

THIRD DIVISION

[G.R. No. 221457, January 13, 2020]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GILBERT SEBILLEN Y CASABAR, ACCUSED-APPELLANT.**

DECISION

LEONEN, J.:

Just because a community outside of Mindanao is predominantly Muslim does not mean that it should be considered presumptively "notorious." It is this type of misguided, unfortunately uneducated, cultural stereotype that has caused internal conflict and inhumane treatment of Filipinos of a different faith from the majority.

Conviction in cases involving dangerous drugs cannot be sustained if there is persistent doubt on the drug's identity.^[1] This Court will not be a party to using a worn out prejudice to justify noncompliance with Section 21 of Republic Act No. 9165.

We acquit.

For this Court's resolution is an appeal challenging the Decision^[2] of the Court of Appeals, which affirmed *in toto* the Decision^[3] of the Regional Trial Court. The courts found accused-appellant Gilbert Sebilleno y Casabar (Sebilleno) guilty beyond reasonable doubt of violating Article 11, Section 5 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Two (2) separate Informations for violating the Comprehensive Dangerous Drugs Act of 2002 were filed against Sebilleno and Kyle Enrique y Damba (Enrique).

The charge for the illegal sale of dangerous drugs against Sebilleno, read:

That on or about *the 4th* day of June, 2008, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, did then and there willfully and unlawfully sell, trade, deliver and give away to another Methylamphetamine [sic] Hydrochloride, a dangerous drug, weighing **0.16 gram**, contained in one (1) heat-sealed transparent plastic sachet, in violation of the above-cited law.^[4] (Emphasis in the original)

The charge for the illegal possession of dangerous drugs against Enrique, read:

That on or about the **4th** day of **June, 2008**, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, without authority of law, did then and there willfully and unlawfully have in his possession custody and control

Methylamphetamine [sic] Hydrochloride, a dangerous drug, weighing **0.07 gram**, contained in one (1) heat-sealed transparent plastic sachet, in violation of the above-cited law.^[5]

When arraigned on June 27, 2008, Sebilleno and Enrique pleaded not guilty to the crimes charged.^[6] During the February 12, 2010 pre-trial conference, the following were admitted:

1. The identity of the accused Gilbert Sebillano [sic] y Casabar as the same person charged in criminal case no. 08-399;
2. That this Court has jurisdiction over the persons of the accused and over this case;
3. That P/Chief Insp. Maridel Cuadra Rodis is the Forensic Chemist connected with the PNP Crime Laboratory, Camp Crame, Quezon City as of June 04, 2008 and that she is an expert in Forensic Chemistry;
4. That pursuant to the Request for Laboratory Examination she conducted the same on the accompanying specimens which consist of two (2) heat-sealed transparent plastic sachets with markings "GSC" and "KE" containing yellowish substance suspected as shabu;
5. The existence and due execution of the Request for Laboratory Examination and of the Physical Science Report No. D-228-08.^[7]

Joint trial then ensued.^[8]

The prosecution presented two (2) witnesses, namely: (1) Police Officer 1 Domingo Julaton III (PO1 Julaton), and (2) Police Officer 1 Elbert Ocampo (PO1 Ocampo).^[9] For the defense, Sebilleno and his son, Gilbert Nano Sebilleno, Jr., took the witness stand.^[10]

According to the prosecution, at around 9:00 a.m. on June 4, 2008, Police Superintendent Alfredo Valdez (P/Supt. Valdez) instructed PO1 Ocampo and PO1 Julaton to conduct a surveillance against a certain "Boy Trolly," who was reported to be selling illegal drugs in Purok 7-C, Kalentong, Barangay Alabang, Muntinlupa City.^[11]

Police Senior Inspector Ariel Sanchez (PSI Sanchez), designated poseur-buyer PO1 Julaton, and back-up PO1 Ocampo, formed a team to conduct a buy-bust operation. The team, together with the confidential informant, arrived at the target site at around 2:15 p.m.^[12]

