



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 200336

Present:

-versus-

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
PERALTA,*
BERSAMIN, and
PEREZ, JJ.

ROWENA TAPUGAY Y
VENTURA,
Accused-Appellant.

Promulgated:

FEB 11 2015

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X

DECISION

PEREZ, J.:

Before this Court for resolution is the appeal filed by Rowena Tapugay y Ventura (appellant) assailing the 8 June 2011 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03032 which affirmed the Regional Trial Court's (RTC) 27 September 2007 Decision² in Criminal Case No. 11011-16 finding the accused guilty of violating Section 5, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Factual Antecedents

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Additional member per raffle dated 11 February 2015.

¹

Rollo, pp. 2-19; Penned by Associate Justice Priscilla J. Baltazar-Padilla with Associate Justices Sesinando E. Villon and Agnes Reyes-Carpio concurring.

²

CA rollo, pp. 10-21.

Appellant was charged before RTC, Branch 16, Laoag City for violation of Section 5, Article II of R.A No. 9165 in an information that reads:

That on or about 8:00 P.M. of 28 November 2003, in the City of Laoag, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously sell to PO2 Dominic Garcia who acted as a poseur-buyer one (1) plastic sachet containing SHABU weighing 0.1 gram including plastic sachet, a regulated drug, without any authority, license or permit to sell the same.³

During arraignment, appellant, assisted by his counsel, pleaded not guilty to the crime charged. Pre-trial and trial thereafter ensued.

Version of the Prosecution

On 28 November 2003, at around 7 o'clock in the evening, the Chief of the Intelligence Section of the Philippine National Police (PNP) of Laoag City, SPO3 Rovimmanuel Balolong (SPO3 Balolong), received a phone call from a concerned citizen reporting the illegal drug activities of Rowena Tapugay (Rowena). SPO3 Balolong immediately relayed the information to their Chief of Police, Col. Joel D. Pagdilao.⁴

A team composed of SPO3 Balolong, SPO2 Ernesto Bal, PO1 Jonel Mangapit, and PO2 Dominic Garcia (PO2 Garcia) was immediately formed to conduct a buy-bust operation.⁵

Before proceeding to the target area, which is the residence of appellant at *Barangay 17*, Laoag City,⁶ the team discussed the details of the operation as follows: (i) PO2 Garcia, who was designated as the *poseur* buyer,⁷ would use a Five Hundred-Peso (Php500.00) bill marked with the initials "RVB"⁸ and with serial number SNJN 693285⁹ to buy *shabu* from appellant who was described as fat with long hair and wearing a sleeveless red shirt; and (ii) the rest of the team would serve as his back-up.¹⁰

³ Records, pp. 1-2.

⁴ TSN, 6 April 2007, p. 5; Testimony of SPO3 Balolong.

⁵ Id. at 6.

⁶ Id. at 8.

⁷ Id. at 6.

⁸ Id. at 20.

⁹ TSN, 3 August 2004, p. 5; Testimony of PO2 Garcia.

¹⁰ TSN, 6 April 2007, p. 6; Testimony of SPO3 Balolong.

Upon arrival at the *locus criminis* at around 8 o'clock in the evening, PO2 Garcia walked towards three (3) women who were then conversing, while the other members of the team strategically positioned themselves. PO2 Garcia approached the woman in a red sleeveless shirt and told her that he was going to buy *shabu* worth (Php500.00).¹¹

PO2 Garcia then handed to appellant the marked Five Hundred Peso (Php500.00) bill. Appellant thereafter pocketed the money and asked PO2 Garcia to come near her. Appellant then reached inside her jeans' pocket to get the *shabu* and handed it to PO2 Garcia.¹²

It was at this time that PO2 Garcia introduced himself as a police officer and grabbed appellant.¹³ The other members of the team then rushed in to assist PO2 Garcia in arresting the suspect.¹⁴ SPO3 Balolong recovered from Rowena the marked Php500.00 bill.¹⁵ Appellant was not able to produce any document showing her authority to sell *shabu* when asked by SPO3 Balolong.¹⁶

After informing appellant of her constitutional rights, the arresting team brought her to the police station.¹⁷ The marked Php500.00 bill and the seized suspected *shabu* placed inside a plastic sachet were turned over to SPO2 Loreto Ancheta (SPO2 Ancheta), the Evidence Custodian of the Investigation Section.¹⁸

The plastic sachet containing white crystalline substance was then sent to the PNP Crime Laboratory in San Fernando, La Union for laboratory examination. Police Inspector Valeriano Panem Laya II (P/Insp. Laya), a Forensic Chemist, testified that he conducted an examination on the white crystalline substance and found that it is positive for methamphetamine hydrochloride.¹⁹

¹¹ TSN, 3 August 2004, p. 7; Testimony of PO2 Garcia.

