Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee,	**G.R. No. 202837**
	Present:
- versus -	VELASCO, JR., *J.*, *Chairperson*, PERALTA, BERSAMIN,* VILLARAMA, JR., and REYES, *JJ.*
RAKIM MINANGA *y* DUMANSAL, Accused-appellant.	Promulgated: January 21, 2015

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DECISION

VILLARAMA, JR., *J.*:

Before this Court is an appeal from the June 30, 2011 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR HC No. 00556-MIN which affirmed the July 10, 2007 Decision[2] of the Regional Trial Court (RTC) of Butuan City, Branch 4, finding accused-appellant Rakim Minanga *y* Dumansal[3] (appellant) guilty beyond reasonable doubt of illegal possession of dangerous drugs. Also on appeal is the CA Resolution[4] dated November 21, 2011 denying appellant's motion for reconsideration.

The case stemmed from the Information[5] dated August 13, 2002 charging appellant with violation of Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, for illegal possession of 12.882 grams of methamphetamine hydrochloride or *shabu*. The case was docketed as Criminal Case No. 9549.

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* Designated additional member per Special Order No. 1912 dated January 12, 2015.

1 *Rollo*, pp. 3-17. Penned by Associate Justice Romulo V. Borja, with Associate Justices Edgardo T. Lloren and Carmelita Salandanan Manahan concurring.

2 Records pp. 238-247. Penned by Judge Godofredo B. Abul, Jr.

3 Also referred to as Rakim Miranda y Dumansal and Rakim Minanga y Dumangal in other pleadings and documents.

4 CA *rollo*, pp. 145-146.

5 Records, pp. 1-2.

Upon arraignment, appellant pleaded not guilty to the charge.[6]

At the trial, Police Officer 1 Rommel dela Cruz Condez (PO1 Condez) and PO2 Saldino Virtudazo (PO2 Virtudazo), Philippine National Police (PNP) officers assigned with the Philippine Drug Enforcement Agency (PDEA), and Police Senior Inspector Norman G. Jovita (P/Sr. Insp. Jovita), a Forensic Chemist, testified for the prosecution and established the following facts:

After receiving reliable information from a police asset that appellant is actively engaged in selling illegal drugs, a team composed of PO1 Condez, PO2 Virtudazo and the police asset was formed to conduct a buy-bust operation at Purok 3, Barangay 23, Holy Redeemer, Butuan City, against the appellant. PO1 Condez was designated to act as the poseur-buyer with PO2 Virtudazo as his back-up. The team brought with them the amount of ₱20,000.00 as show money.[7]

Upon arrival at the designated place at around 2:30 p.m. of August 12, 2002, the police asset introduced PO1 Condez to the appellant as an interested buyer of *shabu*. After the appellant agreed to sell to PO1 Condez four "sacks" of *shabu* for the amount of ₱20,000.00, appellant told PO1 Condez to wait. Appellant then left and after a few minutes returned. He then showed PO1 Condez four big sachets of *shabu*. After receiving the four sachets, PO1 Condez examined them and being convinced of their genuineness, gave the prearranged signal. Thus, PO2 Virtudazo rushed to the scene. The police officers introduced themselves as PDEA agents and arrested the appellant, informing the latter of his constitutional rights. The money was not given to appellant as it was intended only as show money. PO1 Condez marked the four sachets given by the appellant as RCC 1 to RCC 4. The appellant was then brought to the police station for investigation.[8]

At the police station, appellant was photographed in the presence of a Barangay Captain and a State Prosecutor.[9] Armed with the corresponding requests,[10] the four marked sachets and the appellant were brought by PO1 Condez and PO2 Virtudazo to the PNP Crime Laboratory for examination.[11] At the PNP Crime Laboratory, the four sachets were marked as A-1, A-2, A-3 and A-4 by P/Sr. Insp. Jovita, the Forensic Chemist.[12] While the drug test conducted on the person of the appellant yielded a negative result,[13] the four sachets with a total weight of 12.882 grams were positive for methamphetamine hydrochloride.[14]

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6 Id. at 121.
7 TSN, January 4, 2005, pp. 5-6, 9 & 26.
8 Id. at 5-10.
9 Id. at 9; records, p. 162.
10 Records, pp. 157 & 160.
11 TSN, January 4, 2005, p. 10; TSN, June 30, 2005, pp. 6-7.
12 TSN, June 30, 2005, p. 9.
13 Chemistry Report No. DT-064-2002, records, p. 161.
14 Chemistry Report No. D-106-2002, id. at 156.

On cross-examination, PO1 Condez testified that initially the PDEA filed a case against the appellant for violation of Section 5, Article II of R.A. No. 9165 or for illegal sale of *shabu* but when the investigation reached the Office of the City Prosecutor the case was modified to one for illegal possession.[15]

On the other hand, the defense gave a different version of the story.

The defense presented as its witnesses Nellie Salino Nalasa (Nellie), Benhur Burdeos (Benhur), and the appellant himself.

