

FIRST DIVISION

[G.R. No. 223141, June 06, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JAY SUAREZ Y CABUSO, ACCUSED-APPELLANT.

D E C I S I O N

DEL CASTILLO, J.:

Assailed in this appeal is the March 23, 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR. HC No. 06120 which affirmed the March 7, 2013 Decision^[2] of the Regional Trial Court (RTC), Branch 75, Olongapo City, finding appellant Jay Suarez y Cabuso guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of Republic Act (RA) No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

The Antecedent Facts

Appellant was charged with the illegal sale and possession of dangerous drugs under Sections 5 and 11, Article II of RA 9165 in two Informations^[3] dated March 4, 2010 which read:

Criminal Case No. 76-2010

That on or about the [t]hird (3rd) day of March, 2010, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being positive of and under the influence of illegal drug[s,] particularly[,] [m]ethamphetamine and THC metabolites, did then and there willfully, unlawfully and knowingly have in his possession and control [e]leven (11) heat[-]sealed transparent plastic sachets of marijuana fruiting tops with a total weight of 31.677 grams which are dangerous drugs, said accused not having the corresponding license, prescription and/or authority to possess said dangerous drug.

Criminal Case No. 75-2010

That on or about the [t]hird (3rd) day of March 2010, in the of [sic] City of Olongapo, Philippines and within the jurisdiction of this Honorable Court. the above-named accused, without being lawfully authorized, did then and there wil[l]fully, unlawfully and knowingly deliver and sell to another person Php200.00 (SN-DK150982 and KJ229484) worth of marijuana fruiting tops which is a dangerous drug in one (1) heat-sealed

transparent plastic sachet containing marijuana fruiting tops with an approximate weight of 2.714 grams.

During his arraignment on March 23, 2010, appellant entered a plea of not guilty.^[4] Trial thereafter ensued.

Version of the Prosecution

The prosecution's version of the incident is as follows:

On March 3, 2010, at around 6:00 p.m., the City Anti-Illegal Drugs Special Operations Team of Olongapo City, in coordination with the Philippine Drug Enforcement Agency (PDEA),^[5] conducted a buy-bust operation against appellant along Pepsi Road corner Manggahan Street, Sta. Rita, Olongapo City.^[6]

The buy-bust team was composed of seven members including P/Sr. Inspector Julius A. Javier (PSI Javier) as team leader,^[7] SPO2 Allan Delos Reyes (SPO2 Delos Reyes) as case investigator,^[8] PO1 Sherwin Tan (PO1 Tan) as poseur-buyer, and PO1 Zaira Mateo (PO1 Mateo) as immediate back-up.^[9]

Upon reaching the target area, a confidential agent introduced PO1 Tan to appellant as a marijuana user. Appellant then engaged PO1 Tan in a short conversation about his name and other personal circumstances before offering to sell a sachet of marijuana worth P200.00. PO1 Tan readily agreed to appellant's offer and accepted the sachet of suspected marijuana. In return, he handed to appellant two pieces of marked P100.00 bills. Once the exchange was completed, PO1 Tan placed his hands on his waist which served as the pre-arranged signal that the transaction had already been consummated.^[10]

The other members of the buy-bust team immediately rushed to the scene. PO1 Tan arrested appellant and introduced himself as a police officer. PO1 Mateo conducted a body search on appellant which yielded the marked money from the latter's right pocket and 11 sachets of suspected marijuana from the left pocket.^[11]

The buy-bust team then decided to bring appellant to the police station due to a commotion at the place of arrest.^[12]

At the police station, PO1 Tan marked the sachet that was the subject of the buy-bust sale with his initials " S.T." and turned it over to SPO2 Delos Reyes who placed his initials "ADR" thereon. PO1 Mateo also marked the 11 sachets she confiscated from appellant during the body search with her initials "Z.M." and handed them over to SPO2 Delos Reyes who, again, placed his initials "ADR" on said sachets.^[13]

SPO2 Delos Reyes thereafter prepared an Inventory Receipt and Chain of Custody^[14] and a Letter Request for Laboratory Examination and Drug Test.^[15] Photographs^[16] of the marked money and confiscated items were also taken. Later, SPO2 Delos Reyes personally turned over the seized items to the Regional Crime

Laboratory in Olongapo City.^[17]

On March 4, 2010, Forensic Chemist Arlyn Dascil (Forensic Chemist Dascil) conducted a qualitative examination on the subject specimens to determine the presence of dangerous drugs. Based on Chemistry Report No. D-013-2010-OCCLLO,^[18] the seized items tested positive for the presence of marijuana, a dangerous drug.

