONTOS y DELA TORRE** is hereby **ACQUITTED** of the crime of Violation of Section 11, Article II of Republic Act No. 9165 (Comprehensive Dangerous Drugs Act) on the ground of reasonable doubt.

The Director of the Bureau of Corrections is hereby **ORDERED** to immediately **RELEASE** petitioner from custody, unless he is detained for some other lawful cause.

³⁶ G.R. No. 180693, 4 September 2009, 598 SCRA 484, 487.

³⁷ Id. at 496.

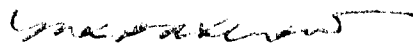
³⁸ *People v. Morales*, G.R. No. 172873, 19 March 2010, 616 SCRA 223, 236-237 citing *People v. Orteza*, G.R. No. 173051, 31 July 2007, 528 SCRA 750, 758-759.

³⁹ Implementing Rules and Regulations of R.A. 9165, Section 21(a).

⁴⁰ *People v. Roble*, G.R. No. 192188, 11 April 2011, 647 SCRA 593, 603.

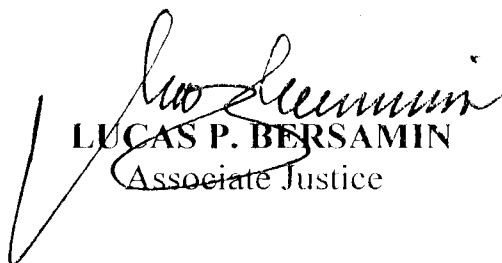
⁴¹ *People v. Alejandro*, G.R. No. 176350, 10 August 2011, 655 SCRA 279, 287-288.

SO ORDERED.


MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

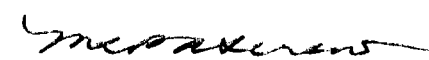

LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


MARIA LOURDES P. A. SERENO
Chief Justice