

FIRST DIVISION

[G.R. No. 231902, June 30, 2021]

DENNIS OLIVER CASTRONUEVO LUNA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

CAGUIOA, J:

Before the Court is a Petition for Review on *Certiorari*^[1] filed under Rule 45 of the Rules of Court by petitioner Dennis Oliver Castronuevo Luna (petitioner Luna), assailing the Decision^[2] dated January 5, 2017 (assailed Decision) and Resolution^[3] dated May 29, 2017 (assailed Resolution) of the Court of Appeals, Special Fifteenth Division (CA) in CA-G.R. CR-H.C. No. 07733, which affirmed the Judgment^[4] dated September 14, 2015 rendered by Branch 79, Regional Trial Court of Quezon City (RTC) in Criminal Case No. Q-10-165971, titled "*People of the Philippines v. Dennis Oliver Castronuevo Luna*," finding petitioner Luna guilty beyond reasonable doubt of violating Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as "The Comprehensive Dangerous Drugs Act of 2002,"^[5] as amended.

The Facts

On September 23, 2005, an Information was filed against petitioner Luna for violation of Section 11, Article II of R.A. No. 9165. The said Information reads:

That on or about the 28th day of July, 2005, in Quezon City, accused without authority of the law did then and there willfully, unlawfully, and knowingly possess a dangerous drug, to wit: five (5) kilos and two hundred twenty six (226.00) grams of methylamphetamine hydrochloride.

CONTRARY TO LAW.^[6]

As narrated by the CA in the assailed Decision, the essential facts are as follows:

Version of the Prosecution

On July 10, 2005, Police Superintendent Acierto of the Philippine National Police Anti-Illegal Drug Special Operation Task Force (PNPAIDSOTF) received an information from a confidential informant concerning Peter Angeles and other Chinese members belonging to his group, who were allegedly involved in drug trafficking activities. To verify the truth of such information, the SOTF operatives conducted a casing surveillance in coordination with the Quezon City Police Station and [Philippine Drug Enforcement Agency (PDEA)] per Pre-Operation Report/Coordination Sheet dated July 28, 2005. Having found the information reliable after several surveillance monitoring operations, the police operatives decided

to conduct a buy-bust operation on that day. At around 2:00 o'clock in the afternoon, a certain "Sexy", known as the negotiator of Peter Angeles, called the mobile number of the confidential informant, who was then at Camp Crame. "Sexy" then discussed the details regarding the delivery of the "shabu" at Kowloon House located on West Avenue, Quezon City. "Sexy" also discussed with SPO3 Parreño, the designated poseur-buyer disguised as "Mike", as regards the manner of payment.

SPO3 Parreño immediately reported the matter to P/Supt. Acierto and P/Chief Insp. Fajardo. Thereafter, coordination with the PDEA and the Quezon City Police was made. At around 4:30 in the afternoon "Sexy" called the informant's mobile phone again and told them to proceed to Hap Chan Restaurant instead, which is also located along Quezon Avenue, and look for a silver-colored Toyota Revo with plate number XHY 278. As regards the payment, "Sexy" instructed them to give the money to the driver and take the drugs found thereat.

With the information complete, the buy bust team proceeded to Hap Chan Restaurant and saw instantly the silver-colored Toyota Revo parked in front of the said restaurant. They decided to park the undercover vehicle face-to-face with the Toyota Revo. SPO3 Parreño alighted and walked towards the parked car. When he opened the door, he saw [petitioner Luna] to whom he asked where "Sexy" is. Instead of giving a responsive answer, [petitioner Luna] asked him if he is "Mike" to which he answered in the affirmative. Forthwith, [petitioner Luna] told him to get the blue bag at the back seat and leave the money there as instructed by "Sexy". At once, SPO3 Parreño took the blue bag from the Toyota Revo and opened it. He then saw six (6) brown envelopes containing white crystalline substance inside a plastic bag which he suspected to be "shabu". Promptly, he disembarked from the Toyota Revo and left the boodle money, which was dusted with ultraviolet light, at the back seat. He immediately waved his right hand signaling his team of the consummation of the buy bust operation.

