



Republic of the Philippines
Supreme Court
Manila
SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 207993

Present:

-versus-

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

GERARDO ENUMERABLE y
DE VILLA,

Promulgated:

Appellant.

JAN 21 2015 *[Signature]*

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DECISION

CARPIO, J.:

The Case

On appeal is the 31 January 2013 Decision¹ of the Court of Appeals in CA-G.R. CR HC No. 04948. The Court of Appeals affirmed the 15 February 2011 Decision² of the Regional Trial Court, Branch 12 of Lipa City convicting appellant Gerardo Enumerable y De Villa for violation of Section 5 of Republic Act No. 9165.

The Facts

The Information dated 27 August 2004 reads:

That on or about the 27th day of May, 2004 at about 11:30 o'clock in the morning at Petron Gasoline Station, located at B. Morada Ave., Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully, unlawfully and feloniously sell, deliver, dispose or give away to a police officer-poseur buyer, 9.88 grams of Methamphetamine Hydrochloride locally known as "shabu", a dangerous drug, contained in three (3) plastic sachets.

Contrary to Law.³

* Designated Acting Member per Special Order No. 1910 dated 12 January 2015.

¹ *Rollo*, pp. 2-15. Penned by Associate Justice Michael P. Elbinias, with Associate Justices Isaias P. Dicedican and Nina G. Antonio-Valenzuela concurring.

² *CA rollo*, pp. 18-30A. Penned by Judge Danilo S. Sandoval.

³ Records, p. 1.

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Appellant pleaded not guilty to the offense charged.⁴ Trial ensued.

The prosecution presented two witnesses, namely: Police Officer (PO) 3 Edwalberto Villas and Police Inspector Danilo Balmes. On the other hand, appellant waived the presentation of any defense evidence.

As found by the trial court, the facts are as follows:

From the evidence adduced by the People, the Court finds that based on the information about a deal in shabu between the asset of PO3 Edwalberto Villas and a certain Gerry of San Pablo City, a buy-bust operation was conducted by the elements of the Batangas City Police Station with the assistance of Police Inspector Danilo Balmes of the CIDG Batangas Province on May 27, 2004 at 11:30 o'clock in the morning at the Petron Gasoline Station along B. Morada Ave., Lipa City.

Using two (2) pieces of marked ₱500.00 bills and boodle money to make the appearance of about ₱24,000.00, the police asset who posed as a buyer transacted with the alias Gerry upon his arrival at the gas station. After the exchange of the marked money and the three (3) plastic sachets of shabu placed in a black plastic box, alias Gerry was placed under arrest. He was later identified as Gerardo Enumerable y de Villa. The marked money was recovered from his possession by PO3 Villas who also took custody of the specimen shabu which he marked EMV 1 to EMV 3. The three (3) sachets of shabu were turned over to the Batangas Provincial Crime Laboratory, pursuant to the request for laboratory examination of P/Supt. Fausto Manzanilla, Jr., Chief of Police, Batangas City PNP on May 27, 2004 at 5:25 p.m. However, that Crime laboratory indorsed the request with the specimens on June 4, 2004 at 2:30 p.m. to the Regional Crime Laboratory in Calamba City.

Police Inspector and Forensic Chemist Donna Villa P. Huelgas found the specimens positive for the presence of methamphetamine hydrochloride, a dangerous drug, as shown by Chemistry Report No. D-566-04, the authenticity and genuineness of which were admitted by accused during the pre-trial.⁵

Appellant filed a Comment with Motion for Leave to File Demurrer,⁶ which motion was denied by the trial court for appellant's failure to adduce any reason therefor.⁷

The trial court found appellant guilty of the offense charged. The dispositive portion of the trial court's decision reads:

WHEREFORE, the Court finds accused GERARDO ENUMERABLE y DE VILLA guilty beyond reasonable doubt as principal by direct participation of the crime of drug pushing as defined and penalized under Section 5, Article II of Republic Act [No.] 9165

⁴ Id. at 18.

⁵ CA *rollo*, pp. 26-27.

⁶ Records, p. 212.

⁷ Id. at 220.

otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and hereby impose on him the penalty of life imprisonment and to pay a fine of ₱500,000.00. The 9.88 grams of shabu are hereby ordered destroyed pursuant to the provisions of Section 21(4) and (7) of RA 9165.

