

THIRD DIVISION

[G.R. No. 235658, June 22, 2020]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAUL DEL ROSARIO Y NIEBRES, ACCUSED-APPELLANT.

DECISION

GESMUNDO, J.:

This is an Appeal^[1] from the February 22, 2017 Decision^[2] of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07680. The CA affirmed the July 22, 2015 Judgment^[3] of the Regional Trial Court of Calamba City, Branch 37 (RTC) in Criminal Case Nos. 15745-2008-C and 15746-2008-C, finding Raul Del Rosario y Niebres (*appellant*) guilty beyond reasonable doubt of the illegal sale and possession of dangerous drugs under Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165 or the *Comprehensive Dangerous Drugs Act of 2002*.

The Antecedents

In an Information filed before the RTC, appellant was charge with violation of Sec. 5, Article II of R.A. No. 9165 or Illegal Sale of Dangerous Drugs. The accusatory portion of the Information reads:

Criminal Case No. 15745-2008-C

That on or about 11:00 p.m. of 21 April 2008 at Brgy. Pansol, Calamba City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully, and feloniously sell and deliver to a poseur buyer one (1) transparent plastic sachet containing Methamphetamine Hydrochloride, otherwise known as "shabu", weighing 0.01 gram, in violation of the aforementioned provision of law.

CONTRARY TO LAW.^[4]

In another Information, appellant was charged with violation of Sec. 11, Article II of R.A. No. 9165 or Illegal Possession of Dangerous Drugs. The accusatory portion of the Information reads:

Criminal Case No. 15746-2008-C

That on or about 11:00 p.m. of 21 April 2008 at Brgy. Pansol, Calamba City and within the jurisdiction of this Honorable Court, the above-named accused, without any authority of law, did then and there willfully, unlawfully and feloniously, possess a quantity of Methamphetamine Hydrochloride, having a total weight of 0.09 grams.

CONTRARY TO LAW.^[5]

During his arraignment on May 14, 2008,^[6] appellant pleaded "not guilty" to the charges. Thereafter, trial ensued.

The prosecution presented Forensic Chemist Lalaine Ong Rodrigo (*FC Rodrigo*) and the arresting officer, Senior Police Officer I Apolonio:Naredo (*SPO1 Naredo*).

Version of the Prosecution

On April 21, 2008, a confidential informant reported to SPO1 Naredo that accused was engaged in illegal drug activities at Barangay Pansol, Calamba City. Police Inspector Alex Marasigan, the team leader of SPO1 Naredo, thus formed a buy-bust team consisting of SPO1 Naredo, Senior Police Officer II Melvin Llanes, Police Officer II Carpio, Police Officer II Arnel Sanque, the confidential informant, and himself. The confidential informant was designated as the *poseur-buyer*.^[7]

At 11:00 o'clock in the evening of the same day, the buy-bust team proceeded to the billiard hall at Purok 7, Brgy. Pansol. SPO1 Naredo positioned himself about five (5) meters away from the confidential informant. SPO1 Naredo saw the confidential informant hand to appellant the marked money amounting to P200.00. Appellant then gave the confidential informant a plastic sachet with white crystalline substance. After the confidential informant gave the pre-arranged signal, SPO1 Naredo approached appellant and introduced himself as a police officer. He arrested appellant and recovered the marked money. SPO1 Naredo conducted a preventive search by instructing appellant to empty the contents of his pocket. Appellant subsequently brought out three (3) small plastic sachets with white crystalline substance. The confidential informant also handed the plastic sachet bought from appellant to SPO1 Naredo. SPO1 Naredo thus marked the plastic sachet bought by the confidential informant with "ACN-RND" and those in appellant's possession with "ACN-RND-1," "ACN-RND-2," and "ACN-RND-3." Appellant was thereafter brought to the police station.^[8]