PO1 Julaton and the confidential informant proceeded to a nearby alley. The informant pointed at "Boy Trolly," later identified as Sebilleno, who was then talking to Enrique in front of a store.^[13]

When PO1 Julaton and the informant reached the store, the informant greeted Sebilleno^[14] and introduced PO1 Julaton as a "*balikbayan*" friend who wanted to

buy shabu.^[15] Sebilleno replied, "[t]amang-tama at may natira pa akong isang 'kasang shabu' dito na tag limang daan at nakuha na rin nitong si Kyle yong isa pang kasa."^[16]

PO1 Julaton passed the marked P500.00 bill with serial number JX777664 to Sebilleno, who, in exchange, gave him a small plastic sachet containing white crystalline substance. Upon receipt of the sachet, PO1 Julaton performed the pre-arranged signal for the team by scratching his head.^[17]

PO1 Julaton then grabbed Sebilleno's right hand, which held the marked money, and arrested him.^[18] PO1 Ocampo arrested Enrique and recovered from him a plastic sachet that he previously purchased from Sebilleno.^[19] The officers apprised Sebilleno and Enrique of their constitutional rights. Afterwards, PO1 Julaton marked the sachet Sebilleno handed to him with the latter's initials, "GSC," while the sachet seized from Enrique was marked "KE."^[20]

PO1 Julaton kept the sachet bought from Sebilleno, while PO1 Ocampo retained the sachet seized from Enrique.^[21] Sebilleno and Enrique were brought to the Police station, where PO1 Julaton conducted the inventory and took photographs of the seized items. Raquel L. Dilao, a local government employee, witnessed the inventory and taking of photographs.^[22] PO1 Julaton prepared the Request for Laboratory Examination of the sachets.^[23]

At 7:15 p.m., PO1 Julaton submitted the seized items to the PNP Crime Laboratory for examination.^[24] Sebilleno and Enrique were also subjected to a drug test. The laboratory examination of the sachets was found positive for shabu. Sebilleno's drug test and Enrique's urine sample respectively yielded positive and negative results for the presence of dangerous drugs.^[25]

Testifying in his defense, Sebilleno denied the charge. He claimed that around 7:00 a.m. to 8:00 a.m. on June 4, 2008, he was sleeping at home when his son woke him up and told him that there were two (2) men waiting outside. He asked the men who they were looking for. The men, whom he later identified as "Genova" and PO1 Julaton, asked who he was. He replied and identified himself as Boy Sebilleno. PO1 Julaton allegedly pointed a gun at him and forced him to say that he was "Boy Trolly." Sebilleno refused, and was subsequently hit in the stomach with PO1 Julaton's gun. He asked Genova and PO1 Julaton what crime he committed, but he was ignored.^[26]

Thereafter, Sebilleno was forced to ride the Police vehicle and was brought to the Police station.^[27] He was incarcerated and informed that he was being charged with illegal sale of drugs.^[28]

In its September 30, 2013 Decision,^[29] the Regional Trial Court found Sebilleno guilty beyond reasonable doubt of illegal sale of dangerous drugs, punished under Section 5 of the Comprehensive Dangerous Drugs Act. On the other hand, Enrique was acquitted for insufficiency of evidence.

The Regional Trial Court, upon evaluation of the evidence, found "no ill motive or

bad faith on the part of the arresting officers to concoct the allegations contained in their affidavit."^[30] Thus, the Police officers testimonies deserve full faith and credit.

^[31] The dispositive portion of the Decision read:

WHEREFORE, premises considered and finding the accused GILBERT SEBILLEN y CASABAR, guilty beyond reasonable doubt, he is sentenced to LIFE IMPRISONMENT and to pay a FINE of PHP500,000.00. The preventive imprisonment undergone by said accused shall be credited in his favor.

As regards the other accused, KYLE ENRIQUE y DAMBA. for insufficiency of evidence, he is ACQUITTED of the crime charged. The warrant of arrest issued against him is hereby lifted and set aside without prejudice to the liability or the bondsman for its failure to produce him when required by the court to do so.