¹² Id. at 9.

¹³ Id.

¹⁴ Id. at 10.

¹⁵ Id.

¹⁶ TSN; 6 April 2007, p. 16; Testimony of SPO3 Balolong.

¹⁷ Id. at 17.

¹⁸ Id. at 20.

¹⁹ TSN, 21 September 2004; Testimony of P/Insp. Laya.

Version of the Defense

Appellant denied the accusations against her. The defense insisted that Rowena was having dinner inside her house at around 8 o'clock in the evening of 28 November 2003 when police officers suddenly entered and grabbed her. She was allegedly searched but the policemen did not find anything inside her pocket. Rowena was thereafter forced outside her house, placed inside a police car, and brought to the police station.

Ruling of the RTC

In a Decision²⁰ dated 27 September 2009, the trial court found Rowena guilty beyond reasonable doubt of the offense charged and sentenced her to suffer the penalty of life imprisonment and to pay a fine of Five Hundred Thousand Pesos (Php500,000.00). The trial court ruled that the evidence presented by the prosecution successfully established the elements of illegal sale of drugs as accused was caught in *flagrante delicto* in a valid buy-bust operation. It noted that the defense of denial offered by the accused cannot overturn the presumption of regularity in the performance of official duties accorded to the apprehending officers.

The Ruling of the Court of Appeals

On intermediate appellate review, the CA found no reason to disturb the findings of the RTC and upheld in *toto* its ruling. The appellate court agreed with the RTC that credence should be accorded to the testimonies of the prosecution witnesses and in holding that the apprehending officers complied with the proper procedure in the custody and disposition of the seized drugs.

Issues

Whether the trial court gravely erred in convicting appellant despite the prosecution's failure to prove the identity of the *corpus delicti* with moral certainty.²¹

²⁰ Records, pp. 95-106.

²¹ CA *rollo*, p. 74; Brief for the Accused-Appellant.

Whether the trial court gravely erred in convicting appellant despite the arresting officer's non-compliance with the requirements for the proper custody of seized dangerous drugs under R.A. No. 9165.²²

Our Ruling

We find the appeal bereft of merit and affirm appellant's guilt.

In the prosecution of a case of illegal sale of dangerous drugs, it is necessary that the prosecution is able to establish the following essential elements: (1) the identity of the buyer and the seller, the object of the sale and the 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 the presentation in court of the *corpus delicti* as evidence. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction.²³

After a careful evaluation of the records, we find that these elements were clearly met. The prosecution's evidence positively identified PO2 Garcia as the buyer and Rowena as the seller of the *shabu*. Likewise, the prosecution presented in evidence one heat-sealed transparent plastic sachet containing *shabu* as the object of the sale and the marked Php500.00 as consideration thereof. Finally, the delivery of the *shabu* sold and its payment were clearly testified to by the prosecution witnesses.

Rowena's defense which is anchored principally on denial and frame-up cannot be given credence. It does not have more evidentiary weight than the positive assertions of the prosecution witnesses. Her defense is unavailing considering that she was caught in *flagrante delicto* in a legitimate buy-bust operation. This Court has ruled that the defense of denial or frame-up, like alibi, has been invariably viewed by the courts with disfavor for it can just as easily be concocted and is a common and standard defense ploy in most prosecution for violation of the Dangerous Drugs Act.²⁴ Moreover, we noted the inconsistency in the position of the defense. The defense witnesses maintain that the police officers searched and dipped their hands in the pocket of Rowena but did not find any money. During pre-trial, however, the defense admitted that the police officers recovered

²² Id.

²³ *People v. Delos Santos*, G.R. No. 186470, 27 September 2010, 631 SCRA 350, 364 citing *People v. Guiara*, G.R. No. 186497, 17 September 2009, 600 SCRA 310, 322-323 further citing *People v. Gonzales*, G.R. No. 143805, 11 April 2002, 380 SCRA 689, 697.