The period of detention of the accused shall be deducted in his service of sentence.

Let a commitment order be issued for the transfer of custody of the accused from the BJMP Lipa City to the National Penitentiary, Muntinlupa City.

SO ORDERED.⁸

Appellant filed a Notice of Appeal.⁹ The Court of Appeals affirmed the conviction of appellant for the offense charged.

Hence, this appeal.

The Ruling of the Court of Appeals

In sustaining appellant's conviction for the offense charged, the Court of Appeals held that the testimony of PO3 Villas identifying the three plastic sachets of shabu as the same ones seized from appellant rendered insignificant appellant's allegation that PO3 Villas did not immediately put markings on the three sachets of shabu at the place of arrest. The Court of Appeals further ruled that the failure of the arresting officers to conduct a physical inventory and to take photographs of the seized items is not fatal as long as the integrity and evidentiary value of the seized items are properly preserved, as in this case.

According to the Court of Appeals, the prosecution was able to prove the unbroken chain of custody of the prohibited drug from the time PO3 Villas confiscated the plastic sachets from appellant and marked them at the place of arrest, to the time PO3 Villas brought the plastic sachets to the police station and turned them over to the investigator on-duty until the time SPO1 de Castro submitted the marked plastic sachets to the Regional Crime Laboratory Office Calabarzon for laboratory examination.

The Issue

The issue boils down to whether the prosecution established the identity and integrity of the confiscated illegal drug, which is the *corpus delicti* of the offense charged against appellant.

⁸ CA rollo, pp. 30-30A.

⁹ Id. at 32.

The Ruling of the Court

We grant the appeal.

While appellant waived the presentation of evidence for his defense, he disputes the identity and integrity of the illegal drug which is the *corpus delicti* of the offense charged against him. Appellant maintains that the prosecution failed to prove the unbroken chain of custody of the illegal drug which gravely impairs its identity. Without the identity of the *corpus delicti* being sufficiently established, appellant claims that he should be acquitted.

It is settled that in prosecutions for illegal sale of dangerous drug, not only must the essential elements of the offense be proved beyond reasonable doubt, but likewise the identity of the prohibited drug. The dangerous drug itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to a judgment of conviction.¹⁰

Necessarily, the prosecution must establish that the substance seized from the accused is the same substance offered in court as exhibit. In this regard, the prosecution must sufficiently prove the unbroken chain of custody of the confiscated illegal drug. In *People v. Watamama*,¹¹ the Court held:

In all prosecutions for the violation of the Comprehensive Dangerous Drugs Act of 2002, the existence of the prohibited drug has to be proved. **The chain of custody rule requires that testimony be presented about every link in the chain, from the moment the item was seized up to the time it is offered in evidence.** To this end, the prosecution must ensure that the substance presented in court is the same substance seized from the accused.

While this Court recognizes substantial adherence to the requirements of R.A. No. 9165 and its implementing rules and regulations, not perfect adherence, is what is demanded of police officers attending to drugs cases, still, such officers must present justifiable reason for their imperfect conduct and show that the integrity and evidentiary value of the seized items had been preserved. x x x. (Emphasis supplied)

In *People v. Climaco*,¹² citing *Malillin v. People*,¹³ the Court held:

x x x [T]o establish guilt of the accused beyond reasonable doubt in cases involving dangerous drugs, it is important that the substance illegally possessed in the first place be the same substance offered in court as exhibit. This chain of custody requirement ensures that unnecessary doubts are removed concerning the identity of the evidence. When the identity of the dangerous drug recovered from the accused is not the same

¹⁰ *Mallillin v. People of the Philippines*, 576 Phil. 576 (2008).

¹¹ G.R. No. 194945, 30 July 2012, 677 SCRA 737, 741.

¹² G.R. No. 199403, 13 June 2012.

¹³ 576 Phil. 576 (2008).

dangerous drug presented to the forensic chemist for review and examination, nor the same dangerous drug presented to the court, the identity of the dangerous drug is not preserved due to the broken chain of custody. With this, an element in the criminal cases for illegal sale and illegal possession of dangerous drugs, the *corpus delicti*, is not proven, and the accused must then be acquitted based on reasonable doubt. For this reason, [the accused] must be acquitted on the ground of reasonable doubt due to the broken chain of custody over the dangerous drug allegedly recovered from him.