Version of the Defense

Appellant raised the defenses of denial and frame-up. He narrated that, while waiting for his companion at the corner of Manggahan Street, some men alighted from a van and asked for the whereabouts of a certain "Bunso." When he answered that he did not know "Bunso," he was handcuffed and brought to the police station where he was told that he was arrested for using and selling marijuana.^[19]

Ruling of the Regional Trial Court

In its Decision dated March 7, 2013, the RTC found appellant guilty beyond reasonable doubt of violating Sections 5 and 11, Article II of RA 9165. It held that:

All the elements of the two crimes have been established. The evidence of the prosecution clearly shows that the sale of the dangerous drugs actually took place and that the marijuana subject of the charge was bought from the accused and the same marijuana was later identified in Court. x x x The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummated the buy-bust transaction. x x x^[20]

x x x x

Moreover, the result of the laboratory examination confirmed the presence of marijuana on the plastic sachet sold by the accused and those recovered from his possession after his arrest.^[21]

The RTC also ruled that "the chain of custody of the seized drugs was continuous and unbroken,"^[22] since "[t]he key persons who came in direct contact with the [marijuana] we represented in court and corroborated each other's testimony on how the seized drugs changed hands establishing an unbroken chain of custody."^[23]

Accordingly, the RTC sentenced appellant to suffer the penalties of: a) life imprisonment and a fine of P500,000.00 for violation of Section 5, Article II of RA 9165 in Criminal Case No. 75-2010; and b) imprisonment from twelve (12) years and one (1) day to fourteen (14) years and eight (8) months and a fine of P300,000.00 for violation of Section 11, Article II of RA 9165 in Criminal Case No. 76-2010.^[24]

Appellant thereafter appealed the RTC Decision before the CA.

Ruling of the Court of Appeals

In its Decision dated March 23, 2015, the CA affirmed the assailed RTC Decision *in toto*. It upheld the RTC's findings that the prosecution was able to sufficiently establish all the elements of the crimes charged.^[25]

The CA noted, too, that the chain of custody over the seized marijuana was sufficiently established by the prosecution, *viz.*:

Certainly, the links in the case at bar were duly established. ***First***, PO1 Tan seized the marijuana from appellant. ***Second***, PO1 Tan and PO1 Mateo testified that they personally marked the plastic sachets of marijuana they confiscated before handing the same to their lead investigator, SPO2 delos Reyes. ***Third***, SPO[2] delos Reyes rendered his testimony to establish the third link in the chain of custody when he testified that he prepared a request for laboratory examination. ***Fourth***, Forensic Chemist, Arlyn Dascil, testified that she is the forensic chemist assigned to the PNP Crime Laboratory, Olongapo City. She examined the specimens subject of the instant case which yielded positive result for marijuana and x x x that upon request of the Office of the Prosecutor, the specimens subject of the instant case were handed by the evidence custodian of the PNP Crime Laboratory, Olongapo City to the Office of the Prosecutor.^[26]

Aggrieved, appellant filed the present appeal.

The Issues

Appellant raises the following issues for the Court's resolution:

First, whether the CA committed an error when it disregarded the inconsistency in the testimonies of the prosecution's witnesses as to the place of marking of the seized items;^[27]

Second, whether the integrity and evidentiary value of the confiscated drugs had been preserved, considering the arresting officers' failure to mark the seized items immediately at the place of arrest;^[28]

And *third*, whether the chain of custody over the seized items was sufficiently established, given the prosecution's failure to present a detailed account as regards the handling of said items from the time they were confiscated up to their presentation in court during the trial.^[29]

The Court's Ruling

For prosecutions involving dangerous drugs, we have consistently held that "the dangerous drug itself constitutes the *corpus delicti* of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt."^[30] In other words, "the identity of the dangerous drug [must] be established beyond reasonable doubt."^[31] "Such proof requires an unwavering exactitude that the dangerous drug presented in court as evidence against the accused is the same as that [was] seized from him."^[32]

However, "the presentation of evidence establishing the elements of the offenses of illegal sale and possession of dangerous drugs *alone* is insufficient to secure or sustain a conviction under RA 9165."^[33] Given the unique characteristics of dangerous drugs which render them *not readily identifiable*, it is essential to show that the identity and integrity of the seized drugs have been preserved. Thus, we explained in *People v. Denoman*^[34] that:

A successful prosecution for the sale of illegal drugs requires more than the perfunctory presentation of evidence establishing each element of the crime: the identities of the buyer and seller, the transaction or sale of the illegal drug and the existence of the *corpus delicti*. In securing or sustaining a conviction under RA No. 9165, the intrinsic worth of these pieces of evidence, especially the identity and integrity of the *corpus delicti*, must definitely be shown to have been preserved. This requirement necessarily arises from the illegal drug's unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise. **Thus, to remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused-appellant; otherwise, the prosecution for possession or for drug pushing under RA No. 9165 fails.**^[35] (Emphasis supplied)

Section 21, Article II of RA 9165 provides the procedural safeguards that the apprehending team should observe in the handling of seized illegal drugs in order to preserve their identity and integrity as evidence. "As indicated by their *mandatory terms*, strict compliance with the prescribed procedure is essential and the prosecution must show compliance in every case."^[36]

The procedure under Section 21, par. 1 of RA 9165, as amended by RA 10640,^[37] is as follows:

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, x x x so confiscated, seized and/or surrendered, for proper disposition in the