At that point, PO1 Caluag and PO1 Nepomuceno approached the Toyota Revo and apprehended [petitioner Luna] while the remaining members of the team secured the perimeter area. Upon arrest, PO1 Caluag and PO1 Nepomuceno apprised [petitioner Luna] of his constitutional rights.

Meanwhile, the six (6) packs containing white crystalline substance were seized. SPO3 Parreño labeled them as "RCP Item 1" until "RCP Item 6". Other evidence recovered from [petitioner Luna] were cellular phone, boodle money, six (6) pieces genuine Five Hundred Peso (Php500.00) bills and some cash money belonging to [petitioner Luna]. SPO3 Parreño escorted PO1 Nepomuceno in submitting the seized white crystalline substance to the crime laboratory for laboratory examination on that same day. The day after, the initial laboratory result was released indicating that the seized substances were tested positive for "shabu".

Accordingly, [petitioner Luna] was subjected to Drug Test Examination. During the same time, a Receipt/Inventory of Property Seized was prepared which was witnessed by SPO Pirote and PO3 Liwanag. While [petitioner Luna] was then present, he refused to sign the inventory.

However, photographs of [petitioner Luna] with the seized items were taken. After [petitioner Luna] was subjected for inquest, he was released for further investigation. He was later re-arrested by virtue of a warrant of arrest issued by the Regional Trial Court of Quezon City as requested by the National Bureau of Investigation.

Version of the Defense

As expected, [petitioner Luna] impugned the prosecution's version and presented a completely different tale. He denied ownership or knowledge of the confiscated shabu. According to him, the car is owned by Susan Lagman, his former neighbor, who often hires him to drive for her. He also happened to drive several times for a certain "Sexy", a woman introduced by Susan to him. During those instances, "Sexy" would contact Susan and the latter would go to his house to ask him if he can drive for someone the following day. If he agrees, he will wait at the corner of Retiro Street in Sampaloc, Manila where Susan will pick him up. When Susan arrives, she will instruct him to drive for "Sexy". In all those times, "Sexy" carried a handbag and papers kept inside a brown envelope.

On July 28, 2005, his passenger was "Sexy". He recalled that in the morning, Susan was already with "Sexy" when they picked him up at his usual spot on Retiro Street. Thereat, Susan alighted from the Toyota Revo while he and "Sexy" went to Icebergs located [in] Timog, Quezon City. Upon arrival, "Sexy" disembarked and went inside the restaurant while he parked the vehicle and waited for "Sexy" until noon. When "Sexy" came out of the restaurant, she directed [him] to drive towards Sandiganbayan along Commonwealth Avenue. When they reached Sandiganbayan around 1:00 o'clock in the afternoon, "Sexy" instructed him to park the vehicle along Filinvest Street while she went to an alley nearby. "Sexy" returned to the vehicle at 3:00 o'clock in the afternoon and told him to proceed to Hap Chan along Quezon Avenue by himself as her companions brought their vehicles. "Sexy" instructed her that if "Mike", whom she was supposed to meet, will arrive early at Hap Chan, he will have to tell "Mike" to get the bag at the rear passenger's seat and if "Mike" has something to leave for "Sexy", he will just have to leave it at the back of the Toyota Revo. Afterwards, he drove towards Hap Chan and waited inside the vehicle. At around 4:30 in the afternoon, a man approached the Toyota Revo, introduced himself as "Mike" and asked where "Sexy" was. In reply, he told "Mike" to get the bag placed at the back seat and wait for "Sexy" because she was on her way. As instructed, "Mike" took the bag. Suddenly, "Mike" announced that he is arresting him for carrying illegal drugs.

After trial, [in its Judgment dated September 14, 2015,] the RTC found [petitioner Luna] guilty beyond reasonable of the charge against him in the Information.^[7]

The dispositive portion of the RTC Judgment reads:

WHEREFORE, judgment is hereby rendered finding accused DENNIS OLIVER CASTRONUEVO LUNA GUILTY beyond reasonable doubt of

violation of Section 11, Article II of R.A. No. 9165 and he is hereby sentenced to life imprisonment and to pay a fine of One Million Pesos (P1,000,000.00).

The Officer-in-Charge of this Court is ordered to prepare the Mittimus for the immediate transfer of the accused to the New Bilibid Prison in Muntinlupa City.

