



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 194999

Present:

- versus -

CARPIO, *Chairperson,*
VELASCO, JR.,
DEL CASTILLO,
MENDOZA, *and*
LEONEN, *JJ.*

GLORIA NEPOMUCENO y PEDRAZA,
Accused-Appellant.

Promulgated:
FEB 09 2015

X

X

RESOLUTION

DEL CASTILLO, J.:

On August 11, 2003, two Informations charging Gloria Nepomuceno y Pedraza (appellant) with violation of Sections 5 (Sale of Dangerous Drugs) and 15 (Use of Dangerous Drugs), Article II of Republic Act (RA) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002, were filed in the Regional Trial Court (RTC) of Makati, Branch 64. The Information in Criminal Case No. 03-2917 charged appellant with violation of Section 5, Article II of RA 9165 in the following manner:

That on or about the 9th day of August, 2003, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without the necessary license or prescription and without being authorized by law, did then and there willfully, unlawfully and feloniously sell, deliver and give away Methylamphetamine Hydrochloride weighing zero point zero three (0.03) gram, a dangerous drug, in consideration of ₱100.00.

CONTRARY TO LAW.¹

* Per Special Order No. 1910 dated January 12, 2015.

¹ Records, Vol. I, p. 1.

On the other hand, the accusatory portion of the Information in Criminal Case No. 04-1407 charged appellant with violation of Section 15, Article II of RA 9165 as follows:

That on or about the 9th day of August, 2003 in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to use dangerous drug, and having been arrested and found positive for the use of Methylamphetamine after a confirmatory test, did then and there, willfully, unlawfully and feloniously use Methylamphetamine, a dangerous drug, in violation of the said law.

CONTRARY TO LAW.²

During arraignment, appellant pleaded not guilty to both charges. After the termination of the pre-trial conference, trial ensued.

The prosecution established that the Chief of the Drug Enforcement Unit (DEU) of the Makati Philippine National Police (PNP) received a report from a confidential informant (CI) that appellant was selling *shabu*. He thus formed a buy-bust team to entrap appellant composed of PO2 Vicente Barrameda (PO2 Barrameda), who was designated as the poseur-buyer and team leader, PO2 Virginio Costa, PO2 Rodrigo Igno, PO1 Alex Inopia, and PO1 Randy Santos (PO1 Santos). The Chief of the DEU conducted a briefing and provided the buy-bust team with two 50-peso bills as marked money. Meanwhile, PO2 Barrameda coordinated the buy-bust operation with the Philippine Drug Enforcement Agency.

On August 9, 2003, at around 2:00 p.m., the buy-bust team deployed itself at the corner of Caton and Zobel Streets, Barangay La Paz, Makati City. The team members positioned themselves in strategic locations while PO2 Barrameda and the CI approached appellant. The CI introduced PO2 Barrameda to appellant as a buyer of *shabu*. PO2 Barrameda told appellant that he needed ₱100.00 worth of *shabu* and gave her the marked money as payment. Appellant took out from her pocket and turned-over to PO2 Barrameda a small plastic sachet containing white crystalline substance. Upon receipt thereof, PO2 Barrameda lighted a cigarette as the pre-arranged signal that the transaction had been consummated. PO1 Santos rushed to the scene and recovered from the right hand of appellant the buy-bust money. PO1 Barrameda marked the subject plastic sachet with the initials "GPN." Appellant was then arrested and brought to the DEU of Makati where she was turned over to the duty investigator for documentation. Thereafter, appellant and the seized plastic sachet with its contents were taken to the PNP Crime Laboratory for drug testing and laboratory examination, respectively. Specimen of the white crystalline taken from the plastic sachet tested positive for *shabu*.

² Records, Vol. II, p. 1.

Appellant denied selling *shabu*. She recalled that on August 9, 2003 at around 1:30 p.m., while she was standing in front of her house in San Andres, Manila, six men in civilian clothes arrested her. They informed her that they were from the DEU of Makati and that she was being arrested for selling them *shabu*. They dragged her away from her house while her husband and son-in-law were inside and unaware of what was happening to her. At the DEU office, appellant was told to empty her pockets and was asked of the whereabouts of a certain Johnny, who was an alleged supplier of illegal drugs in their area.

***Rulings of the Regional Trial Court
and the Court of Appeals***

On April 5, 2006, the RTC rendered a Decision³ convicting appellant for illegal sale of *shabu* in Criminal Case No. 03-2917, but acquitting her for illegal use of the same in Criminal Case No. 04-1407 due to insufficiency of evidence. The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing[,] judgment is rendered as follows:

1. In Criminal Case No. 03-2917, for violation of Section 5, Art. II, RA 9165, the accused GLORIA NEPOMUCENO y PEDRAZA, is found GUILTY beyond reasonable doubt and is sentenced to suffer life imprisonment and pay a fine of ₱500,000.00. The period during which the accused is detained at the Makati City Jail shall be considered in her favor pursuant to existing rules.