At the police station, the buy-bust team proceeded to make a request for laboratory examination of the seized evidence from appellant. Thereafter, Police Officer I Richard Cruz (*PO1 Cruz*), together with SPO1 Naredo, turned over the seized evidence to the crime laboratory.^[9] A certain SPO1 Agustin of the crime laboratory received the same from PO1 Cruz.^[10] FC Rodrigo conducted the forensic examination and prepared Chemistry Report No. D-174-08. In said Report, FC Rodrigo confirmed that the plastic sachets confiscated and bought from appellant were positive for *shabu*. FC Rodrigo placed her markings on the plastic sachets after the forensic examination.^[11]

Version of the Defense

Appellant testified that, around 8:00 o'clock in the evening of April 21, 2008, two (2) men suddenly arrived at his hut, restrained him, and searched the premises. Finding nothing, they forced appellant to board a passenger jeep. Appellant was taken to a house where he was asked his name and address. He was thereafter picked up by a police mobile and brought to the barangay hall. At the barangay hall,

he was instructed to sign a document. Afterwards, appellant was escorted back to the house where he was previously brought. There, he was shown a plastic sachet with white crystalline substance and money. Appellant was then transferred to the city hall where he was detained. He was informed that he was being charged with the illegal sale and possession of dangerous drugs.^[12]

Appellant's neighbor, Rosita Mangundayao (*Mangundayao*), testified that, on April 21, 2008, at around 11:00 o'clock in the evening, she heard a noise coming from appellant's hut, which was merely 1 ½ arm's length away from her house. Mangundayao looked through her window and saw appellant resting when two (2) men suddenly came in and searched the hut. She only heard the noises made by the three (3) men but she did not audibly hear their conversation. Thereafter, she saw appellant being handcuffed.^[13]

The RTC Ruling

In its July 22, 2015 Judgment, the RTC found appellant guilty beyond reasonable doubt of the illegal sale and possession of dangerous drugs. In Criminal Case No. 15745-2008-C, appellant was sentenced to suffer the penalty of life imprisonment and ordered to pay a fine of P500,000.00. In Criminal Case No. 15746-2008-C, appellant was sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day, as minimum, to fourteen (14) years, as maximum, and ordered to pay a fine of P300,000.00.^[14]

The RTC ruled that the testimony of SPO1 Naredo carried with it the presumption of regularity in the performance of official functions. It gave no credence to appellant's defense of denial or frame-up since it could be easily concocted and was a common and standard defense ploy. The RTC also underscored the inconsistent testimonies of the defense witnesses as to the time of appellant's arrest at his hut by the two (2) unidentified men.^[15]

The RTC held that all of the elements of the offenses were sufficiently established by the prosecution. The prosecution was able to prove that a buy-bust operation was conducted. Even without the testimony of the poseur-buyer, the RTC held that SPO1 Naredo's testimony sufficiently established that a sale took place and that the marked money was recovered from appellant.^[16]

Further, the RTC ruled that the integrity and evidentiary value of the seized evidence were preserved notwithstanding the lack of physical inventory and photographing of the seized evidence. The RTC held that SPO1 Naredo's testimony sufficiently showed that the illegal drugs subject of the sale were handed to him by the confidential informant, who had bought the same from appellant, and that SPO1 Naredo himself recovered three (3) plastic sachets from appellant. Thereafter, the seized evidence were marked and delivered by PO1 Cruz to one SPO1 Agustin of the crime laboratory. FC Rodrigo thereafter examined the seized evidence and placed her markings thereon. According to the RTC, the prosecution's failure to follow the procedural requirements under Section 21 of R.A. No. 9165 did not affect the integrity and evidentiary value of the seized evidence.^[17]

Aggrieved, appellant appealed to the CA.