In this case, there was a glaring gap in the custody of the illegal drug since the prosecution failed to sufficiently establish who had custody of the illegal drug from the moment it was allegedly transmitted to the Batangas Provincial Crime Laboratory on 27 May 2004 until it was allegedly delivered to the Regional Crime Laboratory on 4 June 2004. There was no evidence presented how the confiscated sachets of shabu were stored, preserved or labeled nor who had custody prior to their delivery to the Regional Crime Laboratory and their subsequent presentation before the trial court. This is evident from the testimony of PO3 Villas, who stated he had no knowledge on who had custody of the sachets of shabu from 27 May 2004 until 4 June 2004. PO3 Villas testified thus:

Q But when the accused was arrested on May 27, 2004, records will show that the specimen was submitted to the crime laboratory on June 4, 2004 which is practically several days after. Am I right?

A It was turned over to the duty investigator.

Q **Who brought the specimen to the crime laboratory?**

A **I don't know from the duty investigator, sir.**

Q So you are not aware who brought the specimen to the crime laboratory?

A Yes, sir.

Q But between May 27 and June 4, 2004, who was in custody of the specimen?

A I turned it over to the duty investigator, sir.

Q On what date?

A On May 27 after we turned over the suspect to the investigator, sir.

Q So your statement which says that the accused was released simply because the specimen or the result of the examination ... would not catch up with the investigation is not correct because you have not submitted immediately the specimen to the crime laboratory?

COURT

Q Because it was submitted seven (7) days after the apprehension?

A **I was not the one who is concerned with the submission of the specimen to the crime laboratory.** We turned it over to the duty investigator and the duty investigator marked the specimen, Your Honor.

ATTY. GAJITOS

Q But you will agree that the specimen was submitted to the crime laboratory by your investigator only on June 4, 2004 or practically a week after the apprehension?

A **I don't know, sir. It is only now that I came to know, sir.**¹⁴
(Emphasis supplied)

The prosecution attempted to fill the gap in the chain of custody. However, such effort proved futile. On re-direct examination, PO3 Villas, who earlier testified that he had no knowledge on who had custody of the illegal drugs prior and during their delivery to the crime laboratories, merely restated the contents of the 3 June 2004 Memorandum from the Chief of the Batangas Police addressed to the Regional Chief, corresponding to the questions of the prosecutor. In other words, PO3 Villas testified on a piece of document he had no participation in the preparation or execution thereof. PO3 Villas testified as follows:

CROSS-EXAMINATION OF ATTY. GAJITOS

Q Do you admit there are no significant markings on this black box for possession or identification more particularly the signature or initial of the arresting officer?

A No, sir.

ATTY. GAJITOS

No further question, Your Honor.

COURT

Re-direct.

PROSECUTOR

Q During your cross-examination, you were asked regarding the fact as a reply to the question of the defense it was after 7 days that the specimen was actually brought to the laboratory for examination, your answer that was correct?

A Yes, ma'am.

Q I am showing to you a document, the indorsement which came from the Office of the Chief of Police of Batangas City dated May 27, 2004, can you please go over the same and tell the Court what is the relevance of that document regarding the delivery of specimen to the crime laboratory?

A This is the request prepared by our investigator dated May 27 in relation to the arrest of Gerardo Enumerable wherein the subject were three (3) plastic sachets of shabu, it was delivered to Batangas Provincial Crime Laboratory on the same date, ma'am.

Q How did you come to know it was delivered on the same date?

A There was a stamp receipt by the Provincial Crime Laboratory office delivered by SPO1 De Castro and received by PO3 Llarena at Batangas Provincial Crime Laboratory, ma'am.

¹⁴ TSN, 22 September 2009, pp. 8-9.

Q You likewise identified during the direct examination chemistry report coming from Camp Vicente Lim, how would you reconcile the fact the specimen was delivered to the Provincial Crime Laboratory and the result came from Camp Vicente Lim?

