



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 197818

Present:

- versus -

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

ALLAN DIAZ y ROXAS,
Accused-Appellant.

Promulgated:

FEB 25 2015

X ----- X

RESOLUTION

DEL CASTILLO, *J.:*

Challenged in this final recourse is the February 11, 2011 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 04206, which affirmed in *toto* the November 5, 2009 Decision² of the Regional Trial Court (RTC), Branch 2, Manila, in Criminal Case No. 08-263032 convicting appellant Allan Diaz y Roxas (appellant) of violation of Section 5, Article II of Republic Act (R.A.) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

Factual Antecedents

In an Information³ dated August 7, 2008, appellant was charged with illegal sale of *shabu* in violation of Section 5, Article II of R.A. No. 9165 committed as follows: *Mc*

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

¹ CA *rollo*, pp. 77-85; penned by Associate Justice Sesinando E. Villon and concurred in by Associate Justices Rebecca De Guia-Salvador and Elihu A. Ybañez.

² Records, pp. 75-80; penned by Judge Alejandro G. Bijasa.

³ Id. at 1.

That on or about August 2, 2008, in the City of Manila, Philippines, the said accused, not having been authorized by law to sell, trade, deliver, or give away to another any dangerous drug, did then and there willfully, unlawfully and knowingly sell or offer for sale one (1) heat[-]sealed transparent plastic sachet with markings “ARD-1” containing ZERO POINT ZERO ONE EIGHT (0.018) [gram] of white crystalline substance known as “SHABU”, [or] methylamphetamine hydrochloride, a dangerous drug.

CONTRARY TO LAW.⁴

Appellant entered a plea of not guilty upon his arraignment on August 22, 2008 and filed a petition for bail. The petition was denied for lack of merit on November 17, 2008.

The parties’ respective versions of the incident are as follows:

On August 1, 2008, a confidential informant reported to the Pandacan Police Station (PS-10), Manila Police District, about appellant’s illegal drug trade activities in Kahilum I, Pandacan, Manila. At around 10:00 p.m. of the same day, a briefing was held and a buy-bust team composed of PO2 Arthuro Coronel, (PO2 Coronel), as poseur-buyer, PO3 Edgar Lacson, PO1 Ramil Carel and PO1 Richard Sibayan, as back-ups, was created. PO2 Coronel was provided with three pieces of 100-peso bills which he marked with his initials “AC1-AC3.”⁵ A Pre-Operation Report and Coordination Sheet⁶ were then prepared and sent to the Philippine Drug Enforcement Agency.

At about 4:00 a.m. the next day, the team along with the informant proceeded to Kahilum I, Pandacan on board three vehicles. From a distance, they saw appellant chatting with a male companion. The informant and PO2 Coronel approached appellant who was by then already alone. The informant introduced PO2 Coronel to the appellant as a buyer of *shabu*. Appellant informed them that he has available *shabu* by saying “*mayroon.*” Thus, PO2 Coronel gave appellant the previously initialed three 100-peso bills and, in exchange therefor, the latter gave him a small plastic sachet containing white crystalline substance suspected to be *shabu*. At that juncture, PO2 Coronel made the pre-arranged signal and immediately arrested appellant. After appellant was apprised of his constitutional rights, the buy-bust team brought him to the police station and turned him over to the investigator. At the police station, the plastic sachet containing the suspected *shabu* was marked by PO2 Coronel with “ARD-1,” the initials of appellant. A request for laboratory examination⁷ of the subject item was thereafter prepared by Police Senior Inspector Peter L. Nerviza. Later, the submitted specimen weighing

⁴ Id.

⁵ Exhibits “F-1,” “F-2” and “F-3,” id. at 16.

⁶ Id. at 12-13.

⁷ Exhibit “A,” id. at 11.

0.018 gram was found positive for methylamphetamine hydrochloride or *shabu*, a dangerous drug, per Chemistry Report No. D-725-08.⁸

Appellant, on the other hand, claimed that between 10:00 and 11:00 p.m. of August 1, 2008, he was walking home when he was suddenly arrested, allegedly for verification purposes only, by policemen whose names he cannot recall. He was brought to a police station and thereafter to an inquest prosecutor in the City Hall of Manila where he first came to know that he was being charged with violation of R.A. No. 9165.

Ruling of the Regional Trial Court

After trial, the RTC convicted appellant as charged and accordingly sentenced him in its Decision⁹ of November 5, 2009 as follows:

WHEREFORE, finding accused, Allan Diaz y Roxas, GUILTY beyond reasonable doubt of the crime charged, he is hereby sentenced to life imprisonment and to pay a fine of ₱500,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs.

X X X X

SO ORDERED.¹⁰

Ruling of the Court of Appeals

Appellant appealed to the CA contending that the prosecution failed to prove his guilt beyond reasonable doubt since the police officers failed to mark, conduct a physical inventory of, and photograph the subject item in his presence and those of the persons mentioned under Sec. 21(1) of R.A. No. 9165.

By its assailed Decision¹¹ of February 11, 2011, the CA affirmed *in toto* the RTC Decision. It found that the prosecution was able to establish appellant's guilt to a moral certainty. Moreover, the CA did not doubt that the *shabu* presented before the RTC was the same *shabu* seized from appellant since the prosecution likewise established its unbroken chain of custody. Thus:

WHEREFORE, premises considered, the assailed decision of the RTC of Manila, Branch 2 dated November 5, 2009 is hereby AFFIRMED IN TOTO.

