



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 195774

Present:

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

- versus -

LARRY BASILIO y HERNANDEZ,
Accused-Appellant.

Promulgated:

FEB 23 2015

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RESOLUTION

DEL CASTILLO, J.:

Challenged in this final recourse is the August 26, 2010 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03358 which affirmed the April 3, 2008 Decision² of the Regional Trial Court (RTC) of Manila, Branch 35 in Criminal Case No. 06-248048, convicting appellant Larry Basilio y Hernandez (appellant) of Violation of Section 5, Article II of Republic Act (R.A.) No. 9165³ and sentencing him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00.

Factual Antecedents

Pursuant to an information he received the day before, Police Senior Inspector (PSI) Julian T. Olonan (PSI Olonan) organized in the morning of November 2, 2006 a team to conduct a “buy-bust” operation against a certain “Kagi” who was said to be active in the illegal sale of drugs. The team was

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

¹ CA *rollo*, pp. 107-120; penned by Associate Justice Jose C. Reyes, Jr. and concurred in by Associate Justices Antonio L. Villamor and Amy C. Lazaro-Javier.

² Records, pp. 43-47; penned by Judge Eugenio C. Mendinueto.

³ Otherwise known as “The Comprehensive Dangerous Drugs Act of 2002.”

composed of SPO1 Teresito Cabanganan, PO3 Renato Jimenez (PO3 Jimenez), PO2 Richard Nieva, PO2 Ferdinand Manlapaz and SPO1 Federico Chua (SPO1 Chua). SPO1 Chua was designated as the poseur-buyer and was thus provided with a ₱100-bill as purchase money, while the rest of the team would serve as back-ups.

At about 10:00 p.m., the team proceeded to the target area in San Gabriel, Old Sta. Mesa, Manila. Together with the informer, SPO1 Chua approached “Kagi,” later identified as the appellant, who was sitting on the street pavement and told the latter that he was going to score. Appellant asked SPO1 Chua “*magkano*” and the latter replied “ *piso lang.*” Appellant got the money from SPO1 Chua and in turn handed to the latter a small heat-sealed transparent plastic sachet containing white crystalline substance. Whereupon, SPO1 Chua scratched the back of his head signifying to the back-up members that the sale had been consummated. Forthwith, SPO1 Chua arrested appellant, informed him of his constitutional rights, and brought him and the seized item to the police station. Thereat, SPO1 Chua placed the marking “LBH” on the plastic sachet and turned over the same to their investigator, PO3 Jimenez. A request for laboratory examination of the seized item was thereafter prepared⁴ which, together with the seized item, was delivered by PO3 Jimenez to the Manila Police District (MPD) Crime Laboratory and was received by Forensic Chemical Officer PSI Elisa G. Reyes (PSI Reyes). PSI Reyes then conducted a qualitative examination of the specimen which weighed 0.083 gram and tested positive for Methylamphetamine Hydrochloride, a dangerous drug.⁵

Appellant denied the accusation against him. He averred that on the night of November 2, 2006, he was on his way home when five police officers in civilian attire who were looking for an alias “Peter” suddenly accosted him. When he asked the officers why they were arresting him, he received no reply and was instead hit in the mouth by one of them. Appellant surmised that the reason why he was charged with dealing in illegal drugs is his failure to give information about alias “Peter.”

Ruling of the Regional Trial Court

In its April 3, 2008 Decision,⁶ the RTC found all the elements of illegal sale of dangerous drugs to have been clearly established by the prosecution. Moreover, it gave full faith and credence to the testimonies of the apprehending police officers for being positive, categorical and straightforward. And there being no showing of bad faith on their part, the RTC upheld the presumption of regularity in the performance of duty in their favor. On the other hand, it rejected appellant’s unsubstantiated defense of denial. Ultimately, the RTC ruled, *viz*:

⁴ Exhibit “B,” records, p. 32.

⁵ Exhibit “D,” *id.* at 33.

⁶ *Id.* at 43-47.

IN VIEW OF ALL THE FOREGOING, the Court finds the accused, Larry Basilio y Hernandez, GUILTY beyond reasonable doubt of the offense charged and hereby sentences him to suffer the penalty of life imprisonment; to pay a fine of Five Hundred Thousand (₱500,000.00) Pesos, and the cost of suit.

X X X X

SO ORDERED.⁷

Ruling of the Court of Appeals

On appeal to the CA, appellant questioned the police officers' non-compliance with the requirements set forth under Section 21 of R.A. No. 9165. The CA, however, aside from not finding any violation of the said provision, agreed that all the elements of the offense charged were duly established. It held in its August 26, 2010 Decision,⁸ as follows:

WHEREFORE, in the light of the foregoing, the appealed DECISION dated April 3, 2008 of the Regional Trial Court (RTC) of Manila, Branch 35, finding herein accused-appellant Larry H. Basilio guilty beyond reasonable doubt of the crime charged, in Criminal Case No. 06-248048, is hereby AFFIRMED.

SO ORDERED.⁹

Hence, this appeal.