The drug evidence are ordered transmitted to the Philippine Drug Enforcement Agency (PDEA) for proper disposition.

SO ORDERED.^[32]

In its January 26, 2015 Decision,^[33] the Court of Appeals affirmed Sebilleno's conviction *in toto*. It likewise gave credence to the Police officers' testimonies and found that they were "replete with material details showing the elements of the crime[.]"^[34] It ruled that the presumption that official duty was regularly performed was not overcome.^[35]

The Court of Appeals held that Republic Act No. 9165 "admits of exceptions and need not be followed with pedantic rigor."^[36] Ruling that what is essential is the preservation of the seized items' integrity, it excused the absence of the witnesses during inventory since "*tanods*" were afraid to witness in Barangay Alabang.^[37] The dispositive portion of its Decision read:

WHEREFORE, the trial court's Judgment dated September 30, 2013 convicting accused-appellant of violation of Section 5, Article II, RA No. 9165 is affirmed in toto.

SO ORDERED.^[38] (Emphasis in the original)

Thus, Sebilleno filed his Notice of Appeal.^[39] Giving due course to his appeal per its March 4, 2015 Resolution,^[40] the Court of Appeals elevated^[41] the case records to this Court.

In its January 27, 2016 Resolution,^[42] this Court noted the case records and informed the parties that they may file their supplemental briefs.

Accused-appellant^[43] and the Office of the Solicitor General^[44] filed their respective Manifestations stating that they will no longer file a supplemental brief. These were noted by this Court in its June 8, 2016^[45] and July 25, 2016 Resolutions.^[46]

In its January 27, 2016 Resolution,^[47] this Court noted the records of this case and directed the parties to file their respective supplemental briefs.

Both accused-appellant^[48] and plaintiff-appellee People of the Philippines, through the Office of the Solicitor General,^[49] manifested that they would no longer file supplemental briefs. These were noted by this Court in its November 8, 2017 Resolution.^[50]

In his brief before the Court of Appeals,^[51] accused-appellant asserts that the Court of Appeals erred in affirming his conviction despite the prosecution's failure to prove an unbroken chain of custody. The inventory was done in the Police station, and the copy was neither signed by accused-appellant nor his representative or counsel. Likewise, there were no signatures from representatives from the media and the Department of Justice (DOJ), or any elected public official.^[52]

Accused-appellant also argues that the nonpresentation of Police Chief Inspector Maridel Cuadra Rodis (PCI Rodis), the Police officer who allegedly received the specimen for examination, casts doubt on the identity and integrity of the seized items.^[53]

On the other hand, the Office of the Solicitor General maintains in its Brief^[54] that failure to comply with the requirements of Republic Act No. 9165 is not fatal to the prosecution of illegal sale of dangerous drugs as long as the integrity of the seized drugs is preserved. It avers that the testimonies of PO1 Julaton and PO1 Ocampo duly established the chain of custody, hence, the seized drug from the accused was the same drug presented in court.^[55] It claims that failure to present the concerned forensic chemist is immaterial since the Chemistry Report yielded positive results for shabu.^[56]

The Solicitor General justifies the Police officers' conduct of the inventory in the Police station rather than at the place of arrest, since "the apprehending team would be putting their lives in peril considering that the area where the buy-bust operation was conducted is a notorious Muslim community."^[57]

For this Court's resolution is the lone issue of whether or not accused-appellant Gilbert Sebilleno y Casabar is guilty beyond reasonable doubt of violating Article 11, Section 5 of the Comprehensive Dangerous Drugs Act.

This Court grants the appeal and acquits accused-appellant.

I

The elements to sustain convictions for violation of Section 5 of the Comprehensive Dangerous Drugs Act, or the illegal sale of dangerous drugs are "(1) proof that the transaction or sale took place and (2) the presentation in court of the *corpus delicti* or the illicit drug as evidence."^[58] The prosecution must prove with moral certainty the *corpus delicti*:^[59]