Nellie testified that she is the owner of a two-storey house where one Max Malubay (Max) was renting one of the rooms on the ground floor. She said that on August 12, 2002, at around 11:30 a.m., she noticed a commotion emanating from the adjacent room rented by Max. She saw three armed persons in white shirts kicking appellant, a visitor of Max. After witnessing the incident, she hid herself.[16]

Benhur testified that on August 12, 2002, at around 12:00 noon, he saw four to five persons walking on single file towards Nellie's house. He added that he heard a commotion thereafter and saw a person named Rakim with handcuffed hands taken by the armed men from Nellie's house. He said that there was no buy-bust operation conducted at that time.[17]

As the last witness for the defense, appellant denied the charge against him. He testified that on August 12, 2002, at around 12:00 noon, five armed men forcibly entered the room rented by Max and arrested him. He identified one of the five men as a Muslim who has a grudge against him. He claimed that the Muslim influenced the police officers to arrest him. He added that in his presence the Muslim gave SPO3 Dindo Alota money as payment for his arrest. He also claimed that he was mauled and brought to the police station for investigation; that he was informed that he was arrested for selling illegal drugs; and that at the police station he was photographed.[18]

On July 10, 2007, the RTC rendered its Decision[19] in Criminal Case No. 9549 and found appellant guilty as charged of violation of Section 11, paragraph 2, sub-paragraph (1),[20] Article II of R.A. No. 9165. The RTC held

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15 TSN, January 4, 2005, pp. 21-22.

16 TSN, March 3, 2006, pp. 4-7.

17 TSN, September 28, 2006, pp. 5-8; TSN, October 6, 2006, p. 2.

18 *Rollo*, p. 8; TSN, February 9, 2007, pp. 3-8.

19 Supra note 2.

20 SEC. 11. *Possession of Dangerous Drugs*. – 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 possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

x x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

that the prosecution was able to prove all the elements of illegal possession of drugs in this case. The RTC said that appellant's assertion that money was handed by the Muslim to the police officers in his presence is illogical, uncommon and unconvincing. The RTC also found that the two other defense witnesses lacked candor and their combined testimonies have earmarks of falsehood.[21] Thus, the RTC disposed of the case in this wise:

> WHEREFORE, premises considered, accused Rakim Minanga y Dumansal is found guilty beyond reasonable doubt [of] violation of Section 11, paragraph 2, Sub-par. (1) of Art II of Republic Act 9165, otherwise known as the Dangerous Drugs Act of 2002, and is hereby sentenced to suffer the extreme penalty of Life imprisonment and to pay a fine of Four Hundred Thousand (P400,000.00) Pesos without subsidiary imprisonment in case of insolvency.
>
> The four (4) sachets of shabu [are] hereby declared confiscated in favor of the government to be dealt with in accordance with law.
>
> Accused shall serve his sentence at the Davao Prison and Penal Farm at Sto. Tomas, Davao del Norte and shall be credited in the service of his sentence with his preventive imprisonment conformably with Art. 29 of the Revised Penal Code, as amended.
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> However, accused shall remain at the City Jail until the termination of Crim. Case No. 10161.
>
> SO ORDERED.[22]

In its June 30, 2011 Decision, the CA affirmed the RTC's Decision. In its November 21, 2011 Resolution,[23] the CA denied appellant's motion for reconsideration. Hence, this appeal.

In his supplemental brief,[24] appellant claims that the CA erred:

> I. In failing to appreciate that the buy-bust operation on 12 August [2002] as admitted to by police officers in their testimonies, constituted the factual backdrop for the arrest and indictment of Accused-Appellant for illegal possession of prohibited drugs;
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> II. In failing to appreciate serious irregularities attendant to the entrapment operation and procedure employed by the police officers;
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> III. In affirming the lower court's appreciation and application of presumption of regularity in the performance of official duty by the police officers;

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(1) Life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or "shabu" is ten (10) grams or more but less than fifty (50) grams;

x x x x

21 Supra note 2, at 241-245.

22 Id. at 246-247.

23 Supra note 4.

24 *Rollo*, pp. 38-75.

IV. In failing to appreciate that the failure of the prosecution to cross-examine Accused-Appellant on material and relevant points, did not destroy his oral testimony or direct examination;

V. In holding that "appellant's entry of a valid plea and active participation in the trial cured any defect in his arrest;"

VI. In affirming the lower court's finding that the prosecution proved all the elements of the offense; [and]

VII. Assuming *arguendo* that indeed Accused-Appellant possessed the prohibited drugs, for failing to consider that police officers may have engaged in or employed INDUCEMENT rather than ENTRAPMENT.[25]

The sole issue to be resolved is whether or not the appellant's guilt was proven beyond reasonable doubt.

We rule in the affirmative.

The essential elements of illegal possession of dangerous drugs are (1) the accused is in possession of an item or object that is identified to be a prohibited drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possess the said drug.[26]

We find that these essential elements were proven in this case. Appellant was caught *in flagrante* possessing 12.882 grams of *shabu*, a dangerous drug, packed in four big sachets. His possession of said dangerous drugs is not authorized by law. And he was freely and consciously possessing the contraband as shown by his act of handing these four sachets to PO1 Condez in an intended sale. We note that appellant was positively identified by PO1 Condez as the one who handed over the four sachets. However, the money was not given to appellant as it was intended only as show money.