2. In Criminal Case No. 04-1407, for violation of Sec. 15, Art. II, RA 9165, the accused GLORIA NEPOMUCENO y PEDRAZA, is ACQUITTED for insufficiency of evidence.

The Branch Clerk of Court is directed to transmit to the Philippine Drug Enforcement Agency (PDEA) the one (1) piece of plastic sachet of *shabu* weighing of 0.03 gram subject matter of these cases, for said agency's appropriate disposition.

SO ORDERED.⁴

Appellant appealed her conviction to the Court of Appeals (CA) where it was docketed as CA-G.R. CR-H.C. No. 02318. The CA denied her appeal in its Decision⁵ dated August 25, 2010. The dispositive portion reads:

³ Records, Vol. I, pp. 115-122; penned by Judge Delia H. Panganiban.

⁴ Id. at 122.

⁵ CA *rollo*, pp. 99-120; penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Andres B. Reyes, Jr. and Japar B. Dimaampao.

WHEREFORE, premises considered, the present appeal is hereby DENIED and challenged Decision of the court a *quo* dated 05 April 2006 STANDS.

SO ORDERED.⁶

Appellant thus interposed this appeal reiterating that her positive identification by the police officers cannot be relied upon since the police officers were not familiar with her appearance. Thus, there was no assurance that she was the person reported by the CI to be engaged in an illegal drug activity. Appellant insists that the warrantless arrest, search and seizure carried out by the police officers against her were illegal since they merely suspected that she committed a crime.⁷ She continues to argue that the evidence allegedly recovered from her has no evidentiary value for failure of the buy-bust team to photograph the seized *shabu* in the presence of a representative from media, the Department of Justice (DOJ) and any elected public official who shall sign copies of the inventory pursuant to RA 9165.

Our Ruling

The appeal lacks merit.

The Court is satisfied that the prosecution discharged its burden in a prosecution for illegal sale of dangerous drugs, which are: “(1) the identity of the buyer and the seller, the object and consideration; and, (2) the delivery of the thing sold and the payment therefor.”⁸ This offense merely requires the consummation of the selling transaction, which occurs the moment the buyer exchanges his money for the drugs of the seller.⁹

PO2 Barrameda, the police officer who acted as buyer, testified on the buy-bust operation against appellant and positively identified her as the seller of the seized *shabu* that was sold to him for ₱100.00. PO1 Santos, another police officer and member of the buy-bust team, corroborated the testimony of PO2 Barrameda. While they had not seen appellant prior to the buy-bust operation, the CI readily identified and introduced her to PO2 Barrameda.

In cases involving the illegal sale of dangerous drugs, “credence should be given to the narration of the incident by the prosecution witnesses, especially when they are police officers who are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary. Moreover, in the absence

⁶ Id. at 119.

⁷ See Brief for Accused-Appellant, id. at 32-42.

⁸ *People v. Dilao*, 555 Phil. 394, 409 (2007).

⁹ *People v. Alviz*, G.R. No. 177158 February 6, 2013, 690 SCRA 61, 70.

of proof of motive to falsely impute such a serious crime against the appellant, the presumption of regularity in the performance of official duty, as well as the findings of the trial court on the credibility of witnesses, shall prevail over [appellant's] self-serving and uncorroborated denial."¹⁰ Appellant therefore had the burden to overcome the presumption that the police officers regularly and properly discharged their duties¹¹ which she failed to do. Against the evidence of the prosecution, her defenses of alibi, denial and frame-up crumble. Aside from being weak and uncorroborated, such defenses are viewed with disfavor since they can easily be concocted and are common and standard ploy in prosecutions for violation of the Dangerous Drugs Act.¹²

Appellant's contention that her warrantless arrest was unlawful does not deserve credence. The facts on record do not substantiate her claim that she was apprehended merely on suspicion of committing a crime. On the contrary, appellant was arrested after committing a criminal offense that resulted from a successful buy-bust operation. Having been apprehended *in flagrante delicto*, the police officers were not only authorized but were even duty-bound to arrest her even without a warrant.¹³

Besides, appellant's objection to the legality of her warrantless arrest and the admissibility in evidence of the *shabu* she sold is not a valid ground to warrant a reversal of the rulings of the RTC and the CA. Such an objection must be manifested prior to entering her plea, otherwise, it is deemed waived.¹⁴ Here, appellant failed to move for the quashal of the Information prior to arraignment due to the alleged illegality of her arrest or to object to the same during her arraignment. She even actively participated in the trial and only questioned the validity of her arrest in the CA. As a result of this omission, she is deemed to have waived any objection to the defects that may have attended her arrest.