²⁴ *People v. Hernandez*, G.R. No. 184804, 18 June 2009, 589 SCRA 625, 642.

from Rowena one (1) Five Hundred Peso bill bearing serial number JN 693285.²⁵ It would be difficult to comprehend how the Php500.00 bill which was documented on the police blotter report ended with Rowena unless she received this from PO2 Garcia during the buy-bust operation.

Rowena submits that the trial court failed to consider the procedural flaws committed by the arresting officers in the seizure and custody of drugs as embodied in Section 21, paragraph 1, Article II, of R.A. No. 9165.²⁶ She alleged that other than the defective marking of a police investigator, who was not even part of the buy-bust team, no physical inventory was made or a photograph of the seized item was ever taken.²⁷ Further, she averred that the laboratory examination of the confiscated item was done three days after its seizure and the report thereon released five days thereafter.²⁸ She maintained that such failure casts doubt on the validity of her arrest and the identity of *shabu* allegedly seized and confiscated from her, forwarded by the apprehending officers to the investigating officer, to the crime laboratory for examination, and later presented in court.

Relevant to the instant case is the procedure to be followed in the custody and handling of the seized dangerous drugs as outlined in Section 21(a), Article II of the Implementing Rules and Regulations of R.A. No. 9165, which states:

(a) The apprehending officer/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: *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 evidentiary value of the

²⁵ Records, p. 24; Pre-trial Order.

²⁶ (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[.]

²⁷ *Rollo*, p. 41, Supplemental Brief for the Accused-Appellant.

²⁸ *Id.* at 42.

seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures of and custody over said items[.]

The last part of the aforequoted issuance provided the exception to the strict compliance with the requirements of Section 21 of R.A. No. 9165. Although ideally the prosecution should offer a perfect chain of custody in the handling of evidence, “substantial compliance with the legal requirements on the handling of the seized item” is sufficient.²⁹ This Court has consistently ruled that even if the arresting officers failed to strictly comply with the requirements under Section 21 of R.A. No. 9165, such procedural lapse is not fatal and will not render the items seized inadmissible in evidence.³⁰ What is of utmost importance is the preservation of the integrity and evidentiary value of the seized items, as the same would be utilized in the determination of the guilt or innocence of the accused.³¹ In other words, to be admissible in evidence, the prosecution must be able to present through records or testimony, the whereabouts of the dangerous drugs from the time these were seized from the accused by the arresting officers; turned-over to the investigating officer; forwarded to the laboratory for determination of their composition; and up to the time these are offered in evidence. For as long as the chain of custody remains unbroken, as in this case, even though the procedural requirements provided for in Sec. 21 of R.A. No. 9165 was not faithfully observed, the guilt of the accused will not be affected.³²

Here, the prosecution successfully established the unbroken chain of custody over the seized drugs. After the buy-bust operation was completed, PO2 Garcia, together with the team, brought Rowena to the police station and turned-over the seized suspected *shabu* to SPO2 Ancheta. SPO2 Ancheta, in their presence, marked the items seized and prepared a request for its laboratory examination.³³ The request for laboratory examination and the item seized were, thereafter, delivered by SPO2 Ancheta to the PNP Crime Laboratory at Laoag City.³⁴ Upon receipt thereof, SPO2 Teodoro

²⁹ *People v. Cortez*, G.R. No. 183819, 23 July 2009, 593 SCRA 743, 764.

³⁰ *People v. Jose Almodiel*, G.R. No. 200951, 5 September 2012, 680 SCRA 306, 323; *People v. Campos*, G.R. No. 186526, 25 August 2010, 629 SCRA 462, 468 citing *People v. Concepcion*, G.R. No. 178876, 27 June 2008, 556 SCRA 421, 436-437.

³¹ *People v. Magundayao*, G.R. No. 188132, 29 February 2012, 667 SCRA 310, 338; *People v. Le*, G.R. No. 188976, 29 June 2010, 622 SCRA 571, 583 citing *People v. De Leon*, G.R. No. 186471, 25 January 2010, 611 SCRA 118, 133 further citing *People v. Naquita*, G.R. No. 180511, 28 July 2008, 560 SCRA 430, 448; *People v. Concepcion*, G.R. No. 178876, 27 June 2008, 556 SCRA 421, 437.