The Court gives full faith and credence to the testimonies of the police officers and upholds the presumption of regularity in the apprehending officers' performance of official duty. It is a settled rule that in cases involving violations of the Dangerous Drugs Act, credence is given to prosecution witnesses who are police officers, for they are presumed to have performed their duties in a regular manner, unless there is evidence to the contrary.[27]

On the other hand, appellant failed to present clear and convincing evidence to overturn the presumption that the arresting officers regularly performed their duties. Except for his bare allegations of denial and frame-up that a certain Muslim was behind his arrest, nothing supports his claim that the police officers were impelled by improper motives to testify against him. In fact, in his direct testimony, appellant was asked whether he knew

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25 Id. at 39-40.
26 *Rebellion v. People*, 637 Phil. 339, 348 (2010).
27 *People v. Marcelino*, G.R. No. 189278, July 26, 2010, 625 SCRA 632, 643.

said Muslim but despite the opportunity given to him, he failed to identify him in court.[28]

This Court has invariably viewed with disfavor the defenses of denial and frame-up. Such defenses can easily be fabricated and are common ploy in prosecutions for the illegal sale and possession of dangerous drugs. In order to prosper, such defenses must be proved with strong and convincing evidence.[29]

Moreover, in weighing the testimonies of the prosecution witnesses *vis-à-vis* those of the defense, the RTC gave more credence to the version of the prosecution, to which this Court finds no reason to disagree. Well-settled is the rule that in the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.[30] Prosecutions involving illegal drugs depend largely on the credibility of the police officers who conduct the "buy-bust" operation and appellate courts, upon established precedents and of necessity, rely on the assessment of the credibility of witnesses by the trial courts which have the unique opportunity, unavailable to the appellate courts, to observe the witnesses and to note their demeanor, conduct, and attitude under direct and cross-examination.[31]

Lastly, appellant claims that there was no inventory of the prohibited items allegedly seized from him. He argues that as a result of this omission, there is doubt as to the identity and integrity of the drugs and that there was a break in the chain of custody of the evidence.[32]

Such argument cannot prosper.

The Implementing Rules and Regulations (IRR) 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:
>
> (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

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28 TSN, February 9, 2007, pp. 4-5.
29 *People v. Gonzaga*, G.R. No. 184952, October 11, 2010, 632 SCRA 551, 569.
30 *People v. Remerata*, 449 Phil. 813, 822 (2003).
31 *People v. Desuyo*, G.R. No. 186466, July 26, 2010, 625 SCRA 590, 605-606.
32 *Rollo*, pp. 53-58.

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

Evidently, the law itself lays down exceptions to its requirements. Thus, non-compliance with the above-mentioned requirements is not fatal. In fact it has been ruled time and again that non-compliance with Section 21 of the IRR does not make the items seized inadmissible. What is imperative is "the preservation of the integrity and the evidential value of the seized items as the same would be utilized in the determination of the guilt or innocence of the accused."[33]

In this case, the chain of custody can be easily established through the following link: (1) PO1 Condez marked the seized four sachets handed to him by appellant with RCC 1 to RCC 4; (2) a request for laboratory examination of the seized items marked RCC 1 to RCC 4 was signed by Police Superintendent Glenn Dichosa Dela Torre;[34] (3) the request and the marked items seized, which were personally delivered by PO1 Condez and PO2 Virtudazo, were received by the PNP Crime Laboratory; (4) Chemistry Report No. D-106-2002[35] confirmed that the marked items seized from appellant were methamphetamine hydrochloride; and (5) the marked items were offered in evidence.

Hence, it is clear that the integrity and the evidentiary value of the seized drugs were preserved. This Court, therefore, finds no reason to overturn the findings of the RTC that the drugs seized from appellant were the same ones presented during trial. Accordingly, it is but logical to conclude that the chain of custody of the illicit drugs seized from appellant remains unbroken, contrary to the assertions of appellant.

In sum, we find no reversible error committed by the RTC and CA in convicting appellant of illegal possession of drugs as to warrant the modification much less the reversal thereof. It is hornbook doctrine that the factual findings of the CA affirming those of the trial court are binding on this Court unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable error.[36] This case is no exception to the rule. All told, this Court thus sustains the conviction of the appellant for violation of Section 11, Article II of R.A. No. 9165.

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33 *People v. Pambid*, G.R. No. 192237, January 26, 2011, 640 SCRA 722, 732-733. (Citations omitted).

34 Supra note 10, at 157.

35 Supra note 14.

36 *People v. Castro*, G.R. No. 194836, June 15, 2011, 652 SCRA 393, 407.

WHEREFORE, the appeal is **DISMISSED**. The June 30, 2011 Decision and November 21, 2011 Resolution of the Court of Appeals in CA-G.R. CR HC No. 00556-MIN are **AFFIRMED.**

With costs against the accused-appellant.

SO ORDERED.

MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ATTESTATION

I attest 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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution and the Division Chairperson's Attestation, 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