The CA Ruling

In its February 22, 2017 Decision, the CA affirmed appellant's conviction. The CA ruled that the prosecution was able to establish all the elements of Illegal Sale of Dangerous Drugs. It gave full credence to SPO1 Naredo's positive identification of appellant and his narration of the buy-bust operation. The CA affirmed the finding of the RTC that the integrity and evidentiary value of the seized evidence had been preserved despite noncompliance with Sec. 21 of R.A. No. 9165. The chain of custody, according to the CA, consisted of the possession of the seized evidence by the police officers, the testing in the laboratory to determine its composition, and the presentation of the same seized evidence in court. The CA noted that the custody of the seized evidence remained with SPO1 Naredo until its delivery to the crime laboratory for forensic examination.^[18]

Appellant now seeks the reversal of the CA Decision before this Court.

Issue

WHETHER OR NOT THE GUILT OF APPELLANT FOR THE OFFENSES CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

In a January 17, 2018 Resolution,^[19] this Court required the parties to submit their respective supplemental briefs, if they so desired. In its April 10, 2018 Manifestation (Re: Supplemental Brief),^[20] the Office of the Solicitor General (OSG) manifested that it will no longer file a supplemental brief considering that the guilt of appellant was exhaustively discussed in its appellee's brief and no new issue was raised in the automatic review. In its April 18, 2018 Manifestation (In Lieu of a Supplemental Brief),^[21] appellant averred that he would no longer file a supplemental brief to avoid repetition since he had sufficiently refuted all the arguments raised in the Appellee's Brief.

In his Appellant's Brief^[22] before the CA, appellant argues that there was failure to comply with the requirements of Sec. 21, Article II of R.A. No. 9165. The arresting officer failed to conduct the physical inventory of, and to photograph, the seized evidence. Consequently, there was also noncompliance with the requirement of the presence of representatives from the Department of Justice (DOJ) and media, and an elected public official during the physical inventory and photographing of the seized evidence. Appellant maintains that the apprehending officers did not exert any genuine and sufficient effort to comply with the mandate of Sec. 21, Article II of R.A. No. 9165. He contends that the police officers failed to justify their failure to comply with the requirements under R.A. No. 9165, since the urgency of conducting a buy-bust operation was also not established and it was not shown that the tip given by the confidential informant was verified. Finally, appellant argues that there were breaks in the chain of custody, specifically from the second to the fourth links.

In its Appellee's Brief^[23] before the CA, the OSG urges this Court to affirm the challenged Decision of the RTC. The OSG maintains that the prosecution duly established the elements of the offenses charged. It insists that mere possession of a prohibited drug is sufficient to convict appellant in the absence of any satisfactory explanation, more so because the seized evidence from appellant tested positive for

shabu. The OSG countered that there was an unbroken chain of custody – from SPO1 Naredo's recovery of the plastic sachets from appellant, to the markings he placed thereon after appellant's arrest, to the request for laboratory examination made by the buy-bust team, to the turnover by PO1 Cruz of the seized evidence to the crime laboratory, and to the examination thereof by FC Rodrigo which yielded a positive result for *shabu*. According to the OSG, the integrity and identity of the seized evidence were sufficiently preserved by the police officers who handled the plastic sachets confiscated from appellant.

The Court's Ruling

It is a well-established rule that an appeal in criminal cases throws the whole case open for review.^[24] Thus, the appellate court has the competence to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.^[25] After careful examination, this Court finds the appeal meritorious.

To sustain a conviction for the offense of illegal sale or possession of dangerous drugs under R.A. No. 9165, it is of utmost importance to establish with moral certainty the identity of the confiscated drug.^[26] To remove any doubt or uncertainty on the identity and integrity of the seized drug, it must be shown that the substance illegally possessed or sold by the accused is the same substance offered and identified in court.^[27] This requirement is known as the chain of custody rule under R.A. No. 9165 created to safeguard doubts concerning the identity of the seized drugs.^[28]

Chain of custody means the duly recorded, authorized movements, and custody of the seized drugs at each stage, from the moment of confiscation to the receipt in the forensic laboratory for examination until it is presented to the court.^[29] Under Sec. 21, Article II of R.A. No. 9165:

(1) The apprehending 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 who shall be required to sign the copies of the inventory and be given a copy thereof.

The implementing rules and regulations of R.A. No. 9165 further expounded this provision:

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 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