³² *People v. Manlangit*, G.R. No. 189806, 12 January 2011, 639 SCRA 455, 469-470 citing *People v. Rosialda*, G.R. No. 188330, 25 August 2010, 629 SCRA 507, 520-521 further citing *People v. Rivera*, G.R. No. 182347, 17 October 2008, 569 SCRA 879, 897-899.

³³ TSN, 30 March 2006, p. 3; Direct examination of PO2 Garcia.

³⁴ Records, p. 101; RTC Decision.

Flojo forwarded these to the PNP Crime Laboratory at San Fernando, La Union.³⁵ The request and seized item were received by Forensic Chemical Officer P/Insp. Laya, who conducted a chemistry examination of the substance.³⁶ In his Chemistry Report No. D-584-03, P/Insp. Laya stated that the specimen tested positive for methamphetamine hydrochloride.³⁷ The substance tested was the same item marked; offered in evidence as Exhibit “C;” and positively identified during trial by PO2 Garcia as the very same item sold by and taken from Rowena.

Anent the alleged delay in the examination of the seized item, the prosecution was able to explain through P/Insp. Laya that the examination cannot be immediately done because of the distance of the police station to the crime laboratory. It was noted that the apprehension of Rowena occurred in Laoag City while the PNP Crime Laboratory is in San Fernando, La Union. PI Laya reported that although he immediately conducted a qualitative examination of the seized item upon receipt of the request and completed his examination and preparation of report within four (4) hours, the same would reach the requesting party only upon the latter’s retrieval thereof.

We have previously ruled that as long as the state can show by record or testimony that the integrity of the evidence has not been compromised by accounting for the continuous whereabouts of the object evidence at least between the time it came into the possession of the police officers until it was tested in the laboratory, then the prosecution can maintain that it was able to prove the guilt of the accused beyond reasonable doubt.³⁸

The integrity of the evidence is presumed to have been preserved unless there is a showing of bad faith, ill will, or proof that the evidence has been tampered with. Appellant bears the burden of showing that the evidence was tampered or meddled with in order to overcome the presumption of regularity in the handling of exhibits by public officers and the presumption that public officers properly discharged their duties.³⁹ Appellant in this case failed to present any plausible reason to impute ill motive on the part of the arresting officers. Thus, the testimonies of the apprehending officers deserve full faith and credit.⁴⁰ In fact, she did not even question the credibility of the prosecution witnesses. She anchored her

³⁵ Id.

³⁶ TSN, 21 September 2004, p. 4; Testimony of P/Insp. Laya.

³⁷ Records, p. 112.

³⁸ *Malilin v. People*, 576 Phil. 576, 588 (2008) citing *Graham v. State*, 255 N.E2d 652, 655.

³⁹ *People v. Miranda*, 560 Phil. 795, 810 (2007).

⁴⁰ See *People v. Macabalang*, 538 Phil. 136 155 (2006).

appeal primarily on denial and the alleged broken chain of the custody of the seized drugs.

Finally, Section 5 of R.A. No. 9165 provides the penalty for the illegal sale of dangerous drugs, viz.:

Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

We sustain the penalty imposed on appellant as this is in conformity with the above-quoted provision of the law.

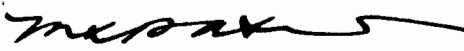
After a careful and judicious perusal of the records, we find no reason to modify or set aside the Decision of the RTC, as affirmed by the CA. We thus adopt its findings of fact and conclusions of law.

WHEREFORE, the Decision dated 8 June 2011 of the Court of Appeals in CA-G.R. CR-H.C. No. 03032 finding Rowena Tapugay y Ventura guilty beyond reasonable doubt of selling *shabu* in violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” sentencing her to suffer the penalty of life imprisonment and ordering her to pay a fine of Five Hundred Thousand Pesos (Php500,000.00) is hereby **AFFIRMED**.


SO ORDERED.

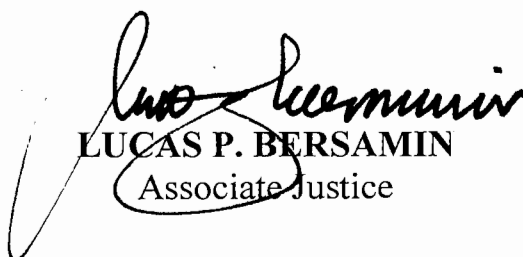

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision were 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