Also, appellant's guilt for selling *shabu*, a dangerous drug, cannot be reversed by her assertion that the apprehending officers failed to observe the procedure for the custody and disposition of the seized drug as provided in Section 21(1), Article II of RA 9165, particularly the conduct of physical inventory and taking of photograph of the seized item.

Section 21(1),¹⁵ Article II of RA 9165 clearly outlines the post-seizure procedure for the custody and disposition of seized drugs. The law mandates that

¹⁰ *Sy v. People*, G.R. No. 182178, August 15, 2011, 655 SCRA 395, 410-411.

¹¹ *People v. Hernandez*, 607 Phil. 617, 640 (2009).

¹² *People v. Libnao*, 443 Phil. 506, 520 (2003).

¹³ *People v. Pendatun*, 478 Phil 201, 214 (2004).

¹⁴ *Sy v. People*, supra note 10 at 403-404.

¹⁵ Sec. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/

the police officer taking initial custody of the drug shall immediately after seizure and confiscation, take photograph and conduct physical inventory of the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, his/her representative or counsel, a representative from the media and the DOJ, and any elected public official, who shall sign the copies of the inventory and be given a copy thereof.

Notwithstanding the explicit directive of said law, Section 21(a) of its Implementing Rules and Regulations¹⁶ provides a saving clause whenever there is non-compliance, to wit:

x x x Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items.

It can be easily understood from a cursory reading of the implementing rules that the crucial factor is the preservation of the integrity and the evidentiary value of the seized items since they will be used to determine the guilt or innocence of the accused.¹⁷

In this case, it is admitted that there was no physical inventory and photographing of the seized drug as mandated by law. However, it was shown that the integrity and evidentiary value of the item has been preserved and remained intact. The crucial links in the chain of custody of the seized drug subject matter of the case from its confiscation from appellant up to its presentation as evidence was duly accounted for and shown to have not been broken. It was established that after the seizure of the small plastic sachet, PO2 Barrameda immediately marked it with the initials “GPN” while PO1 Santos confiscated the buy-bust money from appellant’s possession. The police officers

paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending team having initial custody and control of the drug shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof;

¹⁶ Sec. 21(a) The apprehending officer/team having initial custody and control of the drug shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, that the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures; Provided, further, that non-compliance with these requirements under justifiable grounds, as long as the integrity and the evidence value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of an custody over the said items;

¹⁷ *People v. Campomanes*, G.R. No. 187741, August 9, 2010, 627 SCRA 494, 507.

took appellant and the recovered items to the desk officer who investigated the case. After the investigation, a request for laboratory examination was prepared by P/Supt. Jose Ramon Q. Salido. The confiscated small plastic sachet marked "GPN" and the request were brought by PO2 Barrameda to the PNP Crime Laboratory in Camp Crame, Quezon City and was received by P/Insp. Stella Garciano Ebuena (P/Insp. Ebuena) for examination. P/Insp. Ebuena conducted a laboratory examination on the 0.03 gram of white crystalline substance found inside the plastic sachet marked "GPN" which tested positive for methylamphetamine hydrochloride. This finding is contained in Chemistry Report No. D-1002-03.¹⁸ During trial, and based on the marking he placed, PO2 Barrameda identified the seized item as the very same sachet he bought and recovered from appellant. He also identified appellant to be the same person who sold the seized *shabu* to him and the plastic sachet marked "GPN" that contained the dangerous drug. Considering this sequence of events, there is no doubt that the sachet marked "GPN" submitted for laboratory examination and found positive for *shabu* was the same one sold to the poseur-buyer during the buy-bust operation and the very same item presented during the trial as the *corpus delicti*. No irregularity was shown to have attended the chain of custody of the *shabu*. Its identity, integrity and probative value were preserved and kept intact by the police officers.

All told, there is no reason to disturb the findings that appellant is guilty beyond reasonable doubt of violation of Section 5, Article II of RA 9165 as well as the penalty imposed upon her. However, it must be added that appellant is not eligible for parole.¹⁹

WHEREFORE, the August 25, 2010 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 02318 is **AFFIRMED with the MODIFICATION** that appellant Gloria Nepomuceno y Pedraza shall not be eligible for parole.

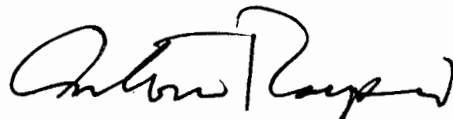
SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

¹⁸ Records, Vol. I, p. 90.

¹⁹ *People v. Ara*, G.R. No. 185011, December 23, 2009, 609 SCRA 304, 328.

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice
Chairperson



PRESBITERO J. VELASCO, JR.

Associate Justice



JOSE CATRAL MENDOZA

Associate Justice



MARVIC M.V.F. LEONEN

Associate Justice

ATTESTATION

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



ANTONIO T. CARPIO

Associate Justice
Chairperson



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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