Issue

Whether the lower courts correctly convicted appellant of the offense of illegal sale of *shabu*.

Our Ruling

The appeal is devoid of merit.

Elements of illegal sale of dangerous drugs established in this case.

To obtain a conviction for violation of Section 5, Article II of R.A. No. 9165 involving a buy-bust operation, the following essential elements must be established: “(1) the identity of the buyer and the seller, the object of the sale and consideration; and (2) the delivery of the thing sold and its payment. What is material is the proof that the transaction or sale actually took place, coupled with

⁷ Id. at 46-47.

⁸ CA *rollo*, pp. 107-120.

⁹ Id. at 120.

the presentation in court of the *corpus delicti* as evidence.”¹⁰ Thus, the delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money consummate the illegal transaction.

Here, all the foregoing elements are obtaining. The prosecution witnesses positively identified appellant as the seller of the substance to the poseur-buyer, SPO1 Chua, for the sum of ₱100.00. The white crystalline substance presented during trial was identified by SPO1 Chua as the substance sold and delivered to him by appellant. The substance when examined by Forensic Chemical Officer PSI Reyes tested positive to methylamphetamine hydrochloride or *shabu*. Clearly, the prosecution has adequately and satisfactorily proved all the elements of the offense.

Chain of custody unbroken; integrity and evidentiary value of the seized drug preserved.

The chain of custody requirement aims to ensure that the integrity and evidentiary value of the seized item are preserved, so much so that doubts as to the identity of the evidence are removed. “To be admissible, the prosecution must show by records or testimony, the continuous whereabouts of the exhibit at least between the time it came into possession of the police officers and until it was tested in the laboratory to determine its composition up to the time it was offered in evidence.”¹¹

Appellant questions the chain of custody of the seized item. As borne out by the records, however, the confiscated plastic sachet with white crystalline substance was in the possession of SPO1 Chua after the buy-bust operation and apprehension of appellant. He then brought the same to the police station and, thereat, marked it with the letters “LBH” which stand for appellant’s initials. Thereafter, the marked sachet and its contents, as well as the request for laboratory examination thereof, were delivered by PO3 Jimenez to the MPD Crime Laboratory where it was received by PSI Reyes.¹² In her Chemistry Report No. D-1274-06,¹³ PSI Reyes confirmed that the specimen bearing the same marking “LBH” tested positive for methylamphetamine hydrochloride or *shabu*. A small heat-sealed transparent plastic sachet containing white crystalline substance presented in court was identified during trial by SPO1 Chua to be the same item sold to him by appellant during the buy-bust operation. It is therefore plain that the subject illegal substance presented and identified in court was the very same object sold and delivered by the appellant to the poseur-buyer. Indeed, there was an unbroken chain in the custody of the subject prohibited drug.

¹⁰ *People v. Campos*, G.R. No. 186526, August 25, 2010, 629 SCRA 462, 467-468, citing *Cruz v. People*, 597 Phil. 722, 728 (2009).

¹¹ *People v. Unisa*, G.R. No. 185721, September 28, 2011, 658 SCRA 305, 334-335.

¹² Exhibit “B-1,” records, p. 32.

¹³ Exhibit “D,” id. at 33.

Appellant also posits that the marking of the seized item at the police station instead of at the place of seizure immediately after his arrest engendered serious doubt as to its identity. The Court is not convinced. Marking the subject item at the police station did not dent the prosecution's case. While R.A. No. 9165 provides for the immediate marking of the seized item, it does not specify a time frame when and where said marking should be done. In fact, in *People v. Resurreccion*,¹⁴ the Court had the occasion to rule that marking upon immediate confiscation contemplates even marking at the nearest police station or office of the apprehending team.

Finally, while it is admitted that the apprehending officers failed to conduct an inventory of the seized item and to photograph the same as required by paragraph 1, Section 21, Article II of R.A. No. 9165 and Section 21(a) of its Implementing Rules and Regulations, the non-compliance did not affect the seized item's evidentiary weight and admissibility in evidence. As previously discussed, the chain of custody of the seized item was unbroken, hence, its integrity and evidentiary value were not compromised. It must be stressed that what is of utmost importance is the preservation of the integrity and evidentiary value of the seized item.¹⁵

All told, the Court finds appellant's conviction, as well as the penalties imposed upon him, proper. It must be added, however, that he shall not be eligible for parole.¹⁶

WHEREFORE, the August 26, 2010 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03358, which affirmed the April 3, 2008 Decision of the Regional Trial Court of Manila, Branch 35 in Criminal Case No. 06-248048 convicting appellant Larry Basilio y Hernandez of violation of Section 5, Article II of Republic Act No. 9165 and sentencing him to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00, is **AFFIRMED with the MODIFICATION** that he shall not be eligible for parole.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

¹⁴ 618 Phil. 520, 532 (2009).

¹⁵ *People v. Bara*, G.R. No. 184808, November 14, 2011, 660 SCRA 38, 45.

¹⁶ See Section 2, Indeterminate Sentence Law.

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