The drug specimens, the subject matter of this case, covered by Chemistry Report D-698-05, are forfeited in favor of the Government and the Officer-in-Charge of this Court is directed to turn them over to the PDEA Crime Laboratory for proper disposition.

SO ORDERED.^[8]

Hence, petitioner Luna filed an appeal before the CA.

The Ruling of the CA

In the assailed Decision, the CA affirmed the RTC's conviction of petitioner Luna. The dispositive portion of the assailed Decision reads:

WHEREFORE, the assailed Judgment dated September 14, 2015 of the Regional Trial Court of Quezon City, Branch 79 in Criminal Case Nos. Q-10-165971 is **AFFIRMED**.

SO ORDERED.^[9]

In sum, the CA held that since petitioner Luna was driving the vehicle where the bag, which supposedly contained the seized packs of drug specimen, was retrieved, he constructively possessed the alleged packs of drug specimen. Further, the CA held that the chain of custody rule was observed by the authorities despite failure of the police to strictly comply with the procedure on the custody and handling of seized drugs under Section 21 Article II of RA No. 9165.

Hence, the instant appeal.

Issue

Stripped to its core, for the Court's resolution is the issue of whether the RTC and CA erred in convicting petitioner Luna for violating Section 11, Article II of R.A. No. 9165.

The Court's Ruling

The appeal is meritorious. The Court acquits petitioner Luna for failure of the prosecution to prove his guilt beyond reasonable doubt.

There is reasonable doubt that petitioner Luna freely, consciously, and with full knowledge possessed the alleged seized packs of drug specimen

Petitioner Luna was charged with the crime of illegal possession of dangerous drugs, which is defined and penalized under a special law — Section 11, Article II of R.A. No. 9165.

It is well-settled that criminal intent need not be proved in the prosecution of acts *mala prohibita*. A person may not have consciously intended to commit a crime. But if he did intend to commit an act, and that act is, by the very nature of things, the crime itself, then he can be held liable for the *malum prohibitum*. In other words, "[i]ntent to commit the crime is not necessary, but intent to perpetrate the act prohibited by the special law must be shown."^[10]

Nevertheless, despite the offense of illegal possession of dangerous drugs being *malum prohibitum*, "[t]his, however, does not lessen the prosecution's burden because it is still required to show that the prohibited act was intentional."^[11] In cases involving the illegal possession of dangerous drugs, **"the prosecution is not excused from proving that possession of the prohibited act was done 'freely and consciously,' which is an essential element of the crime."**^[12]

Hence, a critical element of the crime of illegal possession of dangerous drugs is the element of **intent to possess or animus possidendi**.

The Court has held that in criminal cases involving prohibited drugs, there can be no conviction unless the prosecution shows that **the accused knowingly, freely, intentionally, and consciously possessed the prohibited articles in his person, or that animus possidendi is shown to be present together with his possession or control of such article.**^[13]

Stated differently, the concept of possession contemplated under Section 11 of R.A. No. 9165 goes beyond mere actual and physical possession of the drug specimen. Otherwise, an unsuspecting person who is victimized by the planting of evidence will be unjustly prosecuted based on the sheer fact that illegal drugs were found to be in his possession. It must be proven that the person in whose possession the drug specimen was found knew that he/she was possessing illegal drugs.

Therefore, to prosecute an accused for illegally possessing illegal drugs, it is not enough to show that the accused knowingly and intentionally possessed the bag or receptacle that contained illegal drugs. **The prosecution must go beyond and provide evidence that the accused knowingly, freely, consciously, and intentionally possessed illegal drugs.**

Jurisprudence tells us that since knowledge refers to a mental state of awareness of a fact and, therefore, courts cannot penetrate the mind of an accused and thereafter state its perceptions with certainty, **resort to other evidence is necessary.**^[14] **Hence, animus possidendi, as a state of mind, may be determined on a case-to-case basis by taking into consideration the prior or contemporaneous acts of the accused, as well as the surrounding circumstances.** Its existence may and usually must be inferred from the attendant events in each particular case.^[15]

After a careful review of the evidence on record, the Court believes that there is, at the very least, **reasonable doubt** as to whether petitioner Luna possessed the bag with any knowledge, consciousness, and awareness that the said bag contained the allegedly seized packs of drug specimen. Otherwise stated, the surrounding factual