A It was the Provincial Crime Laboratory of Batangas PPO who made the indorsements from Batangas Provincial Police Office to the Crime Laboratory, Camp Vicente Lim, ma'am.

Q Do you have proof to show that fact?

A Yes, ma'am.

Q What is that?

A Letter request made by the Batangas Crime Laboratory to the Crime Laboratory, Camp Vicente Lim, ma'am.

Q This is the same request made by the Batangas Provincial Crime Laboratory addressed to Regional Crime Laboratory, was there a proof to show that the specimen together with the indorsement was actually received by the Crime Laboratory Camp Vicente Lim.

A Yes, there was a stamp of the Regional Crime Laboratory office delivered by PO3 Vargas and received by PO3 Macabasco of the Regional Crime Laboratory, ma'am.

Q What date?

A It was delivered on June 3 and the specimen was received on June 4, ma'am.

Q Why was it necessary for your office to deliver the specimen to the Provincial Crime Laboratory, why not directly to the Crime Laboratory of Camp Vicente Lim?

A During that time there was no chemist who examined the specimen in the Provincial Crime Laboratory so what they did was they delivered the specimen to the Regional Crime Laboratory, ma'am.

Q My question is, why not deliver it directly to Camp Vicente Lim?

A The PNP during that time did not have any budget, ma'am.

Q How much would it need to deliver the specimen?

A It was cheap, sir. The problem was that the Provincial Crime Laboratory did not have any chemist, they delivered the specimen to the Regional Crime Laboratory that is why there are many accused who remained at large, ma'am.

X X X X

Q Who brought the specimen to the PNP Crime Laboratory?

A The officer on duty, Your Honor.

Q From Batangas to Camp Vicente Lim, do you know the officer?

A The person who delivered there, it is stated in the document, Your Honor.

Q Who was in custody of this specimen from Batangas PNP to the Provincial Crime Laboratory?

A The officer, Your Honor.¹⁵ (Emphasis supplied)

¹⁵ TSN, 26 January 2010, pp. 2-6.

Clearly, PO3 Villas had no personal knowledge on (1) how the illegal drugs were delivered and who delivered the drugs from the Batangas Provincial Crime Laboratory to the Regional Crime Laboratory; (2) who received the drugs in the Regional Crime Laboratory; and (3) who had custody of the drugs from 27 May 2004 to 3 June 2004 until their presentation before the trial court. The testimony of PO3 Villas merely attests to the existence of the Memorandum from the Chief of the Batangas Provincial Crime Laboratory to the Regional Crime Laboratory.

While appellant admitted during the pre-trial the authenticity and due execution of the Chemistry Report, prepared by Police Inspector and Forensic Chemist Donna Villa P. Huelgas, this admission merely affirms the existence of the specimen and the request for laboratory examination and the results thereof. Appellant's admission does not relate to the issue of chain of custody. In fact, appellant qualified his admission that the specimens were not taken or bought from him.¹⁶ In *People v. Gutierrez*, the Court stated:

x x x That the defense stipulated on these matters, viz: that the specimen exists, that a request has been made by the arresting officers for examination thereof, that a forensic chemist examined it, and that it tested positive for methylamphetamine hydrochloride has no bearing on the question of chain of custody. These stipulations, which merely affirm the existence of the specimen, and the request for laboratory examination and the results thereof, were entered into during pre-trial only in order to dispense with the testimony of the forensic chemist and abbreviate the proceedings. x x x.¹⁷

Since the failure of the prosecution to establish every link in the chain of custody of the illegal drug gravely compromised its identity and integrity, which illegal drug is the *corpus delicti* of the offense charged against appellant, his acquittal is therefore in order.

WHEREFORE, we **GRANT** the appeal and **ACQUIT** appellant Gerardo Enumerable y De Villa based on reasonable doubt and we **ORDER** his immediate release from detention, unless he is detained for any other lawful cause.

SO ORDERED.




ANTONIO T. CARPIO
Associate Justice

¹⁶ Records, p. 86.

¹⁷ 614 Phil. 285, 295 (2009).

WE CONCUR:




PRESBITERO J. VELASCO, JR.
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

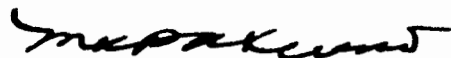
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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 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