SO ORDERED.¹²

⁸ Exhibit "C," *id.* at 18.

⁹ *Id.* at 75-80.

¹⁰ *Id.* at 80.

¹¹ CA *rollo*, pp. 77-85.

¹² *Id.* at 85.

Hence, this appeal.

Our Ruling

The appeal has no merit.

Appellant assails the trial court's assessment of the credibility of prosecution witness PO2 Coronel. He faults the RTC in giving more faith and credit to PO2 Coronel's testimony regarding the buy-bust operation over his defense of denial.

"[P]rosecution of cases involving illegal drugs depends largely on the credibility of the police officers who conducted the buy-bust operation. It is fundamental that the factual findings of the trial [court] and those involving credibility of witnesses are accorded respect when no glaring errors, gross misapprehension of facts, or speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The trial court is in a better position to decide the credibility of witnesses, having heard their testimonies and observed their deportment and manner of testifying during the trial. The rule finds an even more stringent application where said findings are sustained by the [CA],"¹³ as in this case. The Court has thoroughly examined the records of this case and finds the testimony of PO2 Coronel credible. The said testimony is pertinently supported by documents such as the marked buy-bust money, chemistry report, affidavit of arrest, among others, which all clearly attest to the fact that a sale of *shabu* took place between him and appellant. On the other hand, appellant's defense of denial, aside from being self-serving, is unsubstantiated and thus, has little weight in law. Hence, the lower courts correctly gave more credence to the evidence of the prosecution.

Appellant banks on the prosecution's alleged failure to comply with the requirements of law¹⁴ with respect to the proper marking, inventory, and taking of photograph of the seized specimen. However, it does not escape the Court's attention that appellant failed to contest the admissibility in evidence of the seized item during trial. In fact, at no instance did he manifest or even hint that there

¹³ *People v. Laposaran*, G.R. No. 198820, December 10, 2012, 687 SCRA 663, 673.

¹⁴ Section 21(1), Article II of R.A. No. 9165 provides:

Section 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/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 drugs 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;

were lapses on the part of the police officers in handling the seized item which affected its integrity and evidentiary value. As held by the Court in *People v. Domado*,¹⁵ citing *People v. Hernandez*,¹⁶ objection to the admissibility of evidence cannot be raised for the first time on appeal. When a party desires the court to reject the evidence offered, he must so state in the form of objection. Without such objection, he cannot raise the question for the first time on appeal. In this case, appellant raised the police operatives' alleged non-compliance with Section 21, Article II of R.A. No. 9165 for the first time on appeal before the CA. Thus, following established jurisprudence, the alleged flaws do not adversely affect the prosecution's case.

In any event, it is "settled that an accused may still be found guilty, despite the failure to faithfully observe the requirements provided under Section 21 of R.A. [No.] 9165, for as long as the chain of custody remains unbroken."¹⁷ Here, it is beyond cavil that the prosecution was able to establish the necessary links in the chain of custody of the subject specimen from the moment it was seized from appellant up to the time it was presented during trial as proof of the *corpus delicti*. As aptly observed by the CA:

[T]he contention of appellant that the police officers failed to comply with the provisions of paragraph 1, Section 21 of R.A. No. 9165 for the proper procedure in the custody and disposition of the seized drugs, is untenable. Record shows that PO2 Coronel marked the confiscated sachet of "shabu" at the police station and in the presence of appellant and the duty investigator. PO2 Coronel clarified that the reason why he marked the said "shabu" at the police station and not at the scene of the crime was because the place where they transacted was dark. Thus, it is only proper to preserve the confiscated item and mark it in a lighted and safe place which is at the police station. Then, the said "shabu" was properly turned over to the duty investigator, together with the marked money. Afterwards, the alleged "shabu" was brought to the forensic chemist for examination. Likewise, the members of the buy-bust team executed their affidavits of arrest immediately after appellant was apprehended and at the trial, PO2 Coronel positively identified the seized drugs. Indeed, the prosecution evidence had established the unbroken chain of custody of the seized drugs from the buy-bust team, to the investigating officer and to the forensic chemist. Thus, there is no doubt that the "shabu" presented before the court *a quo* was the same "shabu" seized from appellant and that indeed, he committed the crime charged in the information.¹⁸

All told, the Court finds appellant's conviction of the offense charged, as well as the imposition upon him of the penalty of life imprisonment and payment of fine of ₱500,000.00, proper. It must be added, however, that appellant shall not be eligible for parole.¹⁹

¹⁵ 635 Phil. 73, 84 (2010).

¹⁶ 607 Phil. 617, 638 (2009).

¹⁷ *People v. Amarillo*, G.R. No. 194721, August 15, 2012, 678 SCRA 568, 579.

¹⁸ CA rollo, p. 84.


¹⁹ See Section 2, Indeterminate Sentence Law.

WHEREFORE, the assailed February 11, 2011 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 04206 is **AFFIRMED with the MODIFICATION** that appellant Allan Diaz y Roxas shall not be eligible for parole.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

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*